3–10–99
Vol. 64 No. 46
Pages 11755–12078

Federal Register

Wednesday
March 10, 1999

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WASHINGTON, DC

WHEN: March 23, 1999 at 9:00 am.

WHERE: Office of the Federal Register
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800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

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

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 3

Debt Collection

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document amends 7 CFR Part 3 to include specifically as subject to the provisions of the Part specific debts arising out of programs administered by the Food and Nutrition Service (FNS).

The FNS food stamp debts must be subjected to 7 CFR Part 3 to fully participate in the Treasury Administrative Offset Program as required by the Debt Collection Improvement Act of 1996. Amending the 7 CFR Part 3 will ensure that food stamp debts are subjected to 7 CFR Part 3.

EFFECTIVE DATE: This rule is effective March 10, 1999.

FOR FURTHER INFORMATION CONTACT: Richard M. Guyer, 202–690–0291.

SUPPLEMENTARY INFORMATION:

I. Background

The Debt Collection Act of 1982 (DCA) is implemented on a government-wide basis pursuant to the Federal Claims Collection Standards (Standards), set forth at 4 CFR Part 101, *et seq.* The Standards are implemented at USDA pursuant to 7 CFR Part 3.

II. Section 3.10

Under the Debt Collection Improvement Act of 1996, Federal agencies participate in the Treasury Administrative Offset Program (TAOP) operated by the Treasury Department and administered pursuant to its regulations. In order for the Department of Agriculture to participate in the TAOP, its debts must be subject to 7 CFR Part 3. Section 3.10 sets forth USDA programs and authorities subject to the provisions of 7 CFR Part 3.

FNS seeks to ensure that Food Stamp debts are included in the TAOP. FNS Food Stamp debts include recipient debts and retailer/wholesaler debts. Previously, USDA amended section 3.10 to include recipient indebtedness. This amendment was necessary since such debts are collected under the Food Stamp program regulations, rather than under 7 CFR Part 3.

FNS now seeks to ensure that Retailer/Wholesaler debts are included in the TAOP. Unlike Recipient debts, Retailer/Wholesaler debts always have been governed by the guidelines set forth in the Federal Claims Collection Standards and have been managed in accordance with the provisions of 7 CFR Part 3. This amendment is intended to clarify that all FNS Food Stamp debts are subject to 7 CFR Part 3 and are included in the TAOP, not merely Recipient debts.

III. Final Rule

We have determined, under 5 U.S.C. 553(b) (3)(b), that prior notice and public comments are unnecessary and contrary to the public interest. The departmental interim rule specifically denotes the fact that FNS collection of food stamp debts meets the procedural requirements for participating in the TAOP authorized under the provisions of the Debt Collection Improvement Act of 1996. The rule does not affect the substantive authority under which FNS currently pursues such debts. Therefore, good cause is found that notice and public comment are unnecessary and contrary to the public interest and good cause for making this regulation effective upon publication in the **Federal Register**.

IV. Matters of Regulatory Procedure

E.O. 12291, Federal Regulation

As Secretary of Agriculture, I have determined that this is not a major rule as defined under section 12(b) of Executive Order 12291.

Paperwork Reduction Act

As Secretary of Agriculture, I have determined that the Paperwork Reduction Act (44 U.S.C. Chapter 35) does not apply because this regulation does not contain any information collection requirements that require the approval of the Office of Management and Budget thereunder.

List of Subjects in 7 CFR Part 3

Agriculture, Claims, Government employees, Income taxes, Loan programs-agriculture, Wages.

Accordingly, for the reasons set forth in the preamble, the Department of Agriculture is revising Title 7, part 3 of the Code of Federal Regulations as follows:

PART 3—DEBT MANAGEMENT

Subpart A—Settlement of Small or Old Debts

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: Section 1, 58 Stat. 836, 12 U.S.C. 1150.

2. Section 3.10 is amended by revising the last sentence of the section to read as follows:

§ 3.10 Scope of the act.

* * * * *

51. Any indebtedness of food stamp recipients and retailers/wholesalers. Food Stamp Act.

Dan Glickman,

Secretary of Agriculture.

[FR Doc. 99–5849 Filed 3–9–99; 8:45 am]

BILLING CODE 3410–01–P

NORTHEAST DAIRY COMPACT COMMISSION

7 CFR Part 1381

Handler Petition Procedure

AGENCY: Northeast Dairy Compact Commission.

ACTION: Interim procedural rule with request for comments.

SUMMARY: This interim procedural rule amends the rules of practice governing proceedings on petitions to modify or be exempted from the compact over-order price regulations. The Commission amends the rule to provide the option, in appropriate circumstances, to appoint an independent hearing officer to serve as a single person hearing panel, to hear and issue recommended decisions in Handler Petition proceedings. The Commission retains its current provision for the appointment of a hearing panel of Commission members

to hear Handler Petitions, when appropriate.

DATES: Effective date: March 10, 1999.

Sworn and notarized written testimony, comments and exhibits may be submitted until 5:00 p.m. on April 9, 1999.

ADDRESSES: Mail, or deliver, sworn and notarized testimony, comments and exhibits to: Northeast Dairy Compact Commission, 34 Barre Street, Suite 2, Montpelier, Vermont 05602.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Becker, Executive Director, Northeast Dairy Compact Commission at the above address or by telephone at (802) 229–1941, or by facsimile at (802) 229–2028.

SUPPLEMENTARY INFORMATION:

Background

The Northeast Dairy Compact Commission (''Commission'') was established under authority of the Northeast Interstate Dairy Compact (''Compact''). The Compact was enacted into law by each of the six participating New England states as follows: Connecticut—Pub. L. 93–320; Maine—Pub. L. 89–437, as amended, Pub. L. 93–274; Massachusetts—Pub. L. 93–370; New Hampshire—Pub. L. 93–336; Rhode Island—Pub. L. 93–106; Vermont—Pub. L. 93–57. In accordance with Article I, Section 10 of the United States Constitution, Congress consented to the Compact in Pub. L. 104–127 (FAIR Act), Section 147, codified at 7 U.S.C. 7256. Subsequently, the United States Secretary of Agriculture, pursuant to 7 U.S.C. 7256(1), authorized implementation of the Compact.

Pursuant to its rulemaking authority under Article V, Section 11 of the Compact, the Commission concluded an informal rulemaking process and voted to adopt a compact over-order price regulation on May 30, 1997.[1] The Commission subsequently amended and extended the compact over-order price regulation.[2] In 1998, the Commission further amended specific provisions of the over-order price regulation.[3] The current compact over-order price regulation is codified at 7 CFR Chapter XIII.

On June 30, 1997, the Commission promulgated an interim procedural rule to implement Article VI, Section 16(b) of the Compact.[4] That section of the Compact requires the Commission to establish a procedure for handlers to petition for exemption or modification of any provision of the Compact over-order price regulation.[5] The Commission requested comments on the interim procedural rule, however no comments were received.[6] The rules are codified at 7 CFR Part 1381. As relevant here, the current regulations, section 1381.4(a), require the Chair of the Commission to appoint ''from one to three Commission members who shall consider the petition'' and serve as the hearing panel.

The Commission has received and processed a number of administrative petitions since July 1997. Based on its evolving experience with the current petition procedures, the Commission concludes that the rules should provide the discretion, in appropriate circumstances, of appointing an independent hearing officer, to serve as the hearing panel, in addition to the current provision for appointing a hearing panel of Commission members, to hear and issue recommended decisions in Handler Petition proceedings. The hearing officer would not be employed by or be a member of the Compact Commission, but would be qualified by training and experience to hear administrative handler petitions.

Accordingly, the Commission hereby amends section 1381.4(a) to authorize the Commission's Committee on Administration to determine whether to appoint a hearing panel consisting of either Commission members, or an independent hearing officer, to serve as the hearing panel. Based on the determination of the Committee on Administration, the Commission Chair then makes the appointment of the hearing panel.

The Commission amends the current procedural rule to be effective upon publication. In adopting this amendment to the current rule, the Commission specifically directed that this amended rule apply to all petitions filed, or for which filing of a petition is perfected, after March 3, 1999. Therefore, the Commission will hold all petitions filed, or for which filing is perfected, after March 3, 1999 and will not make any hearing panel appointments between March 3, 1999 and publication of this rule.

Public Participation in Rulemaking Proceedings

The Commission seeks and encourages comments on these proposed amendments to the handler petition process. The Commission continues to benefit from the valuable insight and active participation of all segments of the affected community, including consumers, processors and producers in the development and administration of the over-order price regulation and welcomes comments from handlers and other interested persons.

Request for Written Comments

Any person may participate in the rulemaking proceeding by submitting written comments or exhibits to the Commission. Comments and exhibits may be submitted at any time before 5:00 p.m. on April 9, 1999.

Note: Comments and exhibits will be made part of the record of the rulemaking proceeding only if they identify the author's name, address and occupation, and if they include a sworn and notarized statement indicating that the comment and/or exhibit is presented based upon the author's personal knowledge and belief. Facsimile copies will be accepted up until the 5:00 p.m. deadline, but the original must then be sent by ordinary mail.

List of Subjects in 7 CFR Part 1381

Administrative practice and procedure, Milk.

Codification in Code of Federal Regulations

For reasons set forth in the preamble, the Northeast Dairy Compact Commission amends 7 CFR Part 1381 as follows:

PART 1381—RULES OF PRACTICE GOVERNING PROCEEDINGS ON PETITIONS TO MODIFY OR TO BE EXEMPTED FROM COMPACT OVER-ORDER PRICE REGULATION

1. The authority citation for Part 1381 continues to read as follows:

Authority: 7 U.S.C. 7256.

2. Section 1381.4 is amended by revising paragraph (a) to read as follows:

§ 1381.4 Conduct of proceedings.

(a) *Appointment of hearing panel.* Upon receipt of a petition, and as determined appropriate by the Commission's Committee on Administration, the Chair shall appoint a hearing panel of either one to three Commission members, who are not

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[1] 62 FR 29626 (May 30, 1997)

[2] 62 FR 62810 (Nov. 25, 1997)

[3] 63 FR 10104 (Feb. 27, 1998); 63 FR 46385 (Sept. 1, 1998); and 63 FR 65517 (Nov. 27, 1998).

[4] 62 FR 35065 (June 30, 1997) and 62 FR 36651 (July 9, 1997).

[5] Article VI, section 16(b) of the Compact provides that: ''Any handler subject to an order may file a written petition with the commission stating that any such order or any provision of any such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the commission. After such hearing, the commission shall make a ruling upon the prayer of such petition, which shall be final, if in accordance with law.''

[6] The Commission requested comments be filed by July 30, 1997. 62 FR 35065 (June 30, 1997).

members of the state delegation in which the Handler is incorporated or has its principal place of business, who have no pecuniary interest in the outcome, and who are otherwise fair and impartial, or an independent hearing officer. The hearing panel shall consider the petition. For hearing panels of Commission members greater than one member, the Chair shall designate a chief hearing officer.

* * * * *

Dated: March 4, 1999.

Kenneth M. Becker,

Executive Director.

[FR Doc. 99–5865 Filed 3–9–99; 8:45 am]

BILLING CODE 1650–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–152–AD; Amendment 39–11065; AD 99–06–01]

RIN 2120–AA64

Airworthiness Directives; The New Piper Aircraft, Inc. Models PA–31, PA–31–300, PA–31–325, PA–31–350, and PA–31P–350 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 81–15–04 R1, which currently requires repetitively inspecting for cracks at the elevator outboard hinge attachment on the horizontal stabilizer rear spar on certain The New Piper Aircraft, Inc. (Piper) Models PA–31, PA–31–300, PA–31–325, PA–31–350, and PA–31P–350 airplanes, and if cracks are found, incorporating a spar and hinge bracket assembly kit. This AD requires repetitively inspecting the horizontal rear spar in the area of the outboard hinge attachment and the outboard hinge attach bracket for cracks. When cracks are found or at a certain accumulation of time-in-service (TIS), this AD also requires modifying the horizontal stabilizer spar by incorporating an improved stabilizer spar and hinge bracket assembly kit that will terminate the repetitive inspections. This AD is prompted by several field reports of cracks found during routine inspections on airplanes already in compliance with AD 81–15–04 R1. The actions specified by this AD are intended to prevent failure of the horizontal stabilizer rear spar caused by cracks at the elevator outboard hinge attachment, which could result in loss of control of the airplane.

DATES: Effective April 20, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 20, 1999.

ADDRESSES: Service information that applies to this AD may be obtained from The New Piper Aircraft, Inc., Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–152–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. William Herderich, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone: (770) 703–6084; facsimile: (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Piper Model PA–31, PA–31–300, PA–31–325, PA–31–350, and PA–31P–350 airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on September 21, 1998 (63 FR 50174). The NPRM proposed to supersede AD 81–15–04 R1, Amendment 39–4200, which currently requires repetitively inspecting for cracks at the elevator outboard hinge attachment on the horizontal stabilizer rear spar, and if cracks are found, incorporating a spar and hinge bracket assembly kit. The NPRM proposed to require:

—Inspecting the horizontal stabilizer rear spar at the outboard hinge attachment and outboard hinge attach bracket for cracks;

—If no cracks are found, the NPRM proposed to require repetitively inspecting this area until cracks are found; and

—If cracks are found or upon the accumulation of 500 hours TIS, whichever occurs first, modify the horizontal stabilizer rear spar by incorporating Piper Kit No. 766–646. The incorporation of this kit will terminate the currently required repetitive inspections.

Accomplishment of the proposed inspections as specified in the NPRM would be in accordance with Piper Service Bulletin (SB) No. 1007, dated September 30, 1997. Accomplishment of the proposed modification as specified in the NPRM would be in accordance with the Instructions in Piper Kit No. 766–646, which is referenced in Piper SB No. 1007, dated September 30, 1997.

The NPRM was the result of several field reports of cracks found during routine inspections on airplanes already in compliance with AD 81–15–04 R1.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Differences Between the Service Information and This AD

The compliance time specified in Piper Service Bulletin No. 1007, dated September 30, 1997, is different than the compliance time in this AD. The FAA is not using the 50 hours time-in-service (TIS) as the initial and repetitive inspection times, as specified in the service bulletin. Fifty hours TIS or less is normally reserved for urgent safety of flight conditions, and this AD is not considered an urgent safety of flight condition. Based on engineering judgment and the service history received from the field, the FAA is utilizing an initial and repetitive inspection time of 100 hours TIS in order to allow operators a reasonable amount of time to accomplish this action.

Cost Impact

The FAA estimates that 1,739 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 11 workhours per airplane to accomplish the actions in this AD, and that the average labor rate is approximately $60 an hour. Parts cost approximately $478 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $1,978,982, or $1,138 per airplane.

This cost estimate does not take into account the number of repetitive inspections that may be incurred over the life of each airplane, and is based on the presumption that no owner/operator of the affected aircraft has accomplished the replacement.

Regulatory Impact

The regulations adopted herein 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. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 81–15–04 R1, Amendment 39–4200, and by adding a new AD to read as follows:

99–06–01 The New Piper Aircraft, Inc.: Amendment 39–11065; Docket No. 97–CE–152–AD; Supersedes AD 81–15–04 R1, Amendment 39–4200.

Applicability: The following airplane models and serial numbers, certificated in any category:

Models	Serial numbers
PA–31, PA–31–300, and PA–31–325	31–2 through 31–8312019
PA–31–350	31–5001 through 31–8553002
PA–31P–350	31P–8414001 through 31P–8414050

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 (f) 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: As indicated in the body of this AD, unless already accomplished.

To prevent failure of the horizontal stabilizer rear spar caused by cracks at the elevator outboard hinge attachment, which could result in loss of control of the airplane, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS) after the effective date of this AD, inspect the horizontal stabilizer rear spar in the area of the outboard hinge attachment and the outboard hinge attach bracket for cracks in accordance with the INSTRUCTIONS section of Piper Service Bulletin (SB) No. 1007, dated September 30, 1997.

(b) If cracks are found in the horizontal stabilizer rear spar during the inspection required by paragraph (a) of this AD, prior to further flight, modify the horizontal stabilizer rear spar by incorporating Piper Kit No. 766–646. Accomplish this modification in accordance with the INSTRUCTIONS contained in Piper Kit No. 766–646, which is referenced in Piper SB No. 1007, dated September 30, 1997.

(c) If no cracks are found in the horizontal stabilizer rear spar during the inspection required by paragraph (a) of this AD, continue to inspect in accordance with paragraph (a) of this AD at intervals not to exceed 100 hours TIS. Upon the accumulation of 500 hours TIS after the effective date of this AD or when cracks are found, whichever occurs first, modify the horizontal stabilizer rear spar by incorporating Piper Kit No. 766–646. Accomplish this modification in accordance with the INSTRUCTIONS contained in Piper Kit No. 766–646, which is referenced in Piper SB No. 1007, dated September 30, 1997.

(d) Modifying the affected airplane by incorporating Piper Kit No. 766–646 is considered terminating action for the inspections required in paragraphs (a) and (c) of this AD.

(e) 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.

(f) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office (ACO), One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349.

(1) The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

(2) Alternative methods of compliance approved in accordance with AD 81–15–04 R1 are not considered approved as alternative methods of compliance for this AD.

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

(g) The inspections required by this AD shall be done in accordance with Piper Service Bulletin No. 1007, dated September 30, 1997. The modification required by this AD shall be done in accordance with the Instructions in Piper Kit No. 766–646, which is referenced in Piper Service Bulletin No. 1007, dated September 30, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from The New Piper Aircraft, Inc., 2926 Piper Drive, Vero Beach, Florida 32960. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(h) This amendment supersedes AD 81–15–04 R1, Amendment 39–4200.

(i) This amendment becomes effective on April 20, 1999.

Issued in Kansas City, Missouri, on February 26, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–5727 Filed 3–9–99; 8:45 am]

BILLING CODE 6717–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–07–AD; Amendment 39–11064; AD 97–05–03 R1]

RIN 2120–AA64

Airworthiness Directives; AlliedSignal Avionics, Inc. Models GNS–XLS and GNS–XL Flight Management Systems

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises Airworthiness Directive (AD) 97–05–03, which currently requires inserting a limitation into the Operations Limitation Section of the Airplane Flight Manual (AFM) or Flight Manual Supplement for all owners/operators of aircraft equipped with an AlliedSignal Avionics, Inc. (AlliedSignal) Models GNS–X**ls** or GNS–X**l** global positioning systems (GPS) flight management system. The limitation specifies prohibiting the use of these AlliedSignal GPS units on previously published non-precision approaches. This AD is the result of AlliedSignal issuing service information that specifies procedures for accomplishing hardware and software modifications to the affected flight management systems. The Federal Aviation Administration (FAA) determined that accomplishment of the actions of the service bulletins should be considered as an alternative method of compliance to the actions of AD 97–05–03. This AD retains the actions of AD 97–05–03, and incorporates the service bulletins into the AD, as an alternative method of compliance to the existing AD. The actions specified by this AD are intended to continue to prevent deviation from an intended flight path during a non-precision approach to an airport caused by inaccurate information from the GPS flight management system.

DATES: Effective April 20, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 20, 1999.

ADDRESSES: Service information that applies to this AD may be obtained from Alliedsignal Aerospace, Commercial Avionics Systems, 400 N. Rogers Road, Olathe, Kansas 66062. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–07–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Jose Flores, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4133; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to aircraft equipped with an Alliedsignal Models GNS–X**ls** or GNS–X**l** global positioning systems (GPS) flight management system was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on October 29, 1998 (63 FR 57955). The NPRM proposed to revise AD 97–05–03, Amendment 39–9947 (62 FR 8617, February 26, 1997), which currently requires inserting the following limitation into the Operations Limitations Section of the AFM or Flight Manual Supplement for all owners/operators of aircraft equipped with an AlliedSignal Models GNS–X**ls** or GNS–X**l** GPS flight management system:

Operating Limitations

The GNS–X**l** (or GNS–X**ls**) is not approved for non-precision approaches.

NOTE

The GNS–X**l** (or GNS–X**ls**) may generate misleading information during non-precision GPS or Overlay approaches due to software limitations.

The NPRM proposed to retain the AFM requirements of AD 97–05–03, and would incorporate the hardware and software modifications specified in GlobalWulfsberg Software Bulletin No: GNS–X**l**–SW1, dated February 1997, and BENDIX/KING Software Bulletin No: GNS–X**ls**–SW2, dated February 1997, into the AD, as an alternative method of compliance to the AFM requirements.

The NPRM was the result of AlliedSignal issuing service information that specifies procedures for accomplishing hardware and software modifications to the affected flight management systems. The Federal Aviation Administration (FAA) determined that accomplishment of the actions of the service bulletins should be considered as an alternative method of compliance to the actions of AD 97–05–03.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Compliance Time of This AD

The condition specified by this AD is not caused by actual hours time-in-service (TIS) of the aircraft where the affected flight management systems are installed. The need for the AFM requirement or hardware and software modifications has no correlation to the number of times the equipment is utilized or the age of the equipment. For this reason, the compliance time of this AD (as was AD 97–05–03) is presented in calendar time instead of hours TIS.

Cost Impact

The FAA estimates that 110 of the affected flight management systems are installed on aircraft of U.S. registry. This AD will require the same actions as AD 97–05–03, except it allows for accomplishing hardware and software modifications to the affected flight management systems, as an alternative method of compliance.

It will take approximately 1 workhour per aircraft with the affected flight management system installed to accomplish the hardware and software modifications. No parts are required to incorporate the modifications. Based on these figures, the total cost impact of this AD on the U.S. operators of the affected aircraft who choose to incorporate the software and hardware modifications (instead of the AFM limitation) is estimated to be $6,600, or $60 per airplane.

For U.S. operators who choose to incorporate the AFM limitations, an owner/operator of the affected airplanes holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) can accomplish this action provided an entry is made in the aircraft records showing compliance with this

AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). Therefore, the only cost impact of incorporating the AFM limitation is the time it will take each owner/operator of the affected aircraft to accomplish the action.

Regulatory Impact

The regulations adopted herein 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. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13, is amended by removing Airworthiness Directive (AD) 97–05–03, Amendment 39–9947 (62 FR 8617, February 26, 1997), and adding a new AD to read as follows:

97–05–03 R1 AlliedSignal Avionics Inc.: Amendment 39–11064; Docket No. 97–CE–07–AD; Revises AD 97–05–03, Amendment 39–9947.

Applicability: Models GNS–X**ls** and GNS–X**l** global positioning systems (GPS), part numbers (P/N) 17960–0102–XXXX and P/N 18355–0101–XXXX, respectively, installed on, but not limited to the following aircraft, certificated in any category:

Manufacturer	Models
British Aerospace, Ltd. (BAe)	146–100A and 146–200A
Cessna Aircraft Corporation	525, 550, and 560
Dausault Aviation	Mystere-Falcon 20 and 50
Avions Marcel Dassault	Falcon 10
Gulfstream Aerospace	G–1159 (G–II) and G–1159A (G–III)
Raytheon Corporate Jets	Hawker 800
Israel Aircraft Industries, Ltd.	1124
Sabreliner Corporation	NA–65
Learjet Inc.	35
Jetstream Aircraft Ltd.	4101

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

Compliance: Required within 5 days after March 18, 1997 (the effective date of AD 97–05–03), unless already accomplished (compliance with AD 97–05–03).

To prevent deviation from an intended flight path during a non-precision approach to an airport caused by inaccurate information from the GPS flight management system, accomplish the following:

(a) Insert the following limitation into the Operations Limitations Section of the Airplane Flight Manual (AFM) or Flight Manual Supplement:

''*Operating Limitations*

The GNS–X**l** (or GNS–X**ls**) is not approved for non-precision approaches.

NOTE

The GNS–X**l** (or GNS–X**ls**) may generate misleading information during non-precision GPS or Overlay approaches due to software limitations.''

(b) Inserting a copy of this AD into the Limitations section as described in paragraph (a) of this AD is considered compliance with the requirements of paragraph (a) of this AD.

(c) Incorporating the AFM revisions, as required by paragraph (a) or (b) of this AD, may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(d) As an alternative method of compliance to the actions required by paragraph (a) or (b) of this AD, accomplish hardware and software modifications in accordance with both GlobalWulfsberg Software Bulletin No: GNS–X**l**–SW1, dated February 1997, and BENDIX/KING Software Bulletin No: GNS–X**ls**–SW2, dated February 1997, as applicable.

(e) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from Wichita Aircraft Certification Office.

(f) The hardware and software modifications required by this AD (as an alternative method of compliance) shall be done in accordance with GlobalWulfsberg Software Bulletin No: GNS–X**l**–SW1, dated February 1997, and BENDIX/KING Software Bulletin No: GNS–X**ls**–SW2, dated February 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from AlliedSignal Aerospace, Commercial Avionics Systems, 400 N. Rogers Road, Olathe, Kansas 66062. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E.

12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(g) This amendment revises AD 97–05–03, Amendment 39–9947.

(h) This amendment becomes effective on April 20, 1999.

Issued in Kansas City, Missouri, on February 26, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–5728 Filed 3–9–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–65–AD; Amendment 39–11066; AD 99–06–02]

RIN 2120–AA64

Airworthiness Directives; Fairchild Aircraft, Inc. SA226 and SA227 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Fairchild Aircraft, Inc. (Fairchild) SA226 and SA227 series airplanes. This AD requires repetitively inspecting the wing spar center web cutout on both wings for cracks between Wing Station (WS) 8 and WS 17.5, and immediately repairing any area found cracked. This repair will eliminate the need for the repetitive inspections on that particular wing spar. This AD is the result of reports of cracks in the wing spar center web cutout caused by fatigue due to airplane maneuvering and wind gusts. The actions specified by this AD are intended to detect and correct fatigue cracking of the wing spar center web cutout area, which could result in structural failure of the wing spar to the point of failure with consequent loss of control of the airplane.

DATES: Effective April 16, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 16, 1999.

ADDRESSES: Service information that applies to this AD may be obtained from Field Support Engineering, Fairchild Aircraft, Inc., P.O. Box 790490, San Antonio, Texas 78279–0490; telephone: (210) 824–9421; facsimile: (210) 820–8609. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–65–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Hung Viet Nguyen, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5155; facsimile: (817) 222–5960.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Fairchild SA226 and SA227 series airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on July 31, 1998 (63 FR 40846). The NPRM proposed to require repetitively inspecting the wing spar center web cutout on both wings for cracks between WS 8 and WS 17.5, and immediately repairing any area found cracked. This repair would eliminate the need for the repetitive inspections on that particular wing spar. Accomplishment of the proposed action as specified in the NPRM would be required in accordance with the following documents:

—Fairchild Airframe Airworthiness Limitations Manual ST–UN–M001, Rev. No. C–6, dated April 7, 1998;

—Fairchild Airframe Inspection Manual ST–UN–M002, Rev. No. A–6, dated December 8, 1997;

—Fairchild Airframe Airworthiness Limitations Manual ST–UN–M003, Rev. No. 5, dated April 7, 1998;

—SA226/227 Series Structural Repair Manual, part number (P/N) 27–10054–079, pages 57 through 90; Initial Issue: March 1, 1983; Revision 28, dated June 24, 1998; and

—SA227 Series Structural Repair Manual, P/N 27–10054–127, pages 47 through 60; Initial Issue: December 1, 1991; Revision 7, dated June 24, 1998.

The NPRM was the result of reports of cracks in the wing spar center web cutout caused by fatigue due to airplane maneuvering and wind gusts.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the following comments.

Comment Issue No. 1: Allow Flight When Cracks in the Wing Spar Center Web Do Not Exceed a Certain Length

Five commenters request that the FAA structure the proposed AD in a way that would allow continued flight if cracks were found in the wing spar center web cutout provided the cracks did not exceed a certain limit. One of these commenters states that, although requiring replacement of the wing spar center web if any crack if found is a good idea, many airplanes would be grounded while waiting for parts and that flight with a small crack is not necessarily unsafe.

The FAA does not concur that flight should be allowed with cracks in the wing spar center web cutout regardless of the size of the cracks. Extensive analysis of the consequences of flying with known cracks in primary structure prompted the FAA to establish a policy that disallows airplane operation when these cracks exist. In certain circumstances, the FAA would allow flight with minor cracks provided an acceptable inspection and replacement schedule was submitted. Among the criteria for allowing flight with minor cracks are as follows:

- Substantiation that the cracks are not in primary structure;
- Substantiation that the cracks are in fail-safe structure. Various combinations of analysis and test, including that provided at the time of original certification, may be considered as ample substantiation. This must include the ability to sustain ultimate load with the maximum permissible crack. Other valid substantiations that may be considered include various combinations of fracture mechanics analysis, flight test, ground test. Temporary repairs such as ''stop drilling'' should be specified; or
- Substantiation to verify that the single load path structure with the known cracks has the ability to carry ultimate loads. Various combinations of fracture mechanics analysis, flight test, ground test, or proof test may be considered as ample substantiation. Only when unusual circumstances exist, such as the difficulty of an operator in obtaining replacement parts, will this be allowed.

Under no circumstances can any of these exceptions be considered as more than a temporary condition.

The FAA has not received information and documentation that meet any of the above criteria. Therefore, no changes are necessary to the final rule as a result of these comments.

Comment Issue No. 2: Compliance Times in the Proposed AD Are Different Than Those Specified in the Applicable Service Information

Three commenters question why the FAA did not differentiate the compliance times of the SA226 series airplanes and the SA227 series airplanes. In particular, the Airframe Airworthiness Limitations Manuals specify an initial inspection time of 6,500 hours time-in-service (TIS) for the SA226 series airplanes and 10,600 hours TIS for the SA227 series airplanes. In addition, the Airframe Airworthiness Limitations Manuals specify repetitive inspection intervals of 3,000 hours TIS while the proposed AD specifies intervals of 2,000 hours TIS.

Individual commenters make the following points:

—The justification for the difference in compliance times is due to the design of the number 13 stringer cut-out in the wing spar center web being different in the SA226 series airplanes and the SA227 series airplanes.

—Experience shows that cracking in the affected area seems to be a problem on airplanes with over 10,000 hours TIS, but no cracks have been found by the individual commenter on airplanes with around 6,500 hours TIS. The commenter recommends that the FAA establish the initial inspection at 8,500 hours TIS.

—If the 2,000 hours TIS repetitive inspection interval is going to be used instead of 3,000 hours TIS, then the FAA needs to justify why 2,000 hours TIS is needed rather than what is already specified in the Airframe Airworthiness Limitations Manual.

The FAA does not concur that the compliance time of either the initial or repetitive inspection should be changed. Cracks do not always occur in all airplanes, nor do the cracks that develop on airplanes occur at the same time. Airplanes are operated in different environments and flight loads depending on the area of the country or world they are operated in or the type of operation they are routinely utilized for (e.g., commuter, cargo, general aviation, etc.), respectively. These factors contribute to the development of cracks and the crack growth rate of existing cracks. At the time that the Airframe Airworthiness Limitations Manuals were published, there were no cracks found in the wing spar center web cutout on in-service airplanes. The inspection intervals specified in these manuals were based on one full-scale fatigue test of an SA226 series airplane. The SA227 series airplanes have not been full-scale fatigue tested in the affected area. Based on analysis of all information on this subject received to date, the FAA has determined that the initial inspection compliance time of 6,500 hours TIS and the repetitive inspection interval of 2,000 hours TIS on all affected airplanes is justified.

No changes are necessary to the final rule as a result of these comments.

Comment Issue No. 3: AD Concurrence

One commenter supports the AD as written. This commenter feels that the proposed AD would meet the safety intent of detecting and correcting fatigue cracking of the wing spar center web cutout area of Fairchild SA226 and SA227 series airplanes.

Comment Issue No. 4: Remove the SA227 Series Airplanes From the Applicability of the Proposed AD

Two commenters state that the actions proposed in the AD are not necessary for the SA227 series airplanes because the Fairchild Airframe Airworthiness Limitations Manual ST–UN–M001 and ST–UN–M003 make these requirements mandatory for continued airworthiness. The commenters state that since these inspections are already required, the SA227 series airplanes should be removed from the Applicability of the proposed AD.

The FAA concurs that the proposed inspections are currently required, particularly by §§ 135.411 and 135.425 of the Federal Aviation Regulations (14 CFR 135.411 and 14 CFR 135.425) for airplanes ''type certificated for a passenger seating configuration, excluding any pilot seat, of ten seats or more, * * *'' The SA227 series airplanes fall in this category. However, as discussed in the Comment Issue No. 2 section of this document, the inspection compliance times of the proposed AD differ from that specified in the Fairchild Airframe Airworthiness Limitations Manual ST–UN–M001 and ST–UN–M003. In addition, SA227 series airplanes that have been or are at a later date altered from the original 10 or more seat configuration (either through a supplemental type certificate or other FAA-approved method) may no longer be required by 14 CFR 135.411 and 14 CFR 135.425 to have the actions of the above-referenced Airframe Airworthiness Limitations Manuals accomplished. In this case, the only mechanism of assuring that the actions are accomplished is through the issuance of an AD.

The FAA has determined (1) that the compliance times specified in the proposed AD should take precedence over those specified in the Airframe Limitation Manuals (see Comment Issue No. 2 in this document); and (2) that the inspections should be required on any SA227 series airplane that has had the 10 or more seat configuration altered. For these reasons, the only change necessary to the final rule as a result of these comments is a statement that gives initial inspection credit to the owners/operators of those airplanes that are currently in compliance with the applicable Airframe Airworthiness Limitations Manual.

Comment Issue No. 5: Account for Future Revisions to the Service Manuals

Two commenters recommend that the words ''or later revision'' be added to each reference to the Airworthiness Airworthiness Limitations Manuals and the Structural Repair Manual (SRM). This would allow any future revisions to automatically be incorporated into the AD.

The FAA does not concur. The FAA cannot approve data that does not exist. Approval of this nature could adversely affect aviation safety if documentation was included in the subsequent service information that did not carry normal FAA review or was FAA-approved, but included information that did not accomplish the intent of the AD.

No changes have been made to the final rule as a result of these comments.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for the addition of language that gives ''already accomplished'' credit for those owners/operators of those affected airplanes that are in compliance with the applicable Airframe Airworthiness Limitations Manual and minor editorial corrections. The FAA has determined that this addition and these minor editorial corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Cost Impact

The FAA estimates that 490 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 5 workhours per airplane to accomplish the initial inspection, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of the initial inspection specified in this AD on U.S. operators is estimated to be $147,000, or $300 per airplane.

These figures only take into account the costs of the initial inspection and do not take into account the costs of repetitive inspections and the costs associated with any repair that will be necessary if cracks are found. The FAA has no way of determining the number of repetitive inspections an owner/operator will incur over the life of the airplane, or the number of airplanes that will need repairs.

If an affected airplane has cracks in both wing spar center webs, the repair will take approximately 400 workhours to accomplish at an average labor rate of $60 per hour. Parts to accomplish this repair cost approximately $400 per airplane. Based on these figures, the cost to repair cracked wing spar center webs on both sides of the airplane will be approximately $24,400 per airplane.

Regulatory Impact

The regulations adopted herein 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. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

99–06–02 Fairchild Aircraft, Inc.: Amendment 39–11066; Docket No. 98–CE–65–AD.

Applicability: The following model airplanes and serial numbers, certificated in any category:

Model	Serial No.
SA226–AT	AT001 through AT074.
SA226–TC	TC201 through TC419.
SA226–T	T201 through T291.
SA226–T(B)	T(B)276 and T(B)292 through T(B)417.
SA227–TT	TT421 through TT541.
SA227–TT(300)	TT(300)447, TT(300)465, TT(300)471, TT(300)483, TT(300)512, TT(300)518, TT(300)521, TT(300)527, TT(300)529, and TT(300)536.
SA227–AC	AC406, AC415, AC416, and AC420 through AC785.
SA227–AT	AT423 through AT631 and AT695.
SA227–BC	BC762, BC764, BC766, and BC770 through BC789.
SA227–CC/DC	CC/DC784 and CC/DC790 through CC/DC878.

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 (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To detect and correct fatigue cracking of the wing spar center web cutout area, which could result in structural failure of the wing spar to the point of failure with consequent loss of control of the airplane, accomplish the following:

(a) Upon accumulating 6,500 hours time-in-service (TIS) on each wing spar; within the next 2,000 hours TIS after the last inspection accomplished per the applicable Airworthiness Limitations Manual (referenced in the paragraphs below); or within the next 500 hours TIS after the effective date of this AD, whichever occurs later, unless already accomplished; and thereafter at intervals not to exceed 2,000 hours TIS, inspect each wing spar center web cutout for cracks between Wing Station (WS) 8 and WS 17.5. Accomplish this inspection in accordance with one of the following, as applicable:

(1) *For Models SA227–TT, SA227–AT, SAA227–AC, and SA227–BC airplanes:* In accordance with Fairchild Airframe Airworthiness Limitations Manual ST–UN–M001, Rev. No. C–6, dated April 7, 1998;

(2) *For Models SA226–T, SA226–T(B), SA226–AT, and SA226–TC airplanes:* In accordance with Fairchild Airframe Inspection Manual ST–UN–M002, Rev. No. A–6, dated December 8, 1997; or

(3) *For Models SA227–CC and SA227–DC airplanes:* In accordance with Fairchild Airframe Airworthiness Limitations Manual ST–UN–M003, Rev. No. 5, dated April 7, 1998.

(b) If any crack(s) is/are found during any inspection required by paragraph (a) of this AD, prior to further flight, repair the crack(s) in accordance with one of the following, as applicable. This repair eliminates the repetitive inspections (2,000 hours TIS intervals) required in paragraph (a) of this AD for that particular wing spar.

(1) *For Models SA226–T, SA226–T(B), SA226–AT, SA226–TC, SA227–TT, SA227–AT, SA227–AC, and SA227–BC airplanes:* In accordance with Fairchild SA226/227 Series Structural Repair Manual, part number (P/N) 27–10054–079, pages 57 through 90; Initial Issue: March 1, 1983; Revision 28, dated June 24, 1998; or

(2) *For Models SA227–CC and SA227–DC airplanes:* In accordance with Fairchild SA227 Series Structural Repair Manual, P/N 27–10054–127, pages 47 through 60; Initial Issue: December 1, 1991; Revision 7, dated June 24, 1998.

(c) The repetitive inspections required by paragraph (a) of this AD may be terminated if the wing spar center web repair specified in paragraph (b) of this AD has been

accomplished on both the left and right wing spar. If one wing spar center web has been repaired, then repetitive inspections are still required on the other one if the repair has not been incorporated.

(d) Special flight permits may be issued in accordance with §§ 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.

(e) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, FAA, Airplane Certification Office (ACO), 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Forth Worth ACO.

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

(f) The inspections required by this AD shall be done in accordance with Fairchild Airframe Airworthiness Limitations Manual ST–UN–M001, Rev. No. C–6, dated April 7, 1998; Fairchild Airframe Inspection Manual ST–UN–M002, Rev. No. A–6, dated December 8, 1997; or Fairchild Airframe Airworthiness Limitations Manual ST–UN–M003, Rev. No. 5, dated April 7, 1998, as applicable. The possible repairs required by this AD shall be done in accordance with Fairchild SA226/227 Series Structural Repair Manual, part number (P/N) 27–10054–079, pages 57 through 90; Initial Issue: March 1, 1983; Revision 28, dated June 24, 1998; or Fairchild SA227 Series Structural Repair Manual, P/N 27–10054–127, pages 47 through 60; Initial Issue: December 1, 1991; Revision 7, dated June 24, 1998, as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Field Support Engineering, Fairchild Aircraft, Inc., P.O. Box 790490, San Antonio, Texas 78279–0490. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(g) This amendment becomes effective on April 16, 1999.

Issued in Kansas City, Missouri, on February 26, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–5724 Filed 3–9–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–01–AD; Amendment 39–11068; AD 99–06–04]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model AS 332C, L, and L1, and L2 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Eurocopter France Model AS 332C, L, L1, and L2 helicopters that requires replacing certain circuit breakers. This amendment is prompted by the manufacturer discovering, upon testing a circuit breaker installed in a helicopter, the loss of electrical continuity between the terminals of the installed circuit breaker. The actions specified by this AD are intended to prevent loss of electrical power caused by improper installation of certain circuit breakers, loss of electical power to instrumentation, and subsequent loss of control of the helicopter.

DATES: Effective April 14, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 14, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert McCallister, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5121, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to Eurocopter France Model AS 332C, L, L1, and L2 helicopters was published in the **Federal Register** on June 23, 1998 (63 FR 34135). That action proposed to require inspection of any Crouzet single-pole circuit breakers, part number (P/N) 84 400 028 through 84 400 037, and replacement of all circuit breakers that have any loss of electrical continuity.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 3 helicopters of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per helicopter to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $5,750 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $17,790.

The regulations adopted herein 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. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

AD 99–06–04 Eurocopter France: Amendment 39–11068. Docket No. 98–SW–01–AD.

Applicability: Eurocopter France Model AS 332C, L, L1, and L2 helicopters, with Crouzet circuit breaker, part number (P/N) 84 400 028 through 84 400 037, installed, certificated in any category.

Note 1: This AD applies to each helicopter 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 helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of electrical power, loss of instrumentation, and subsequent loss of control of the helicopter, accomplish the following:

(a) On or before 100 hours time-in-service (TIS) or within the next 3 calendar months, whichever occurs first,

(1) For Model AS 332C, L, and L1, inspect the circuit breakers listed in paragraph 1.D.1) of the Planning Information in Eurocopter France Service Bulletin No. 01.00.49, dated June 30, 1997 (SB) according to the operational procedure in paragraph 2.B. of the Accomplishment Instructions of the SB;

(2) For Model AS 332L2, inspect the circuit breakers fitted to the DC power system, the 20 kVA and 30 kVA AC master box, the emergency flotation gear, and the second battery according to the operational procedure in paragraph 2.B. of the Accomplishment Instructions of the SB.

(b) On or before 500 hours TIS or 6 calendar months, whichever occurs first, inspect all remaining circuit breakers in accordance with paragraph 2.B. of the Accomplishment Instructions of the SB.

(c) Except for circuit breaker type 84–402(x), after compliance with paragraph (a) of this AD, any replacement circuit breaker installed, or any circuit breaker removed and reinstalled, must be inspected prior to further flight according to the operational procedure of paragraph 2.B. of the Accomplishment Instructions of the SB. Replacement of all circuit breakers with circuit breaker type 84–402(x) is terminating action for the requirements of this AD.

(d) 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, Rotorcraft Standards Staff, FAA, Rotorcraft Directorate. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

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

(f) The inspection shall be done in accordance with the operational procedures in paragraph 2.B. of the Accomplishment Instructions of Eurocopter France Service Bulletin No. 01.00.49, dated June 30, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; 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 Direction Generale De L'Aviation Civile (France) AD 97–202–062(AB) and 97–201–007(AB), both dated August 27, 1997.

(g) This amendment becomes effective on April 14, 1999.

Issued in Fort Worth, Texas, on March 1, 1999.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–5725 Filed 3–9–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

RIN 0720–AA27

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Provider Certification Requirements—Corporate Services Provider Class

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule presents requirements to permit payment of professional or technical health care services rendered by certain corporate providers; makes changes to clarify the general requirements for individual professional providers; and adds standard provider participation agreement provisions when such agreements are otherwise required.

DATES: This rule is effective June 8, 1999.

ADDRESSES: TRICARE Management Activity, Medical Benefits and Reimbursement Systems, 16401 East Centretech Parkway, Aurora, CO 80011–9043.

FOR FURTHER INFORMATION CONTACT: David E. Bennett, TRICARE Management Activity, Medical Benefits and Reimbursement Systems, telephone (303) 676–3492.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

CHAMPUS supplements the availability of health care in military hospitals and clinics. Services and items allowable as CHAMPUS benefits must be obtained from CHAMPUS authorized civilian providers to be considered for payment. Requirements for CHAMPUS provider authorization are published under 32 CFR 199.6.

CHAMPUS currently has requirements for three classes of providers. The institutional provider class includes hospitals and other categories of similar facilities. The individual professional providers class includes physicians and other categories of licensed individuals who render professional services independently, and certain allied health and extra medical providers that must function under physician orders and supervision. The third class of providers consists of sellers of items and supplies of an ancillary or supplemental nature such as durable medical equipment.

CHAMPUS payment depends upon a service being both allowable as a benefit and rendered by a CHAMPUS authorized provider. Consequently, it is currently possible, for example, that outpatient treatment by a physical therapist employed by a hospital may be paid (to the hospital) while the same service provided by an employee of a freestanding corporation or foundation is denied payment.

This administrative exclusion is difficult for beneficiaries to apply when seeking health care services because it requires an understanding of the underlying business structure of the provider. But the underlying business structure of a provider organization is

important to CHAMPUS management decisions regarding quality assurance and payment methods.

Corporations, both not-for-profit and shareholder, and foundations are an alternative source of ambulatory and in-home care. The proposed addition of the corporate class will recognize the current range of providers within today's health care delivery structure, and give beneficiaries access to another segment of the health care delivery industry.

II. Provisions of the Rule

A. New Provider Category (Revisions to § 199.6(f)

This paragraph creates a fourth class of CHAMPUS provider consisting of freestanding corporations and foundations that render principally professional ambulatory or in-home care and technical diagnostic procedures. The intent of the rule is not to create additional benefits that ordinarily would not be covered under CHAMPUS is provided by a more traditional health care delivery system, but rather to allow those services which would otherwise be allowed except for an individual provider's affiliation with a freestanding corporate facility.

While is recognized that some of the services and supplies provided by freestanding corporate providers may substantially reduce costs in comparison to extended care provided in a hospital, it is often difficult to control the type and level of care actually provided within these alternative treatment settings. It is also recognized that some of the alternative delivery setting, such a Home Health Agencies and Comprehensive Outpatient Rehabilitation Facilities, provide services that are not a covered benefit under CHAMPUS. Often care rendered in these setting is provided by an individual who is not recognized by CHAMPUS as an authorized provider in his or her own right (i.e., home health aides in the case of home health care), and as such, is not covered under the provisions of this rule. Otherwise covered professional services provided by CHAMPUS authorized individual providers employed by or under contract with a freestanding corporate entity will be paid under the CHAMPUS Maximum Allowable Charge (CMAC) reimbursement system, subject to any restrictions and limitations as may be prescribed under existing CHAMPUS policy. The corporate entity will not be allowed additional facility charges that are not already incorporated into the professional service fee structure (i.e., facility charges that are not already included in the overhead and malpractice cost indices used in establishing locally-adjusted CMAC rates.)

Payment will also be allowed for supplies used by a CHAMPUS authorized individual provider employed by or contracted with a corporate services provider covered under the provisions of this rule in the direct treatment of a CHAMPUS eligible beneficiary. Payment for both professional services and supplies will be paid directly to the CHAMPUS authorized corporate service provider under its own tax identification number.

Coporate services providers must be approved for Medicare payment, or when Medicare approval status is not required, be accredited by a qualified accreditation organization as defined in 32 CFR 199.2 order to gain provider authorization status under CHAMPUS. Corporate services providers must also enter into a participation agreement which will be sent out as part of the initial certification process. The participation agreement will ensure that CHAMPUS determined allowable payments, combined with the cost-share/copayment, deductible, and other health insurance amounts, will be accepted by the provider as payment in full.

B. Direct Payment for Occupational Therapist (Revisions to § 199.4(3)(x)) and § 199.6(c)(3)(iii)(l)(3)

The proposed rule, which was published on March 8, 1995 (60 FR 12717), allowed qualified self-employed occupational therapists to be authorized for direct payment for allowable services. However, the services has to be prescribed and monitored by a physician and reduce the disabling effects of an illness, injury, or neuromuscular disorder. The treatment also had to increase, stabilize, or slow the deterioration of the beneficiary's ability to perform specified purposeful activity within the range considered normal for human being. The provisions for occupational therapists were pulled from the proposed Corporate Services Provider Class rule and included as part of the Program from Persons with Disabilities (PFPWD) final rule was published in the **Federal Register** on June 30, 1997, (62 CFR 35086). (Public comments received in response to the occupational therapist provisions contained in the proposed rule were addressed and responded to the PFPWS final rule.

C. Provisions for Provider Participation (Revision of Definition of ''Participating Provider'' in § 199.2, Clarification of Types of Provider Participation in § 199.6(a)(8) and Additional Requirements for Participation Under § 199.6(a)(12) and § 199.6(a)(13))

The final amendment expands and clarifies the various types of provider participation available under CHAMPUS, emphasizing mandatory participation by the new Corporate Services Provider class. Corporate service providers must enter into a participation agreement that at least complies with the minimum participation agreement requirements as outlined under § 199.6(a)(13). The amendment also establishes minimum medical documentation requirements for authorized provider organizations and individuals providing clinical services under CHAMPUS.

D. Removal of Exclusions (Removal of § 199.4(g)(70) and § 199.4(g)(71))

This amendment removes provision which exclude CHAMPS coverage of civilian diagnostic and consultation services requested by a Military Treatment Facility (MTF) physician in support of continued MTF care of a CHAMPUS-eligible beneficiary. Because MTF's vary in size and clinical capacity for the care of CHAMPUS-eligible beneficiaries, the lack of access to specialized diagnostic and consultation resources through CHAMPUS may result in the MTF purchasing the civilian services directly without the advantage of CHAMPUS price requirements; the beneficiary paying the total cost of such non-MTF services; or the beneficiary choosing to obtain all care in the civilian community in order to take advantage of CHAMPUS cost-share of all the necessary care. Removal of these exclusions will allow flexibility in the implementation of an MTF-based plan-of-care resulting in continuity of care at a lower cost to both the beneficiary and the government.

E. Professional Corporation or Association (Revision of § 199.6(c)(1) and § 199.6(c)(2))

The final rule more clearly establishes that a professional corporation or association is not itself a provider but may file claims and receive payment on behalf of an individual professional provider member. The corporate entity is simply acting as a billing agent for its professional members (i.e., it is billing for its members' professional services under a single tax identification number) who are practicing within the scope of their individual state licenses,

or have otherwise passed qualifying certification tests. The conditions for authorization have been expanded and rearranged to more clearly present the other general requirements for this provider category.

III. Public Comments

As a result of the publication of the proposed rule, the following comments were received from interested providers, associations, and agencies.

Comment 1. One commentor offered its corporate and clinical personnel to serve on any advisory boards which may be established to address credentialing concerns.

Response. Although we appreciate the commentor's offer to lend its expertise (i.e., both corporate and clinical staff) to any future advisory boards that might be convened on credentialing concerns, reliance on Medicare approval for payment—or when Medicare approved status is not required, accreditation by a qualified accreditation organization as defined by amendment—has been found to be administratively expeditious and cost effective for the program. As a result, we do not expect the need for convening any future advisory boards since the new provider categories will already be subject to nationally recognized certification criteria.

Comment 2. Several commentors had concerns on how the qualified accreditation organization defined in § 199.2 would reinforce CHAMPUS authorization requirements and promote efficient delivery of CHAMPUS benefits. It was recommended that the final rule list the initial agencies and criteria for recognition.

Response. Specific references to accreditation agencies would negate the agency's authority to promptly recognize by administrative policy, rather than the much longer Code of Federal Register (CFR) amendment process, those newly recognized accreditation agencies or organizations which might come to meet the criteria set forth in this final rule. While it is anticipated that most, if not all, of the alternative treatment settings initially eligible for inclusion under this new provider category are authorized for payment under Medicare, there is a provision in the final rule (32 CFR 199.6(f)(2)(v)) which allows accreditation by a qualified accrediting organization as defined in the definition section of CFR (32 CFR 199.2) when Medicare approved status is not required. This definition provides specific criteria for recognition of qualified accreditation organizations under CHAMPUS.

Under the prescribed provisions set forth in this final rule, the corporate entity must be an authorized provider under CHAMPUS in order for payment of professional services to be authorized. For example, a corporate entity which is neither recognized by Medicare or any other accreditation organization as prescribed under the definition section of the CFR (32 CFR 199.2), coverage could not be extended for professional services even if the individual professional providers would have otherwise been eligible for payment except for their affiliation with the corporate entity. In other words, while the expanded provider category will allow coverage of professional services for corporate entities, meeting the conditions for authorization established under this rule, it will at the same time restrict coverage of professional services for those corporate entities which cannot meet those criteria for corporate services provider authorization under CHAMPUS.

Comment 3. One commentor recommended that comprehensive outpatient rehabilitation facilities (CORFs) be explicitly addressed in the final rule as a type of corporate service provider so there is no misunderstanding in the future as to the ability of CORFs to provide services to CHAMPUS beneficiaries.

Response: The response to this comment is similar to the rationale used in the previous response as to why a list of qualified accreditation agencies or organizations are not specifically listed in the final rule. Again, a laundry list of qualifying corporate service providers would negate the agency's authority to promptly recognize by administrative policy, rather than having to go through the much longer rulemaking procedures for those corporate service providers who may in the future meet the criteria for authorization set down in this rule. For example, recognition of a new corporate services provider as an authorized provider under CHAMPUS would take three to six months through the administrative policy process (i.e., simply making changes to the program policy guidelines), compared to twelve to sixteen months through the formal rulemaking.

Comment 4. Another commentor felt that specific guidelines for the authorization process should be addressed in the final rule so that there is no misunderstanding by the providers or CHAMPUS contractors.

Response. It is felt that the incorporation of specific certification guidelines is unnecessary, since the authorization status of corporate services providers under CHAMPUS is already contingent on nationally recognized certification criteria (i.e., authorization/certification guidelines established by Medicare and other accrediting organizations as prescribed under the definition section of the CFR (32 CFR 199.2)). This would also impose an unnecessary administrative burden on the agency, since 32 CFR 199 would have to be continually updated to keep current with changes in national certification guidelines for this particular provider class.

Comment 5. One commentor wanted to know the conditions under which the Director, OCHAMPUS, or designee, may limit the term of a participation agreement for corporate services. It was recommended that limitations be explicit and known to the providers and CHAMPUS contractors.

Response. As was stated previously, corporate services providers must also enter into a participation agreement which will be sent out as part of the initial certification process. The participation agreement will ensure that CHAMPUS determined allowable payments, combined with the cost-share/copayment, deductible, and other health insurance amounts, will be accepted by the provider as payment in full. The agreement will be binding on the provider and OCHAMPUS upon acceptance by the Director, OCHAMPUS, or designee, and shall stay in effect until terminated by either party. The effective day of the participation will be the date the agreement is signed by the Director, OCHAMPUS, or designee.

The agreement may be terminated by either party giving the other party written notice of termination. Such notice of termination is to be received by the other party no later than 45 days prior of the date of termination. In the event of transfer of ownership, the agreement is assigned to the new owner, subject to the conditions specified in this agreement and pertinent regulations. The participation agreement will, at a minimum, contain all of the required provisions as outlined in this rule (32 CFR 199.6(a)(13)). Violation of one or more of these requirements will be ground for termination by the Director, OCHAMPUS, or designee.

Comment 6. Another commentor wants to know if the definition of a corporate services provider encompasses vocational rehabilitation facilities and other community based rehabilitation providers.

Response. The following conditions must be met in order for vocational rehabilitation and community based rehabilitation providers to meet the definition of corporate services provider

as prescribed under the provisions of this rule: (1) that the corporate entity be approved for Medicare payment, or when Medicare approval status is not required, be accredited by a qualified accreditation organization, as defined in 32 CFR 199.2; (2) that the services are covered program benefits rendered by CHAMPUS authorized individual providers as designated in 32 CFR 199.6 the corporate entity has entered into a participation agreement that at least complies with the minimum participation agreement requirements set forth in this final rule.

Comment 7. One commentor had concerns regarding the potential cost impact of provider expansion on the CHAMPUS program.

Response. Currently professional outpatient health care which could be supplied by corporate services providers (e.g., home health agencies and comprehensive outpatient rehabilitation facilities) is obtained through hospitals. CHAMPUS reimburses professional outpatient hospital services as billed if a specific procedure code is not identifiable on the institutional billing form. The same services received from corporate services providers are always paid under the CHAMPUS Maximum Allowable Charge (CMAC) reimbursement methodology. Under CMAC reimbursement is limited to the billed charge or CHAMPUS-determined allowable amount (in most cases the CMAC), whichever is less. The CMAC is generally less than the billed charge; therefore, with the addition of the proposed types of providers, CHAMPUS could potentially pay less for professional health services. At worst, the impact would be budget neutral, given the fact that professional services are paid in accordance with the CHAMPUS Maximum Allowable Charge regardless of whether the provider is authorized under the CHAMPUS regulatory definition for individual professional provider or under the corporate services provider class.

Comment 8. One commentor recommended that CHAMPUS recognize the Commission on Accreditation of Rehabilitation Facilities (CARF) accreditation for corporate services providers, since it is a nationally recognized accrediting body for inpatient, outpatient, vocational, behavioral, community based rehabilitation services and programs.

Response. Under the provisions promulgated in this rule, a corporate entity must maintain Medicare approval for payment if it is a category or type of provider that is substantially comparable to a provider or supplier for which Medicare has regulatory conditions of participation or coverage. However, if regulatory provisions for participation in the Medicare program are not available for a particular category of provider, accreditation by a qualified accreditation organization may be used in lieu of Medicare for conveying CHAMPUS provider authorization status. Recognition of the Commission on Accreditation of Rehabilitation Facilities (CARF) for accreditation of corporate services providers as a condition of authorization under CHAMPUS is contingent on its compliance with the qualifying criteria established under the definition of ''Qualified accreditation organization'' appearing in 32 CFR 199.2. In other words, if Medicare certifies a particular corporate services provider class, the providers' Medicare certification (approval for payment) must be used as a condition for authorization under CHAMPUS. If not, the accreditation of an accrediting organization that meets the qualifying criteria under the definition of ''Qualified accreditation organization'' appearing in 32 CFR 100.2 will have to be used.

Comment 9. A final commentor wanted to know if a CORF that was also a professional corporation or professional association would be eligible as an authorized corporate services provider.

Response. One of the conditions of authorization under the new provider class designation (i.e., to be authorized under CHAMPUS as a corporate services provider) is that the applicant be a freestanding corporation or foundation, but not a professional corporation or professional association.

IV. Regulatory Matters

Executive Order 12866 requires certain regulatory assessments for any ''significant regularly action'' defined as one that would result in an annual effect on the economy of $100 million or more, or have other substantial impacts.

The Regulatory Flexibility Act (RFA) requires that each Federal agency prepare, and make available for public comment are regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities.

Approximately 850 corporate or foundation physician groups and 4,500 freestanding Medicare certified in-home health care agencies will become eligible to apply for CHAMPUS provider status on the effective date of this rule. Since these changes are simply a competitive redistribution of ambulatory care benefit costs for already existing benefits, we certify that this final rule is not a major under Executive Order 12866, and will not have a significant economic impact on a substantial number of small entities under the criteria set forth in the Regulatory Flexibility Act.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501–2511) requires all Departments to submit to the Office of Management and Budget (OMB) for review and approval any reporting or record keeping requirements in a proposed or final rule. The final rule will require information from the provider applicant to document that the criteria for CHAMPUS-provider status are met. The development of a corporate services provider application form has been accomplished along with an accompanying participation agreement. A notice for the proposed information collection appeared in the **Federal Register** on July 31, 1998 (63 FR 40882). The proposed information collection will be submitted to OMB concurrently with the publication of the final rule in the **Federal Register.**

Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs, OMB, 725 17th Street, N.W., Washington, DC 20503, marked ''Attention Desk Officer for Department of Defense, Health Affairs.''

List of Subjects in 32 CFR Part 199

Claims, Health insurance, Individuals and disabilities, Military personnel, Reporting and recordkeeping requirements.

Accordingly, 32 CFR part 199 is amended as follows:

PART 199—[AMENDED]

1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

2. Section 199.2(b) is amended by revising the definition for ''Participating provider,'' and by adding definitions for ''Corporate services provider,'' ''Economic interest,'' and ''Qualified accreditation organization '' in alphabetical order to read as follows:

§ 199.2 Definitions.

* * * * *

(b) * * *

Corporate services provider. A health care provider that meets the applicable requirements established by § 199.6(f).

* * * * *

Economic interest. (1) Any right, title, or share in the income, remuneration, payment, or profit of a CHAMPUS-authorized provider, or of an individual

or entity eligible to be a CHAMPUS-authorized provider, resulting, directly or indirectly, from a referral relationship; or any direct or indirect ownership, right, title, or share, including a mortgage, deed of trust, note, or other obligation secured (in whole or in part) by one entity for another entity in a referral or accreditation relationship, which is equal to or exceeds 5 percent of the total property and assets of the other entity.

(2) A referral relationship exists when a CHAMPUS beneficiary is sent, directed, assigned or influenced to use a specific CHAMPUS-authorized provider, or a specific individual or entity eligible to be a CHAMPUS-authorized provider.

(3) An accreditation relationship exists when a CHAMPUS-authorized accreditation organization evaluates for accreditation an entity that is an applicant for, or recipient of CHAMPUS-authorized provider status.

* * * * *

Participating provider. A CHAMPUS-authorized provider that is required, or has agreed by entering into a CHAMPUS participation agreement or by act of indicating ''accept assignment'' on the claim form, to accept the CHAMPUS-allowable amount as the maximum total charge for a service or item rendered to a CHAMPUS beneficiary, whether the amount is paid for fully by CHAMPUS or requires cost-sharing by the CHAMPUS beneficiary.

* * * * *

Qualified accreditation organization. A not-for-profit corporation or a foundation that:

(1) Develops process standards and outcome standards for health care delivery programs, or knowledge standards and skill standards for health care professional certification testing, using experts both from within and outside of the health care program area or individual specialty to which the standards are to be applied;

(2) Creates measurable criteria that demonstrate compliance with each standard;

(3) Publishes the organization's standards, criteria and evaluation processes so that they are available to the general public;

(4) Performs on-site evaluations of health care delivery programs, or provides testing of individuals, to measure the extent of compliance with each standard;

(5) Provides on-site evaluation or individual testing on a national or international basis;

(6) Provides to evaluated programs and tested individuals time-limited written certification of compliance with the organization's standards;

(7) Excludes certification of any program operated by an organization which has an economic interest, as defined in this section, in the accreditation organization or in which the accreditation organization has an economic interest;

(8) Publishes promptly the certification outcomes of each program evaluation or individual test so that it is available to the general public; and

(9) Has been found by the Director, OCHAMPUS, or designee, to apply standards, criteria, and certification processes which reinforce CHAMPUS provider authorization requirements and promote efficient delivery of CHAMPUS benefits.

* * * * *

§ 199.4 [Amended]

3. Section 199.4 is amended by removing and reserving paragraphs (g)(70) and (g)(71).

4. Section 199.6 is amended by revising paragraphs (a)(8), (c)(1), and (c)(2); adding paragraphs (a)(12) and (a)(13); removing paragraph (b)(1)(iii); redesignating paragraphs (f) and (g) as paragraphs (a)(14) and (a)(15); and adding new paragraph (f) to read as follows:

§ 199.6 Authorized providers.

(a) * * *

(8) *Participating providers.* A CHAMPUS-authorized provider is a participating provider, as defined in § 199.2 under the following circumstances:

(i) *Mandatory participation.* (A) All Medicare-participating hospitals must be CHAMPUS participating providers for all inpatient CHAMPUS claims.

(B) Hospitals that are not Medicare-participating but are subject to the CHAMPUS-DRG-based payment methodology or the CHAMPUS mental health payment methodology as established by § 199.14(a), must enter into a participation agreement with CHAMPUS for all inpatient claims in order to be a CHAMPUS-authorized provider.

(C) Corporate services providers authorized as CHAMPUS providers under the provisions of paragraph (f) of this section must enter into a participation agreement as provided by the Director, OCHAMPUS, or designee.

(ii) *Voluntary participation*—(A) *Total claims participation: The participating provider program.* A CHAMPUS-authorized provider that is not required to participate by this part may become a participating provider by entering into an agreement or memorandum of understanding (MOU) with the Director, OCHAMPUS, or designee, which includes, but is not limited to, the provisions of paragraph (a)(13) of this section. The Director, OCHAMPUS, or designee, may include in a participating provider agreement/MOU provisions that establish between CHAMPUS and a class, category, type, or specific provider, uniform procedures and conditions which encourage provider participation while improving beneficiary access to benefits and contributing to CHAMPUS efficiency. Such provisions shall be otherwise allowed by this part or by DoD Directive or DoD Instruction specifically pertaining to CHAMPUS claims participation. Participating provider program provisions may be incorporated into an agreement/MOU to establish a specific CHAMPUS-provider relationship, such as a preferred provider arrangement.

(B) *Claim-specific participation.* A CHAMPUS-authorized provider that is not required to participate and that has not entered into a participation agreement pursuant to paragraph (a)(8)(ii)(A) of this section may elect to be a participating provider on a claim-by-claim basis by indicating ''accept assignment'' on each claim form for which participation is elected.

* * * * *

(12) *Medical records.* CHAMPUS-authorized provider organizations and individuals providing clinical services shall maintain adequate clinical records to substantiate that specific care was actually furnished, was medically necessary, and appropriate, and identify(ies) the individual(s) who provided the care. This applies whether the care is inpatient or outpatient. The minimum requirements for medical record documentation are set forth by all of the following:

(i) The cognizant state licensing authority;

(ii) The Joint Commission on Accreditation of Healthcare Organizations, or the appropriate Qualified Accreditation Organization as defined in § 199.2;

(iii) Standards of practice established by national medical organizations; and

(iv) This part.

(13) *Participation agreements.* A participation agreement otherwise required by this part shall include, in part, all of the following provisions requiring that the provider shall:

(i) Not charge a beneficiary for the following:

(A) Services for which the provider is entitled to payment from CHAMPUS;

(B) Services for which the beneficiary would be entitled to have CHAMPUS

payment made had the provider complied with certain procedural requirements.

(C) Services not medically necessary and appropriate for the clinical management of the presenting illness, injury, disorder or maternity;

(D) Services for which a beneficiary would be entitled to payment but for a reduction or denial in payment as a result of quality review; and

(E) Services rendered during a period in which the provider was not in compliance with one or more conditions of authorization;

(ii) Comply with the applicable provisions of this part and related CHAMPUS administrative policy;

(iii) Accept the CHAMPUS determined allowable payment combined with the cost-share, deductible, and other health insurance amounts payable by, or on behalf of, the beneficiary, as full payment for CHAMPUS allowed services;

(iv) Collect from the CHAMPUS beneficiary those amounts that the beneficiary has a liability to pay for the CHAMPUS deductible and cost-share;

(v) Permit access by the Director, OCHAMPUS, or designee, to the clinical record of any CHAMPUS beneficiary, to the financial and organizational records of the provider, and to reports of evaluations and inspections conducted by state, private agencies or organizations;

(vi) Provide the Director, OCHAMPUS, or designee, prompt written notification of the provider's employment of an individual who, at any time during the twelve months preceding such employment, was employed in a managerial, accounting, auditing, or similar capacity by an agency or organization which is responsible, directly or indirectly for decisions regarding Department of Defense payments to the provider;

(vii) Cooperate fully with a designated utilization and clinical quality management organization which has a contract with the Department of Defense for the geographic area in which the provider renders services;

(viii) Obtain written authorization before rendering designated services or items for which CHAMPUS cost-share may be expected;

(ix) Maintain clinical and other records related to individuals for whom CHAMPUS payment was made for services rendered by the provider, or otherwise under arrangement, for a period of 60 months from the date of service;

(x) Maintain contemporaneous clinical records that substantiate the clinical rationale for each course of treatment, periodic evaluation of the efficacy of treatment, and the outcome at completion or discontinuation of treatment;

(xi) Refer CHAMPUS beneficiaries only to providers with which the referring provider does not have an economic interest, as defined in § 199.2; and

(xii) Limit services furnished under arrangement to those for which receipt of payment by the CHAMPUS authorized provider discharges the payment liability of the beneficiary.

* * * * *

(c) *Individual professional providers of care*—(1) *General*—(i) *Purpose.* This individual professional provider class is established to accommodate individuals who are recognized by 10 U.S.C. 1079(a) as authorized to assess or diagnose illness, injury, or bodily malfunction as a prerequisite for CHAMPUS cost-share of otherwise allowable related preventive or treatment services or supplies, and to accommodate such other qualified individuals who the Director, OCHAMPUS, or designee, may authorize to render otherwise allowable services essential to the efficient implementation of a plan-of-care established and managed by a 10 U.S.C. 1079(a) authorized professional.

(ii) *Professional corporation affiliation or association membership permitted.* Paragraph (c) of this section applies to those individual health care professionals who have formed a professional corporation or association pursuant to applicable state laws. Such a professional corporation or association may file claims on behalf of a CHAMPUS-authorized individual professional provider and be the payee for any payment resulting from such claims when the CHAMPUS-authorized individual certifies to the Director, OCHAMPUS, or designee, in writing that the professional corporation or association is acting on the authorized individual's behalf.

(iii) *Scope of practice limitation.* For CHAMPUS cost-sharing to be authorized, otherwise allowable services provided by a CHAMPUS-authorized individual professional provider shall be within the scope of the individual's license as regulated by the applicable state practice act of the state where the individual rendered the service to the CHAMPUS beneficiary or shall be within the scope of the test which was the basis for the individual's qualifying certification.

(iv) *Employee status exclusion.* An individual employed directly, or indirectly by contract, by an individual or entity to render professional services otherwise allowable by this part is excluded from provider status as established by this paragraph (c) for the duration of each employment.

(v) *Training status exclusion.* Individual health care professionals who are allowed to render health care services only under direct and ongoing supervision as training to be credited towards earning a clinical academic degree or other clinical credential required for the individual to practice independently are excluded from provider status as established by this paragraph (c) for the duration of such training.

(2) *Conditions of authorization*—(i) *Professional license requirement.* The individual must be currently licensed to render professional health care services in each state in which the individual renders services to CHAMPUS beneficiaries. Such license is required when a specific state provides, but does not require, license for a specific category of individual professional provider. The license must be at full clinical practice level to meet this requirement. A temporary license at the full clinical practice level is acceptable.

(ii) *Professional certification requirement.* When a state does not license a specific category of individual professional, certification by a Qualified Accreditation Organization, as defined in § 199.2, is required. Certification must be at full clinical practice level. A temporary certification at the full clinical practice level is acceptable.

(iii) *Education, training and experience requirement.* The Director, OCHAMPUS, or designee, may establish for each category or type of provider allowed by this paragraph (c) specific education, training, and experience requirements as necessary to promote the delivery of services by fully qualified individuals.

(iv) *Physician referral and supervision.* When physician referral and supervision is a prerequisite for CHAMPUS cost-sharing of the services of a provider authorized under this paragraph (c), such referral and supervision means that the physicians must actually see the patient to evaluate and diagnose the condition to be treated prior to referring the beneficiary to another provider and that the referring physician provides ongoing oversight of the course of referral related treatment throughout the period during which the beneficiary is being treated in response to the referral. Written contemporaneous documentation of the referring physician's basis for referral and ongoing communication between the referring and treating provider regarding the oversight of the treatment

rendered as a result of the referral must meet all requirements for medical records established by this part. Referring physician supervision does not require physical location on the premises of the treating provider or at the site of treatment.

* * * * *

(f) *Corporate services providers.*—(1) *General.* (i) This corporate services provider class is established to accommodate individuals who would meet the criteria for status as a CHAMPUS authorized individual professional provider as established by paragraph (c) of this section but for the fact that they are employed directly or contractually by a corporation or foundation that provides principally professional services which are within the scope of the CHAMPUS benefit.

(ii) Payment for otherwise allowable services may be made to a CHAMPUS-authorized corporate services provider subject to the applicable requirements, exclusions and limitations of this part.

(iii) The Director, OCHAMPUS, or designee, may create discrete types within any allowable category of provider established by this paragraph (f) to improve the efficiency of CHAMPUS management.

(iv) The Director, OCHAMPUS, or designee, may require, as a condition of authorization, that a specific category or type of provider established by this paragraph (f):

(A) Maintain certain accreditation in addition to or in lieu of the requirement of paragraph (f)(2)(v) of this section;

(B) Cooperate fully with a designated utilization and clinical quality management organization which has a contract with the Department of Defense for the geographic area in which the provider does business;

(C) Render services for which direct or indirect payment is expected to be made by CHAMPUS only after obtaining CHAMPUS written authorization; and

(D) Maintain Medicare approval for payment when the Director, OCHAMPUS, or designee, determines that a category, or type, of provider established by this paragraph (f) is substantially comparable to a provider or supplier for which Medicare has regulatory conditions of participation or conditions of coverage.

(v) Otherwise allowable services may be rendered at the authorized corporate services provider's place of business, or in the beneficiary's home under such circumstances as the Director, OCHAMPUS, or designee, determines to be necessary for the efficient delivery of such in-home services.

(vi) The Director, OCHAMPUS, or designee, may limit the term of a participation agreement for any category or type of provider established by this paragraph (f).

(vii) Corporate services providers shall be assigned to only one of the following allowable categories based upon the predominate type of procedure rendered by the organization;

(A) Medical treatment procedures;

(B) Surgical treatment procedures;

(C) Maternity management procedures;

(D) Rehabilitation and/or habilitation procedures; or

(E) Diagnostic technical procedures.

(viii) The Director, OCHAMPUS, or designee, shall determine the appropriate procedural category of a qualified organization and may change the category based upon the provider's CHAMPUS claim characteristics. The category determination of the Director, OCHAMPUS, designee, is conclusive and may not be appealed.

(2) *Conditions of authorization.* An applicant must meet the following conditions to be eligible for authorization as a CHAMPUS corporate services provider:

(i) Be a corporation or a foundation, but not a professional corporation or professional association; and

(ii) Be institution-affiliated or freestanding as defined in § 199.2; and

(iii) Provide:

(A) Services and related supplies of a type rendered by CHAMPUS individual professional providers or diagnostic technical services and related supplies of a type which requires direct patient contact and a technologist who is licensed by the state in which the procedure is rendered or who is certified by a Qualified Accreditation Organization as defined in § 199.2; and

(B) A level of care which does not necessitate that the beneficiary be provided with on-site sleeping accommodations and food in conjunction with the delivery of services; and

(iv) Complies with all applicable organizational and individual licensing or certification requirements that are extant in the state, county, municipality, or other political jurisdiction in which the provider renders services; and

(v) Be approved for Medicare payment when determined to be substantially comparable under the provisions of paragraph (f)(1)(iv)(D) of this section or, when Medicare approved status is not required, be accredited by a qualified accreditation organization, as defined in § 199.2; and

(vi) Has entered into a participation agreement approved by the Director, OCHAMPUS, or designee, which at least complies with the minimum participation agreement requirements of this section.

(3) *Transfer of participation agreement.* In order to provide continuity of care for beneficiaries when there is a change of provider ownership, the provider agreement is automatically assigned to the new owner, subject to all the terms and conditions under which the original agreement was made.

(i) The merger of the provider corporation or foundation into another corporation or foundation, or the consolidation of two or more corporations or foundations resulting in the creation of a new corporation or foundation, constitutes a change of ownership.

(ii) Transfer of corporate stock or the merger of another corporation or foundation into the provider corporation or foundation does not constitute change of ownership.

(iii) The surviving corporation or foundation shall notify the Director, OCHAMPUS, or designee, in writing of the change of ownership promptly after the effective date of the transfer or change in ownership.

(4) *Pricing and payment methodology:* The pricing and payment of procedures rendered by a provider authorized under this paragraph (f) shall be limited to those methods for pricing and payment allowed by this part which the Director, OCHAMPUS, or designee, determines contribute to the efficient management of CHAMPUS.

(5) *Termination of participation agreement.* A provider may terminate a participation agreement upon 45 days written notice to the Director, OCHAMPUS, or designee, and to the public.

Dated: February 26, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison, Officer, Department of Defense.

[FR Doc. 99–5528 Filed 3–9–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD1–99–015]

RIN 2115–AA97

Safety Zone: Storrow Drive Connector Bridge (Central Artery Tunnel Project), Charles River, Boston, MA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for

the Central Artery Tunnel Project, Storrow Drive Connector Bridge construction on the Charles River. The safety zone temporarily closes all waters of the Charles River between the Gridley Lock and Dam and the western side of the AMTRAK Railroad Bridge while bridge spans for the Storrow Drive Connector Bridge are erected. The safety zone is needed to protect vessels from the hazards posed by bridge construction activities upon a navigable waterway.

EFFECTIVE DATE: This rule is effective from March 1, 1999 through March 14, 1999.

FOR FURTHER INFORMATION CONTACT: ENS Rebecca Montleon, Waterways Management Division, Coast Guard Marine Safety Office Boston, (617) 223–3000.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Any delay encountered in this regulation's effective date would be contrary to the public interest since immediate action is needed to close a portion of the waterway and protect the maritime public from the hazards associated with bridge construction activities upon a navigable waterway.

Background and Purpose

As part of the Central artery Tunnel Project, a new bridge, the Storrow Drive Connector Bridge, will be built over the Charles River, Boston MA. Section 1 of the Storrow Drive Connector Bridge, which will be located on the south side of the Charles River between the Gridley Lock and Dam and the AMTRAK Railroad Bridge, is presently under construction. Six bridge spans need to be erected during the construction of Section 1. The spans will be put into place using a crane on a barge and then secured. The crane and barge cannot be shifted by vessel wakes during the securing process. Therefore, a safety zone is necessary to allow the safe erection of the six spans and to protect vessel traffic.

This regulation establishes a safety zone in all waters of the Charles River between the Gridley Lock and Dam and the western side of the AMTRAK Railroad Bridge. This safety zone prevents entry into or movement within this portion of the Charles River. Upon notification from the primary contractor on the project, the Coast Guard will make Marine Safety Information Broadcasts informing mariners of the activation of this safety zone. The expected duration of the safety zone will vary between forty-eight and sixty hours depending upon construction requirements.

Regulatory Evaluation

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. There is expected to be minimal recreational and commercial traffic in this area, in part due to the seasonal end of the recreational and tourist boating season. Commercial tour operators have received advance notification of the project and can make alternate arrangements.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this rule would have a significant economic impact on a substantial number of small entities. ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

For the reasons discussed in the Regulatory Evaluation above, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), that this rule will not have a significant impact on a substantial number of small entities.

Collection of Information

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

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612, and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

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

List of Subjects in 33 CFR Part 165

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

Regulation

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

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 59 CFR 1.46.

2. Add temporary § 165.T01–015 to read as follows:

§ 165.601–015 Safety Zone: Storrow Drive Connector Bridge (Central Artery Tunnel Project), Charles River, Boston, MA.

(a) *Location.* The following area is a safety zone: All waters of the Charles River between the Gridley Lock and Dam and the western side of the AMTRAK Railroad Bridge.

(b) *Effective Date.* This section is effective from March 1, 1999 through 14 March 1999.

(c) *Notification.* Upon notification from the primary contractor on the Storrow Drive Connector Bridge construction project that a span is ready to be erected, the Coast Guard will make Marine Safety Information Broadcasts informing mariners of the activation of this safety zone. The expected duration of the safety zone will vary between forty-eight and sixty hours depending upon construction requirements.

(d) *Regulations.*

(1) Entry into or movement within this zone is prohibited unless authorized by the COTP Boston.

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

(3) The general regulations covering safety zoned in section 165.23 of this part apply.

Dated: February 25, 1999.

J.L. Grenier,

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

[FR Doc. 99–5921 Filed 3–9–99; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 210–0133; FRL–6306–8]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Antelope Valley Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing the approval of revisions to the California State Implementation Plan (SIP) proposed in the **Federal Register** on January 4, 1999, 64 FR 67. The revisions concern the recission of administrative rules from the Antelope Valley Air Pollution Control District (AVAPCD). These rules concern conduct and procedure governing hearings by the governing board on permit appeals. The intended effect of this approval action is to bring the AVAPCD SIP up to date in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA is finalizing the approval of these recissions from the AVAPCD portion of the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

EFFECTIVE DATE: This action is effective on April 9, 1999.

ADDRESSES: Copies of the rule recissions and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule recissions are available for inspection at the following locations:

Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

Environmental Protection Agency, Air Docket (6102), 401 ''M'' Street, SW, Washington, DC 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812.

Antelope Valley Air Pollution Control District, 43301 Division Street, Suite 206, Lancaster, CA 93539–4409

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, Rulemaking Office, (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1184.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules being rescinded from the AVAPCD portion of the California SIP include: AVAPCD Regulation XII, Rules of Practice and Procedures, consisting of: Rule 1201, Discretion to Hold Hearing; Rule 1202, Notice; Rule 1203, Petitions; Rule 1204, Answers to Petitions; Rule 1205, Function of the Board; Rule 1206, Appearances; Rule 1207, Service and Filing; Rule 1208, Rejection of Documents; Rule 1209, Form and Size; Rule 1210, Copies; Rule 1211, Subpoenas Rule 1212, Continuances; Rule 1213, Request for Continuances or Time Extensions; Rule 1214, Transcript and Record; Rule 1215, Conduct of Hearing; Rule 1216, Presiding Officer; Rule 1217, Disqualification of Hearing Officer or Board Member; Rule 1218, Ex Parte Communications; Rule 1219, Evidence; Rule 1220, Prepared Testimony; Rule 1221, Official Notice; Rule 1222, Order of Proceedings; Rule 1223, Prehearing Conference; Rule 1224, Opening Statements; Rule 1225, Conduct of Cross-Examination; Rule 1226, Oral Argument Rule 1227, Briefs; Rule 1228, Motions; Rule 1229, Decisions; and Rule 1230, Proposed Decision and Exceptions. These rule recissions were adopted by the AVAPCD on October 21, 1997 and submitted by the California Air Resources Board to EPA on May 18, 1998.

II. Background

On January 4, 1999 in 64 FR 67, EPA proposed to rescind the rules listed above from the AVAPCD portion of the California SIP.

EPA has evaluated all of the above rule recissions for consistency with the requirements of the CAA and EPA regulations and EPA interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in the Proposed rule cited above. EPA has found that the rule recissions meet the applicable EPA requirements. A detailed discussion of the rule provisions and evaluations has been provided in 64 FR 67 and in the technical support document (TSD) available at EPA's Region IX office dated September 22, 1998.

III. Response to Public Comments:

A 30-day public comment period was provided in 64 FR 67. EPA received no public comments.

IV. EPA Action

EPA is taking final action to approve the recission of the rules listed above from the AVAPCD portion of the California SIP. EPA is approving the submittal under section 110(k)(3) as meeting the requirements of section 110(a) and Part D of the CAA. This approval action will rescind these rules from the federally approved SIP. The intended effect of this action is to bring the AVAPCD SIP up to date in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act).

V. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. 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 E.O. 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 E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 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. If the mandate is unfunded, EPA must 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 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 E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

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 rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the 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).

F. 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 annual costs to State, local, or tribal governments in the aggregate; or to 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 the approval action promulgated does not include a Federal mandate that may result in estimated annual 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.

G. Submission to Congress and the General Accounting Office

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

H. 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 May 10, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: February 22, 1999.

Felicia Marcus,

Regional Administrator, Region IX.

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

PART 52 [AMENDED]

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

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

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(47)(i)(C), (c)(65)(iii), and (c)(137)(vii)(D), and by revising paragraph (c)(65) introductory text, to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(47) * * *

(i) * * *

(C) Previously approved on May 9, 1980 and now deleted without replacement for implementation in the Antelope Valley Air Pollution Control

District Rules 1201–1205, 1209–1211, 1214, 1217, 1220–1221, and 1223–1224.

* * * * *

(65) The following amendments to the South Coast Air Basin Control Plan were submitted on July 25, 1979, by the Governor's designee.

* * * * *

(iii) Previously approved on September 28, 1981 and now deleted without replacement for implementation in the Antelope Valley Air Pollution Control District Rules 1206, 1208, 1212, 1213, 1215, 1216, 1218, 1219, 1222, and 1225–1230.

* * * * *

(137) * * *

(vii) * * *

(D) Previously approved on February 1, 1984 and now deleted without replacement for implementation in the Antelope Valley Air Pollution Control District Rule 1207.

* * * * *

[FR Doc. 99–5828 Filed 3–9–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[CO–001–0029a; FRL–6236–7]

Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Greeley Carbon Monoxide Redesignation to Attainment, Designation of Areas for Air Quality Planning Purposes, and Approval of a Related Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On September 16, 1997, the Governor of Colorado submitted a request to redesignate the Greeley ''not classified'' carbon monoxide (CO) nonattainment area to attainment for the CO National Ambient Air Quality Standard (NAAQS). The Governor also submitted a CO maintenance plan which included a 1990 base year emissions inventory. In this action, EPA is approving the Greeley CO redesignation request, the maintenance plan, and the 1990 base year emissions inventory.

DATES: This direct final rule is effective on May 10, 1999 without further notice, unless EPA receives adverse comments by April 9, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments may be mailed to: Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, 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 500, 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: Tim Russ, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466, Telephone number: (303) 312–6479.

SUPPLEMENTARY INFORMATION:

I. Background

On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted (Public Law 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), EPA designated the Greeley area as nonattainment for CO because the area had been previously designated as nonattainment before November 15, 1990. The Greeley area was classified as a ''not classified'' CO nonattainment area as the area had not violated the CO NAAQS in 1988 and 1989.[1]

Under the CAA, designations can be changed if sufficient data are available to warrant such changes 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.

Thus, before EPA can approve the redesignation request, EPA must find, among other things, that all applicable SIP elements have been fully approved. Approval of the applicable SIP elements may occur prior to final approval of the redesignation request or simultaneously with final approval of the redesignation request. EPA notes there are no outstanding SIP elements necessary for the redesignation.

Section 110(k) of the CAA sets out provisions governing EPA's action on submissions of revisions to a State Implementation Plan. The CAA also requires States to observe certain procedural requirements in developing SIP revisions for submittal to EPA. Section 110(a)(2) of the CAA requires that each SIP revision be adopted after reasonable notice and public hearing prior to being submitted by a State to EPA. For the revision to the Colorado SIP, Carbon Monoxide (CO) Redesignation Request and Maintenance Plan for Greeley, a public hearing was held on September 16, 1996, by the Colorado Air Quality Control Commission (AQCC). The redesignation request, maintenance plan, and 1990 base year CO emissions inventory were adopted by the AQCC directly after the hearing. These SIP revisions became State effective November 30, 1996, and were submitted by the Governor to EPA on September 16, 1997. EPA has evaluated the submittal and has determined that the above procedural actions were accomplished in compliance with section 110(a)(2) of the CAA. By operation of law under the provisions of section 110(k)(1)(B) of the

[1] The EPA describes areas as ''not classified'' if they were designated nonattainment both prior to enactment and (pursuant to CAA section 107(d)(1)(C)) at enactment, and if the area did not violate the primary CO NAAQS in either year for the 2-year period of 1988 through 1989. Refer to the ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'', 57 FR 13498, April 16, 1992. See specifically 57 FR 13535, April 16, 1992.

CAA, the submittal became complete on March 16, 1998.

II. Evaluation of Redesignation Requirements

EPA has reviewed the State's redesignation request, maintenance plan, and the 1990 base year emission inventory and believes that approval of the request is warranted, consistent with the requirements of CAA section 107(d)(3)(E). Descriptions of how the section 107(d)(3)(E) requirements are being addressed are provided below.

Section 1. Redesignation Criterion: The Area Must Have Attained the Carbon Monoxide (CO) NAAQS

Section 107(d)(3)(E)(i) of the CAA states that for an area to be redesignated to attainment, the Administrator must determine that the area has attained the applicable NAAQS. As described in 40 CFR 50.8, the national primary ambient air quality standard for carbon monoxide is 9 parts per million (10 milligrams per cubic meter) for an 8-hour average concentration not to be exceeded more than once per year. 40 CFR 50.8 continues by stating that the levels of CO in the ambient air shall be measured by a reference method based on 40 CFR part 50, appendix C and designated in accordance with 40 CFR part 53 or an equivalent method designated in accordance with 40 CFR part 53. Attainment of the CO standard is not a momentary phenomenon based on short-term data. Rather, for an area to be considered attainment, each of the CO ambient air quality monitors in the area are allowed to record no more than one exceedance of the CO standard over a one-year period. 40 CFR 50.8 and 40 CFR part 50, appendix C. If a single monitor in the CO monitoring network records more than one exceedance of the CO standard during a one-year calendar period, then the area is in violation of the CO NAAQS. In addition, EPA's interpretation of the CAA and EPA national policy [2] has been that an area seeking redesignation to attainment must show attainment of the CO NAAQS for a continuous two-year calendar period and, additionally, at least through the date that EPA promulgates the redesignation to attainment in the **Federal Register**.

Colorado's CO redesignation request for the Greeley area is based on an analysis of quality assured ambient air quality monitoring data that are relevant to the redesignation request. Ambient air quality monitoring data for consecutive calendar years 1988 through 1997 show a measured exceedance rate of the CO NAAQS of 1.0 or less per year, per monitor, in the Greeley nonattainment area. These data were collected and analyzed as required by EPA (see 40 CFR 50.8 and 40 CFR part 50, appendix C) and have been archived by the State in EPA's Aerometric Information and Retrieval System (AIRS) national database. Further information on CO monitoring is presented in section 2 of the State's maintenance plan and in the State's TSD. EPA has evaluated the ambient air quality data and has determined that the Greeley area has not violated the CO standard and continues to demonstrate attainment.

Because the Greeley nonattainment area has quality-assured data showing no violations of the CO NAAQS for 1994 and 1995, the years the State used to support the redesignation request, and additionally, over the most recent consecutive two-calendar-year period (i.e., 1997 and 1998), the Greeley area has met the first component for redesignation: demonstration of attainment of the CO NAAQS. EPA notes that the State of Colorado has also committed in the maintenance plan to the necessary continued operation of the CO monitor in compliance with all applicable federal regulations and guidelines.

Section 2. Redesignation Criterion: The Area Must Have Met All Applicable Requirements Under Section 110 and Part D of the CAA

Section 107(d)(3)(E)(v) requires that, to be redesignated to attainment, an area must meet all applicable requirements under section 110 and part D of the CAA. EPA interprets section 107(d)(3)(E)(v) to mean that for a redesignation to be approved, the State must meet all requirements that applied to the subject area prior to or at the time of the submission of a complete redesignation request. Requirements of the CAA due after the submission of a complete redesignation request need not be considered in evaluating the request.

A. CAA Section 110 Requirements

The Greeley CO element of the Colorado SIP was adopted by the Colorado Air Quality Control Commission (AQCC) in June of 1982 and was approved by the EPA on December 12, 1983 (48 FR 55284). The 1982 SIP element's emission control plan was based on emission reductions from the Federal Motor Vehicle Control Program (FMVCP) and local transportation control measures. The anticipated date for attaining the 8-hour CO NAAQS was December 31, 1987.

In May of 1986, the Colorado Air Pollution Control Divisions (APCD) determined that the Greeley area would not be able to attain the CO NAAQS by the end of 1987 (this determination was based on estimated emission reductions and ambient air quality monitoring data.) EPA confirmed the APCD's evaluations, determined that the SIP was inadequate, and published a call on the SIP on January 16, 1987 (52 FR 1908). In response to EPA's SIP Call, the Greeley CO element of the SIP was revised by the AQCC in September of 1987. The Governor submitted the revised Greeley CO SIP element on November 25, 1987 (with supplemental information being submitted on February 25, 1988). The 1987 SIP revision contained additional emission controls consisting of the implementation of a decentralized basic motor vehicle inspection and maintenance (I/M) program, oxygenated fuels, and emission standards for new wood burning stoves. EPA approved this revision for the Greeley CO element of the SIP on September 3, 1992 (57 FR 40331).

Although section 110 of the CAA was amended in 1990, most of the changes were not substantial. The only additional CAA requirement assigned to the Greeley area was the preparation and submittal of a 1990 base year CO emission inventory. The Governor submitted this base year inventory on September 16, 1997, as part of the maintenance plan for the Greeley redesignation request. EPA is approving this 1990 base year emissions inventory concurrent with its approval of the maintenance plan. Thus, EPA has determined that the SIP revisions approved in 1992 continue to satisfy the requirements of section 110(a)(2). For further detail, please see 57 FR 40331.

B. Part D Requirements

Before the Greeley not classified CO nonattainment area may be redesignated to attainment, the State must have fulfilled the applicable requirements of part D. Under part D, an area's classification indicates the requirements to which it will be subject. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonattainment areas, whether classified or nonclassifiable.

The relevant Subpart 1 requirements are contained in sections 172(c) and 176. The General Preamble (57 FR 13498, April 16, 1992) provides EPA's interpretations of the CAA requirements for not classified CO areas (see 57 FR 13535):

[2] Refer to EPA's September 4, 1992, John Calcagni policy memorandum entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment.''

Although it seems clear that the CO-specific requirements of subpart 3 of part D do not apply to CO ''not classified'' areas, the 1990 CAAA are silent as to how the requirements of subpart 1 of part D, which contains general SIP planning requirements for all designated nonattainment areas, should be interpreted for such CO areas. Nevertheless, because these areas are designated nonattainment, some aspects of subpart 1 necessarily apply.

Under section 172(b), the applicable section 172(c) requirements, as determined by the Administrator, were due no later than three years after an area was designated as nonattainment under section 107(d) of the amended CAA (see 56 FR 56694). In the case of the Greeley area, the due date was November 15, 1993. As the Greeley CO redesignation request and maintenance plan were not submitted by the Governor until September 16, 1997, the General Preamble (57 FR 13535) provides that the applicable requirements of CAA section 172 are 172(c)(3) (emissions inventory), 172(c)(5)(new source review permitting program), and 172(c)(7)(the section 110(a)(2) air quality monitoring requirements)). EPA has determined that Part D requirements for Reasonably Available Control Measures (RACM), an attainment demonstration, reasonable further progress (RFP), and contingency measures (CAA section 172(c)(9)) are not applicable to not classified CO areas. See 57 FR 13535, April 16, 1992. It is also worth noting that EPA has interpreted the requirements of sections 172(c)(1) (reasonable available control measures—RACM), 172(c)(2) (reasonable further progress—RFP), 172(c)(6)(other measures), and 172(c)(9)(contingency measures) as being irrelevant to a redesignation request because they only have meaning for an area that is not attaining the standard. See EPA's September 4, 1992, John Calcagni memorandum entitled, ''Procedures for Processing Requests to Redesignate Areas to Attainment'', and the General Preamble, 57 FR 13564, dated April 16, 1992. Finally, the State has not sought to exercise the options that would trigger sections 172(c)(4)(identification of certain emissions increases) and 172(c)(8)(equivalent techniques). Thus, these provisions are also not relevant to this redesignation request.

Section 176 of the CAA contains requirements related to conformity. Although EPA's regulations (see 40 CFR 51.396) require that states adopt transportation conformity provisions in their SIPs for areas designated nonattainment or subject to an EPA-approved maintenance plan, EPA has decided that a transportation conformity SIP is not an applicable requirement for purposes of evaluating a redesignation request under section 107(d) of the CAA. This decision is reflected in EPA's 1996 approval of the Boston carbon monoxide redesignation. (See 61 FR 2918, January 30, 1996.)

The applicable requirements of CAA section 172 are discussed below.

(1) Section 172(c)(3)—Emissions Inventory

Section 172(c)(3) of the CAA requires a comprehensive, accurate, current inventory of all actual emissions from all sources in the Greeley nonattainment area. EPA's interpretation of the emission inventory requirement for ''not classified'' CO nonattainment areas is detailed in the General Preamble (57 FR 13535, April 16, 1992). EPA determined that an emissions inventory is specifically required under CAA section 172(c)(3) and is not tied to an area's proximity to attainment. EPA concluded that an emissions inventory must be included as a revision to the SIP and was due 3 years from the time of the area's designation. For ''not classified'' CO areas, this date became November 15, 1993. To address the section 172(c)(3) requirement for a ''current'' inventory, EPA interpreted ''current'' to mean calendar year 1990 (see 57 FR 13502, April 16, 1992).

On September 16, 1997, the Governor submitted the 1990 base year inventory for the Greeley CO nonattainment area. A Summary of the 1990 CO daily seasonal emissions are provided in the Table II.–1 below.

TABLE II.–1.—SUMMARY OF 1990 CO EMISSIONS (TONS PER DAY) FOR GREELEY

Point Sources	Area Sources	On-Road Mobile	Non-Road Mobile	Total
1.85	2.99	48.3	5.31	58.45

All supporting calculations and documentation for this 1990 CO base year inventory are contained in the State's Technical Support Document (TSD) which supports this action. EPA is approving this 1990 base year CO inventory concurrent with its approval of the redesignation request and maintenance plan.

(2) Section 172(c)(5) New Source Review (NSR)

The CAA requires all nonattainment areas to meet several requirements regarding NSR, including provisions to ensure that increased emissions will not result from any new or modified stationary major sources and a general offset rule. The State of Colorado has a fully-approved NSR program (59 FR 42500, August 18, 1994) that meets the requirements of CAA section 172(c)(5). The State also has a fully approved Prevention of Significant Deterioration (PSD) program (59 FR 42500, August 18, 1994) that will apply after the redesignation to attainment is approved by EPA.

(3) Section 172(c)(7)—Compliance With CAA Section 110(a)(2): Air Quality Monitoring Requirements

According to EPA's interpretations presented in the General Preamble (57 FR 13535), ''not classified'' CO nonattainment areas should meet the ''applicable'' air quality monitoring requirements of section 110(a)(2) of the CAA as explicitly referenced by sections 172(b) and (c) of the CAA. With respect to this requirement, the State indicates in Section 2 (''Attainment of the Carbon Monoxide Standard'') of the maintenance plan, that ambient CO monitoring data have been properly collected and uploaded to EPA's Aerometric Information and Retrieval System (AIRS) since 1976 for the Greeley area. Air quality data through 1996 are included in Section 2 of the maintenance plan and in the State's TSD. EPA has more recently polled the AIRS database and has verified that the State has also uploaded additional ambient CO data through 1997. The data in AIRS indicate that the Greeley area has shown, and continues to show, attainment of the CO NAAQS. Information concerning CO monitoring in Colorado is included in the Monitoring Network Review (MNR) prepared by the State and submitted to EPA. EPA personnel have concurred with Colorado's annual network reviews and have agreed that the Greeley network remains adequate. Finally, in Section 6, D. of the maintenance plan, the State commits to the continued operation of the existing CO monitor, according to all applicable Federal regulations and guidelines, even after

the Greeley area is redesignated to attainment for CO.

Section 3. Redesignation Criterion: The Area Must Have a Fully Approved SIP Under Section 110(k) of the CAA

Section 107(d)(3)(E)(ii) of the CAA states that for an area to be redesignated to attainment, it must be determined that the Administrator has fully approved the applicable implementation plan for the area under section 110(k).

Based on the approval into the SIP of provisions under the pre-1990 CAA, EPA's prior approval of SIP revisions required under the 1990 amendments to the CAA, and EPA's approval in this action of the 1990 emissions inventory and the State's commitment to maintain an adequate monitoring network (both contained in the maintenance plan), EPA has determined that, as of the date of this **Federal Register** action, Colorado has a fully approved CO SIP under section 110(k) for the Greeley CO nonattainment area.

Section 4. Redesignation Criterion: The Area Must Show That the Improvement in Air Quality Is Due To Permanent and Enforceable Emissions Reductions

Section 107(d)(3)(E)(iii) of the CAA provides that for an area to be redesignated to attainment, the Administrator must determine that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan (Greeley CO revision as approved on September 3, 1992, 57 FR 40331), implementation of applicable Federal air pollutant control regulations, and other permanent and enforceable reductions.

The CO emissions reductions that were derived from the November 25, 1987, SIP revision, as further described in Sections 3. and 4. of the September 16, 1997, Greeley maintenance plan, were achieved primarily through the Federal Motor Vehicle Control Program (FMVCP), a decentralized basic motor vehicle inspection and maintenance (I/M) program, oxygenated fuels, and emission standards for new wood burning stoves.

In general, the FMVCP provisions require vehicle manufacturers to meet more stringent vehicle emission limitations for new vehicles in future years. These emission limitations are phased in (as a percentage of new vehicles manufactured) over a period of years. As new, lower emitting vehicles replace older, higher emitting vehicles (''fleet turnover''), emission reductions are realized for a particular area such as Greeley. For example, EPA promulgated lower hydrocarbon (HC) and CO exhaust emission standards in 1991, known as Tier I standards for new motor vehicles (light-duty vehicles and light-duty trucks) in response to the 1990 CAA amendments. These Tier I emissions standards were phased in with 40% of the 1994 model year fleet, 80% of the 1995 model year fleet, and 100% of the 1996 model year fleet.

In addition, as stated in Section 4. of the maintenance plan, significant additional emission reductions were realized from Greeley's basic I/M program. Colorado's Regulation No. 11, ''Motor Vehicle Emissions Inspection Program'', contains a full description of the requirements for Greeley's I/M program. EPA notes that further improvements to the Greeley area's basic I/M program were implemented in January, 1995, to meet the requirements of EPA's November 5, 1992, (57 FR 52950) I/M rule and were approved by EPA into the SIP on March 19, 1996 (61 FR 11149).

Oxygenated fuels are gasolines that area blended with additives that increase the level of oxygen in the fuel and, consequently, reduce CO tailpipe emissions. Colorado's Regulation 13, ''Oxygenated Fuels Program'', contains the oxygenated fuels provisions for the Greeley nonattainment area. Regulation 13 requires all Greeley-area gas stations to sell fuels containing a 2.7% minimum oxygen (by weight) during the wintertime CO high pollution season. The use of oxygenated fuels has significantly reduced CO emissions and contributed to the area's attainment of the CO NAAQS.

All new Woodburning devices (stoves, fireplaces, fireplace inserts, etc.) are regulated by Colorado's Regulation No. 4, ''Regulation on the Sale of New Woodstoves and the use of Certain Woodburning Appliances During High Pollution Days''. Regulation No. 4 mirrors the Federal standards for woodburning devices and also contains the requirements for the ''burn'' and ''no burn'' days during the high pollution wintertime season. Although CO emissions from woodburning devices increased slightly from 2.72 tons per day (TPD) in 1990 to 2.89 TPD in 1995, as presented in Tables IV. and V. of Section 6. of the maintenance plan, Regulation No. 4 still provided assistance to the Greeley area by controlling CO emissions from existing sources and reducing the potential CO emission increases from new sources.

EPA has evaluated the various State and Federal control measures, the 1990 base year emission inventory, and the 1995 attainment year emission inventory, and has concluded that the improvement in air quality in the Greeley nonattainment area has resulted from emission reductions that are permanent and enforceable.

Section 5. Redesignation Criterion: The Area Must Have a Fully Approved Maintenance Plan Under CAA Section 175A

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. For areas such as Greeley, that are utilizing EPA's limited maintenance plan approach, the EPA guidance memorandum entitled ''Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas'' from Joseph Paisie, Group Leader, Integrated Policy and Strategies Group, Office of Air Quality and Planning Standards, dated October 6, 1995, states that the maintenance plan demonstration requirement is considered to be satisfied for nonclassifiable areas if the monitoring data show that the area is meeting the air quality criteria for limited maintenance areas (i.e., a design value at or below 7.65 ppm, or 85% of the CO NAAQS, based on the 8 consecutive quarters—2 years of data—used to determine attainment). There is no requirement to project emissions over the maintenance period. EPA believes if the area begins the maintenance period at or below 85 percent of CO NAAQS, the continued applicability of PSD requirements, any control measures already in the SIP, and Federal measures, should provide adequate assurance of maintenance over the initial 10-year maintenance period. In addition, the design value for the area must continue to be at or below 7.65 ppm until the time of final EPA action on the redesignation. The method for calculating the design value is presented in the June 18, 1990, EPA guidance memorandum entitled ''Ozone and Carbon Monoxide Design Value Calculations'', from William G. Laxton, Director of the OAQPS Technical Support Division, to Regional Air Directors. In the case of a nonclassifiable area applying for a limited maintenance plan, all the monitors must have a separate design value calculated and the highest design value must be at or below 7.65 ppm. Should the design value for the area

exceed 7.65 ppm prior to final EPA action on the redesignation, then the area no longer qualifies for the limited maintenance plan and must instead submit a full maintenance plan as described in EPA's September 4, 1992, guidance memorandum entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment'', from John Calcagni, Director of the Air Quality Management Division, OAQPS to the Regional Air Division Directors.

Eight years after EPA's approval of this redesignation, the State must submit a revised maintenance plan that demonstrates continued maintenance of the CO NAAQS for 10 years 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 addition, EPA issued further 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. In this **Federal Register** action, EPA is approving the State of Colorado's limited maintenance plan for the Greeley nonattainment area because EPA has determined, as detailed below, that the State's maintenance plan submittal meets the requirements of section 175A and is consistent with the documents referenced above. EPA's analysis of the pertinent maintenance plan requirements, with reference to the Governor's September 16, 1997, submittal, is provided as follows:

A. Emissions Inventory—Attainment Year

EPA's interpretations of the CAA section 175A maintenance plan requirements for a limited maintenance plan are described in the October 6, 1995, policy memorandum referenced above. The State is to develop an attainment year emissions inventory to identify a level of emissions in the area which is sufficient to attain the CO NAAQS. This inventory is to be consistent with EPA's most recent guidance on emissions inventories for nonattainment areas available at the time[3] and should represent emissions during the time period associated with the monitoring data showing attainment.

The maintenance plan that the Governor submitted on September 16, 1997, included a comprehensive inventory of CO emissions for the Greeley area for a typical CO season day in 1995. This inventory includes emissions from stationary point sources, area sources, non-road mobile sources, and on-road mobile sources. The State selected 1995 as the year from which to develop the attainment year inventory as it was using 1994 and 1995 as the two most recent years (or 8 quarters) that demonstrated attainment of the CO NAAQS for Greeley. A more detailed description of the 1995 attainment year inventory is documented in the maintenance plan, Section 6, 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 1995 attainment year are provided in Table II.–2 below.

TABLE II.–2.—SUMMARY OF 1995 CO EMISSIONS (TONS PER DAY) FOR GREELEY

Point sources	Area sources	On-road mobile	Non-road mobile	Total
1.67	3.17	33.99	5.56	44.39

B. Demonstration of Maintenance

As described in the October 6, 1995, limited maintenance plan guidance memorandum, the maintenance plan demonstration requirement is considered to be satisfied for nonclassifiable areas (such as Greeley) if the monitoring data show that the area is meeting the air quality criteria for limited maintenance areas (i.e., equal to or less than 7.65 ppm design value). There is no requirement to project emissions over the maintenance period. EPA believes that if an area begins the maintenance period at or below 85 percent of the CO NAAQS (7.65 ppm), the continued application of control measures already in the SIP, PSD requirements, and Federal measures provides adequate assurance of maintenance over the initial 10-year maintenance period.

C. Monitoring Network and Verification of Continued Attainment

EPA's October 6, 1995, limited maintenance plan guidance memorandum states that to verify the attainment status of an area, such as Greeley, over the maintenance period, the maintenance plan should contain provisions for the continued operation of an appropriate, EPA-approved air quality monitoring network in accordance with 40 CFR part 58.

This requirement is met in section 6.D. of the Greeley maintenance plan. This section states that the Colorado Air Pollution Control Division (APCD) has operated (since December, 1976), and will continue to operate, the Greeley monitoring network in full accordance with the provisions of 40 CFR part 58 and the EPA-approved Colorado Monitoring SIP element. The APCD will also analyze the monitoring data to verify continued attainment of the CO NAAQS for the Greeley area. The above air quality monitoring commitment by the State, which will be enforceable by EPA after this final approval of the Greeley maintenance plan SIP revision, is deemed adequate by EPA.

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. As stated in section 6.E.2.a. of the maintenance plan, the State will use an exceedance of the CO NAAQS as the trigger for adopting specific contingency measures for the Greeley area. The State indicates that notification to EPA, and

[3] The October 6, 1995, limited maintenance plan guidance memorandum states that current guidance on the preparation of emissions inventories for CO areas is contained in the following documents: ''Procedures for the Preparation of Emission Inventories for Carbon Monoxide and Precursors of Ozone: Volume I'' (EPA–450/4–91–016), and ''Procedures for Emission Inventory Preparation: Volume IV, Mobile Sources'' (EPA–450/4–81–026d revised).

other affected governments, of the exceedance will generally occur within 30 days, but no longer than 45 days. Upon notification of a CO NAAQS exceedance, the APCD and the local governments in the Greeley area will convene a committee to recommend an appropriate contingency measure or measures that would be necessary to correct a violation of the CO NAAQS standard. The committee would then propose the necessary contingency measure(s) for adoption. The State estimates this process would be completed within 6 months of the exceedance and that the local and State public hearing processes would then begin. The hearing processes should then be completed within three months and the AQCC adopted measure(s) would then become effective if a violation of the CO NAAQS is recorded. Full implementation of the adopted contingency measure(s) should then be achieved within one year after the date of the recording of the CO NAAQS violation. The potential contingency measures, identified in section 6.E.3. of the Greeley maintenance plan, include increasing the required 2.7 percent minimum oxygen content of gasoline to a level above the actual oxygen content of gasolines at the time of the violation, improvements to Greeley's I/M program, establishing a high pollution day episodic woodburning curtailment program, and re-establishing the stationary source NSR permitting program. A more complete description of the triggering mechanism and these contingency measures can be found in sections 6.E.2. and 6.E.3. of the maintenance plan.

It should be noted that the State makes a statement in section 6.E.2 of the maintenance plan that may be misleading. The section 6.E.2 text states the following:

> The guidance indicates that the triggering of the contingency plan does not require a revision to the SIP nor is the area redesignated once again to nonattainment. Instead, the State will have an appropriate time-frame to correct the violation with implementation of one or more adopted contingency measures. In the event that violations continue to occur, there is the possibility of adopting additional contingency measures until the violations are corrected.

Under section 175A(d) of the CAA, the Administrator of EPA has the discretion to require a SIP revision if an area fails to maintain the NAAQS after redesignation, and has the discretion under section 107(d)(3) of the CAA to redesignate an area back to nonattainment upon a violation of the NAAQS. Since EPA does not believe the State's language is intended to limit EPA's authority under these sections of the CAA, and does not believe the State has the ability to limit such authority in any event, EPA is not requiring the State to change this language.

Based on the above, EPA finds that the contingency measures provided in the State's maintenance plan for Greeley are sufficient and meet the requirements of section 175A(d) of the CAA and the October 6, 1995, limited maintenance plan guidance memorandum.

E. Subsequent Maintenance Plan Revisions

The State of Colorado has committed to submit a revised maintenance plan for Greeley as required by the CAA and EPA requirements. This commitment for revising the maintenance plan is contained in section 6.F. of the Greeley maintenance plan. As the State notes in section 6.F., section 175A(b) of the CAA requires the State to submit a maintenance plan revision to EPA eight (8) years after EPA redesignates the Greeley area to attainment. The State should be aware that, because EPA is redesignating the Greeley area in early 1999, the date for submitting the maintenance plan revision will be significantly earlier than the State projects it to be in the maintenance plan.

III. Conformity

Because the Greeley area qualified for and utilized EPA's Limited Maintenance Plan national policy,[4] special conformity provisions apply as indicated below in an excerpt from such policy:

> e. Conformity Determinations Under Limited Maintenance Plans
>
> The transportation conformity rule (58 FR 62188; November 24, 1993) and the general conformity rule (58 FR 63214; November 30, 1993) apply to nonattainment areas and maintenance areas operating under maintenance plans. Under either rule, one means of demonstrating conformity of Federal actions is to indicate that expected emissions from planned actions are consistent with the emissions budget for the area. Emissions budgets in limited maintenance plan areas may be treated as essentially not constraining for the length of the initial maintenance period because it is unreasonable to expect that such an area will experience so much growth in that period that a violation of the CO NAAQS would result. In other words, EPA would be concluding that emissions need not be capped for the maintenance period. Therefore, in areas with approved limited maintenance plans, Federal actions requiring conformity determinations under the transportation conformity rule could be considered to satisfy the ''budget test'' required in sections 93.118, 93.119, and 93.120 of the rule. Similarly, in these areas, Federal actions subject to the general conformity rule could be considered to satisfy the ''budget test'' specified in section 93.158(a)(5)(i)(A) of the rule.

[4] Refer to EPA's October 6, 1995, Joseph Paisie policy memorandum entitled ''Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas.''

IV. Final Action

In this action, EPA is approving the Greeley carbon monoxide redesignation request, maintenance plan, and the 1990 base year emissions inventory.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective May 10, 1999 without further notice unless the Agency receives adverse comments by April 9, 1999.

If EPA receives such comments, then EPA will publish a timely withdrawal of the direct final rule informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on May 10, 1999 and no further action will be taken on the proposed rule.

V. 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 12875: Enhancing the Intergovernmental Partnership

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior

consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create a mandate on state, local, or tribal governments. The rule does not impose any enforceable duties on state, local, or tribal governments. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13045

Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E. O. 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 and 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 E. O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

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 12084 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. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act

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 rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a 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 on small entities. Redesignation to attainment is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. Therefore, I certify that the approval of the redesignation request will not affect a substantial number of small entities.

F. 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 the approval action promulgated 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 a redesignation to attainment and 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, will result from this action.

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

H. 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 May 10, 1999. 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).)

Nothing in this action should be construed as making any determination or expressing any position regarding Colorado's audit privilege and penalty immunity law, sections 13–25–126.5, 13–90–107, and 25–1–114.5, Colorado Revised Statutes (Colorado Senate Bill 94–139, effective June 1,1994), or its impact upon any approved provision in the SIP, including the revision at issue here. The action taken herein does not express or imply any viewpoint on the question of whether there are legal deficiencies in this or any other Clean Air Act program resulting from the effect of Colorado's audit privilege and immunity law. A state audit privilege and immunity law can affect only state enforcement and cannot have any impact on federal enforcement authorities. EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211, or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by a state audit privilege or immunity law.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon Monoxide, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: February 12, 1999.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

Chapter I, title 40, 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 52.348 is amended by adding paragraph (c) to read as follows:

§ 52.348 Emission inventories.

* * * * *

(c) On September 16, 1997, the Governor of Colorado submitted the 1990 Carbon Monoxide Base Year Emission Inventory for Greeley as a revision to the Colorado State Implementation Plan. This inventory addresses carbon monoxide emissions from stationary point, area, non-road, and on-road mobile sources.

3. New section 52.349 is added to read as follows:

§ 52.349 Control strategy: Carbon monoxide.

Revisions to the Colorado State Implementation Plan, Carbon Monoxide Redesignation Request and Maintenance Plan for Greeley, as adopted by the Colorado Air Quality Control Commission on September 19, 1996, State effective November 30, 1996, and submitted by the Governor on September 16, 1997.

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 ''Greeley Area'' to read as follows:

§ 81.306 Colorado.

* * * * *

COLORADO—CARBON MONOXIDE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* *	*	* *	*	*
Greeley Area:				
Weld County (part)	.....	Attainment		
Urban boundaries as defined in the North Front Range Regional Transportation Plan, May, 1990..	May 10, 1999.			
* *	*	* *	*	*

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

[FR Doc. 99–5661 Filed 3–9–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300795; FRL–6062–5]

RIN 2070–AB78

Metolachlor; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerances for the combined residues of metolachlor 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 tomatoes, tomato puree, and tomato paste. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and

Rodenticide Act authorizing use of the pesticide on tomatoes. This regulation establishes maximum permissible levels for residues of metolachlor in these food commodities pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. The tolerances will expire and are revoked on April 1, 2001.

DATES: This regulation is effective March 10, 1999. Objections and requests for hearings must be received by EPA on or before May 10, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300795], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300795], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall 2 (CM #2), 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket control number [OPP–300795]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Andrew Ertman, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 280, (CM #2), 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308–9367; ertman.andrew@epa.gov.

SUPPLEMENTARY INFORMATION: EPA, on its own initiative, pursuant to sections 408 and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a and (l)(6), is establishing a tolerance for combined residues of the herbicide metolachlor 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 tomatoes at 0.1 part per million (ppm), tomato puree at 0.3 ppm, and tomato paste at 0.6 ppm. These tolerances will expire and are revoked on April 1, 2001. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

I. Background and Statutory Findings

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) was signed into law August 3, 1996. FQPA amends both the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq.*, and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.* The FQPA amendments went into effect immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. These activities are described in this preamble and discussed in greater detail in the final rule establishing the time-limited tolerance associated with the emergency exemption for use of propiconazole on sorghum (61 FR 58135, November 13, 1996) (FRL–5572–9).

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

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by FQPA. EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

Section 408(l)(6) of the 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 under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

Because decisions on section 18-related tolerances must proceed before EPA reaches closure on several policy issues relating to interpretation and implementation of the FQPA, EPA does not intend for its actions on such tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions.

II. Emergency Exemption for Metolachlor on Tomatoes and FFDCA Tolerances

Eastern black nightshade (*Solanum nigrum*) is a common annual weed found in tomato fields. Currently registered herbicides for use on tomatoes have little or no effect in controlling eastern black nightshade. Chloramben (*amiben*) is the most effective herbicide for this weed, but has not been manufactured since 1991 and grower's reserves of the herbicide have been depleted. Hand hoeing is utilized, but it does not provide complete control and is very expensive. The Applicant stated that since this weed population is ubiquitous and hand hoeing does not provide complete control, the weed population is increasing and threatening the economic viability of the tomato industry in their state. EPA has authorized under FIFRA section 18 the use of metolachlor on tomatoes for control of nutsedge and nightshade in Virginia. After having reviewed the submission, EPA concurs that emergency conditions exist for this state.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of

metolachlor in or on tomatoes, tomato paste, and tomato puree. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment under section 408(e), as provided in section 408(l)(6). Although these tolerances will expire and are revoked on April 1, 2001, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on tomatoes, tomato paste, and tomato puree after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by these tolerances at the time of that application. 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.

Because these tolerances are being approved under emergency conditions EPA has not made any decisions about whether metolachlor meets EPA's registration requirements for use on tomatoes or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of metolachlor by a State for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for any State other than Virginia to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for metolachlor, contact the Agency's Registration Division at the address provided under the ''ADDRESSES'' section.

III. Aggregate Risk Assessment and Determination of Safety

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

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of metolachlor and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for combined residues of metolachlor 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 on tomatoes at 0.1 ppm, tomato puree at 0.3 ppm, and tomato paste at 0.6 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by metolachlor are discussed in this unit.

B. Toxicological Endpoint

1. *Acute toxicity*. EPA has determined that available data do not indicate that there is potential for adverse effects after a single dietary exposure. Therefore, acute risk assessments were not conducted.

2. *Short - and intermediate - term toxicity.* For intermediate-term dermal risk assessment, the no observed adverse effect level (NOAEL) of 100 miligrams/kilogram/day (mg/kg/day) from the 21-day dermal toxicity study in rats is to be used. At the lowest effect level (LEL) of 1,000 mg/kg/day, there were dose-related increases in minor histopathological alterations of the skin, in total bilirubin (females), in absolute and relative liver weights (males), and in relative kidney weights (females). An inhalation exposure intermediate-term hazard was not identified. The EPA has determined that the available data do not indicate the potential for adverse effects from short-term dermal or inhalation exposures.

3. *Chronic toxicity*. EPA has established the Reference Dose (RfD) for metolachlor at 0.10 mg/kg/day. This RfD is based on the results from the 1-year feeding study in dogs, with a NOAEL of 9.7 mg/kg/day, and an uncertainty factor of 100, based on decreased body weight gain at the lowest observed effect level (LOEL) of 33 mg/kg/day.

4. *Carcinogenicity*. Under the EPA Guidelines for Carcinogen Risk Assessment, metolachlor has been classified as a Group C Chemical (possible human carcinogen), based on increased incidence of adenomas and combined adenomas/carcinomas in female rats. The structural relationship of metolachlor to acetochlor and alachlor was of concern to the OPP Carcinogenicity Peer Review Committee (CPRC). However, in light of new information on the relative metabolism of these chemicals, and since there was no supportable mutagenicity concern, the CPRC recommended the Margin of Exposure (MOE) approach for estimation of risk, using the NOAEL of 15.7 mg/kg/day from the 2-year rat feeding study.

C. Exposures and Risks

1. *From food and feed uses.* Tolerances have been established (40 CFR 180.368) for the combined residues of metolachlor 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 a variety of raw agricultural commodities, ranging from 0.02 ppm in various animal commodities, to 30 ppm in peanut forage and hay. Risk assessments were conducted by EPA to assess dietary exposures and risks from metolachlor as follows:

i. *Acute exposure and risk.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. EPA has determined that available data do not indicate that there is potential for adverse effects after a single dietary exposure. Therefore, acute risk assessment is not required.

ii. *Chronic exposure and risk.* In conducting this chronic dietary (food only) risk assessment, the Agency used percent of crop treated data for selected crops, and assumed tolerance level residues in all commodities having metolachlor tolerances. These assumptions result in an overestimate of human dietary exposure, and thus this risk estimate should be viewed as conservative; further refinement using anticipated residue levels and additional percent crop treated values would result in lower exposure estimates. Based on the given

assumptions, EPA has calculated that dietary exposure to metolachlor will utilize 1.1% of the RfD for the overall U.S. population. The major identifiable subgroups with the highest exposure are non-nursing infants <1 year old and children 1 to 6 years old, both at 2.3% of the RfD. This is further discussed below in the section on infants and children. EPA generally has no concern for exposure 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. Despite the potential for exposure to metolachlor in drinking water, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is reasonable certainty that no harm will result from chronic aggregate exposure to metolachlor residues.

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

The Agency used percent crop treated data for selected crops, and assumed tolerance level residues in all commodities having metolachlor tolerances.

The Agency believes that the 3 conditions, discussed in section 408 (b)(2)(F) in this unit concerning the Agency's responsibilities in assessing chronic dietary risk findings, have been met. The PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. Typically, a range of estimates are supplied and the upper end of this range is assumed for the exposure assessment. By using this upper end estimate of the PCT, the Agency is reasonably certain that the percentage of the food treated is not likely to be underestimated. The regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which metolachlor may be applied in a particular area.

2. *From drinking water.* Environmental fate studies indicate that metolachlor appears to be moderately persistent and ranges from being mobile to highly mobile in different soils. Data collected from around the U.S. provides evidence that metolachlor leaches into ground water, occasionally at levels that exceed the Lifetime Health Advisory (HA) level of 100 parts per billion (ppb). Metolachlor is not yet formally regulated under the Safe Drinking Water Act; therefore, no enforcement Maximum Contaminant Level (MCL) has been established for it. Metolachlor also has relatively high health advisory levels (1-10 day HA level of 2,000 ppb and lifetime HA level of 100 ppb). Based on available data, it appears highly unlikely that maximum or short-term average metolachlor concentrations will exceed the 1-10 day HA levels of 2,000 ppb, or that annual average metolachlor concentrations will exceed the lifetime HA of 100 ppb anywhere. Additionally, to mitigate risk, additional label restrictions are being required under the Reregistration process, designed to minimize ground and surface water contamination.

Chronic exposure and risk. Because the Agency lacks sufficient water-related exposure data to complete a comprehensive drinking water risk assessment for many pesticides, EPA has commenced and nearly completed a process to identify a reasonable yet conservative bounding figure for the potential contribution of water-related exposure to the aggregate risk posed by a pesticide. In developing the bounding figure, EPA estimated residue levels in water for a number of specific pesticides using various data sources. The Agency then applied the estimated residue levels, in conjunction with appropriate toxicological endpoints (RfD's or acute dietary NOAEL's) and assumptions about body weight and consumption, to calculate, for each pesticide, the increment of aggregate risk contributed by consumption of contaminated water. While EPA has not yet pinpointed the appropriate bounding figure for exposure from contaminated water, the ranges the Agency is continuing to examine are all below the level that would cause metolachlor to exceed the RfD if the tolerance being considered in this document were granted. The Agency has therefore concluded that the potential exposures associated with metolachlor in water, even at the higher levels the Agency is considering as a conservative upper bound, would not prevent the Agency from determining that there is a reasonable certainty of no harm if the tolerance is granted.

3. *From non-dietary exposure.* Metolachlor is currently registered for use on a number of residential non-food sites including ornamental plants and grasses, highway rights of way, and recreational areas. No indoor uses are registered.

i. *Acute exposure and risk.* EPA generally will not include residential or other non-dietary exposures as a component of the acute exposure assessment. Theoretically, it is also possible that a residential, or other non-dietary, exposure could be combined with the acute total dietary exposure from food and water. However, the Agency does not believe that aggregate multiple exposure to large amounts of pesticide residues in the residential environment via multiple products and routes for a one day exposure is a reasonably probable event. It is highly unlikely that, in one day, an individual would have multiple high-end exposures to the same pesticide by treating their lawn and garden, treating their house via crack and crevice application, swimming in a pool, and be maximally exposed by the food and water consumed. Additionally, the concept of an acute exposure as a single exposure does not allow for including post-application exposures, in which residues decline over a period of days after application. Therefore, the Agency believes that residential exposures are more appropriately included in the short-term exposure scenario discussed below.

ii. *Chronic exposure and risk.* The Agency has concluded that a chronic residential exposure scenario does not exist for non-occupational uses of metolachlor.

iii. *Short- and intermediate-term exposure and risk.* There are residential uses of metolachlor and EPA acknowledges that there may be short and intermediate-term non-occupational

exposure scenarios. The EPA has identified a toxicity endpoint for intermediate-term residential risks. However, no acceptable reliable exposure data to assess the potential risks are available at this time. Based on the high level of the intermediate-term toxicity endpoint (NOAEL of 100 mg/kg/day, and LOEL of 1,000 mg/kg/day), the Agency does not expect the intermediate-term aggregate risk to exceed the level of concern. A short-term non-dietary toxicity endpoint was not identified for metolachlor.

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

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

D. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute risk*. The available data for metolachlor do not indicate the potential for adverse effects from acute dietary exposures. Therefore, an acute aggregate risk assessment was not conducted.

2. *Chronic risk*. Using the conservative exposure assumptions described in this unit, EPA has concluded that aggregate exposure to metolachlor from food will utilize 1.1% of the RfD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is non-nursing infants <1 year old, and children 1 to 6 years old, both at 2.3% of the RfD; this is further discussed below. 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. Despite the potential for exposure to metolachlor in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD.

3. *Short- and intermediate-term risk*. Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure.

Based on the low percentage of the RfD occupied by the chronic dietary exposure (<3% for all population subgroups) and the high level of the intermediate-term toxicity endpoint (NOAEL and LOEL of 100 and 1,000 mg/kg/day, respectively), in the best scientific judgment of EPA, the intermediate-term aggregate risk will not exceed the Agency's level of concern. Despite the potential for exposure to metolachlor in drinking water, EPA does not expect the aggregate exposure to exceed 100% of the RfD. Since a short-term toxicity endpoint was not identified for metolachlor, a short-term aggregate risk assessment was not conducted.

4. *Aggregate cancer risk for U.S. population*. Based on the CPRC recommendation that the MOE approach be used to assess cancer risk, a quantitative cancer risk assessment was not performed. Based on the aggregate chronic dietary analysis (food only), the calculated MOEs for the U.S. population and infants/children are 15,000 and 6,800, respectively. Other than dietary exposure, no chronic exposure scenarios have been identified from registered uses of metolachlor. The EPA believes that the potential additional exposure in drinking water would not significantly lower the chronic dietary MOEs. The EPA has not yet established what an adequate MOE should be for chemicals having a non-linear mechanism for carcinogenicity. At this time, and for the purpose of this action only, the Agency concludes that the MOEs given above are adequate to ensure that there is a reasonable certainty that no harm to the U.S. population or to infants and children, will result from aggregate exposure to residues of metolachlor. When the Agency reaches a conclusion on the science policy issue of adequate MOEs for non-linear carcinogens, it is possible that the risk assessment for metolachlor may need to be revised.

5. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to metolachlor residues.

E. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children* — i. *In general*. In assessing the potential for additional sensitivity of infants and children to residues of metolachlor, EPA considered data from developmental toxicity studies in the rat and rabbit and a 2-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard MOE and uncertainty factor (usually 100 for combined inter- and intra-species variability) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

ii. *Developmental toxicity studies*. In the rat developmental study, the maternal NOAEL was 300 mg/kg/day; mortality, increased salivation, lacrimation, convulsions, reduced body weight gain, and reduced food consumption were observed at the LEL of 1,000 mg/kg/day. The developmental NOAEL was also 300 mg/kg/day, with reduced mean fetal body weight, reduced number of implantations, and a slight increase in resorptions, seen at the LEL of 1,000 mg/kg/day.

In the rabbit developmental study, the maternal NOAEL was 120 mg/kg/day, with lacrimation, miosis, reduced food consumption, and decreased body weight gain seen at the LEL of 360 mg/kg/day. No developmental effects were

observed at the levels tested, and therefore the developmental NOAEL was greater than 360 mg/kg/day the highest dose tested (HDT).

iii. *Reproductive toxicity study*. In the 2-generation rat reproductive study, the reproductive/developmental toxicity NOAEL of 23 mg/kg/day was less than the parental (systemic) toxicity NOAEL of >76 mg/kg/day HDT. The reproductive/developmental NOAEL was based on decreased pup body weight during late lactation.

iv. *Pre- and post-natal sensitivity*. Based on current toxicological data requirements, the database for metolachlor relative to pre- and post-natal toxicity is complete. The developmental toxicity NOAELs of 300 mg/kg/day (in rats) and >360 mg/kg/day (HDT tested in rabbits) demonstrate that there is not increased sensitivity to metolachlor by the developing fetus (pre-natal) in the presence of maternal toxicity. There was developmental toxicity in rats at 1,000 mg/kg/day (but not in rabbits). The developmental NOAELs are more than 30- and 37-fold higher in the rats and rabbits, respectively, than the NOAEL of 9.7 mg/kg/day from the 1-year feeding study in dogs, which is the basis of the RfD.

In the 2-generation reproductive toxicity study in rats, the reproductive/developmental toxicity NOAEL of 23 mg/kg/day was less than the parental (systemic) toxicity NOAEL of >76 mg/kg/day. The reproductive/developmental NOAEL was based on decreased pup body weight during late lactation and the NOAEL occurred at a level which is below the NOAEL for parental toxicity (>76 mg/kg/day). This finding suggests that pups are more sensitive to metolachlor than adult animals. For purposes of this section 18 only, an additional 3-fold uncertainty factor was added to the RfD for infants and children.

v. *Conclusion*. The TMRC value for the most highly exposed infant and children subgroups (non-nursing infants <1 year old, and children 1 to 6 years old) occupies 6.9% of the RfD for both groups (with the additional 3-fold safety factor). This estimate should be viewed as conservative, since it is based on percent of crop treated data for selected crops and tolerance level residues for all commodities. Refinement of the dietary risk assessment by using additional percent crop treated and anticipated residue data would reduce dietary exposure estimates. Therefore, this risk assessment is an over-estimate of dietary risk.

2. *Acute risk*. The available data for metolachlor do not indicate the potential for adverse effects from acute dietary exposures. Therefore, no acute risk assessment was conducted.

3. *Chronic risk*. Using the exposure assumptions described in this unit, EPA has concluded that aggregate exposure to metolachlor from food ranges from 6.9% for non-nursing infants <1 year old, down to 1.8% for nursing infants <1 year old (using an additional 3 fold safety factor) of the RfD for infants and children. 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. Despite the potential for exposure to metolachlor in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD.

4. *Short- or intermediate-term risk*. Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure. A short-term non-dietary toxicity endpoint was not identified for metolachlor. Using the conservative exposure assumptions described above, EPA has concluded that the percent of the RfD that will be utilized by aggregate exposure to residues of metolachlor is 6.9% (using an additional 3 fold safety factor) for non-nursing infants <1 year old and children 1 to 6 years old (the most highly exposed population subgroups). Based on the low percentage of the RfD occupied by the chronic dietary exposure and the high level of the intermediate-term toxicity endpoint (NOAEL = 100 mg/kg/day and LOEL = 1,000 mg/kg/day), in the best scientific judgment of EPA, the intermediate-term aggregate risk will not exceed the Agency's level of concern. Despite the potential for exposure to metolachlor in drinking water, EPA does not expect the aggregate exposure to exceed 100% of the RfD.

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

IV. Other Considerations

A. Metabolism In Plants and Animals

The nature of the residue in plants and animals is adequately understood. Tolerances for residues of metolachlor in or on food/feed commodities are currently expressed in terms of 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 (40 CFR § 180.368)

B. Analytical Enforcement Methodology

Adequate methods for purposes of data collection and enforcement of tolerances for metolachlor residues are available. Methods for determining the combined residues of metolachlor and its metabolites, as the derivatives CGA-37913 and CGA-49751, are described in PAM, Vol. II, as Method I (plants; Gas Chromatograpy (GC) with Nitrogen Phosphorus Detection (NPD)) and Method II (animals; GC-Mass Spectroscopy).

C. Magnitude of Residues

Residues of metolachlor are not expected to exceed 10 ppm in/on forage and 0.2 ppm in/on the hay of grass grown for seed, as a result of this section 18 use. Secondary residues in animal commodities are not expected to exceed existing tolerances as a result of this section 18 use.

D. International Residue Limits

There are no established CODEX, Canadian, or Mexican residue limits for metolachlor on grass commodities.

E. Rotational Crop Restrictions

Rotational crop restrictions are stated on the Dual Magnum product label.

V. Conclusion

Therefore, the tolerance is established for combined residues of metolachlor and its metabolites, each expressed as the parent compound in tomatoes at 0.1 ppm, tomato puree at 0.3 ppm, and tomato paste at 0.6 ppm.

VI. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation issued by EPA under new section 408 and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by May 10, 1999, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under the ''ADDRESSES'' section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). 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 tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5697, tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is 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 in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). 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.

VII. Public Record and Electronic Submissions

EPA has established a record for this regulation under docket control number [OPP–300795] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Objections and hearing requests may be sent by e-mail directly to EPA at:
opp-docket@epa.gov.

E-mailed objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this regulation, as well as the public version, as described in this unit will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the Virginia address in ''ADDRESSES'' at the beginning of this document.

VIII. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

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

In addition, since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(l)(6), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of

Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's 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.

IX. 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 the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: February 26, 1999.

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), 346a and 371.

2. In § 180.368, paragraph (b), by revising the following commodities in the table to read as follows:

§ 180.368 Metolachlor.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/ revocation date
* *	*	* *
Tomato paste ..	0.6	4/1/01
Tomato puree ..	0.3	4/1/01
Tomatoes	0.1	4/1/01
* *	*	* *

* * * * *

[FR Doc. 99–5963 Filed 3–9–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300796; FRL–6064–1]

RIN 2070–AB78

Maleic hydrazide; Extension of Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends time-limited tolerances for combined residues of the herbicide maleic hydrazide and its metabolites in or on rice, grain at 105 parts per million (ppm); rice, straw at 75 ppm; rice, hulls at 240 ppm; and rice, bran at 180 ppm. In addition, this rule extends time-limited tolerances for secondary residues in milk at 1.0 ppm; at 2.5 ppm in meat, 7 ppm in liver, 32 ppm in kidney, and 3 ppm in fat of cattle, goats, hogs, horses and sheep; at 0.5 ppm in meat, liver, and fat of poultry; 1.4 ppm in poultry meat byproducts; and 0.5 ppm in eggs. All of these time-limited tolerances are extended for an additional 1-year period. These tolerances will expire and are revoked on September 30, 2000. This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on rice. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act 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.

DATES: This regulation becomes effective March 10, 1999. Objections and requests for hearings must be received by EPA, on or before May 10, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300796], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300796], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall 2 (CM #2), 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of

electronic objections and hearing requests must be identified by the docket control number [OPP–300796]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Stephen Schaible, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 271, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, 703-308-9362, schaible.stephen@epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a final rule, published in the **Federal Register** of December 5, 1997 (62 FR 64287) (FRL–5754–5), which announced that on its own initiative under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a and (l)(6), as amended by the Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) it established time-limited tolerances for the combined residues of maleic hydrazide and its metabolites in or on rice, grain at 105 ppm; rice, straw at 75 ppm; rice, hulls at 240 ppm; and rice, bran at 180 ppm. In addition, this rule extends time-limited tolerances for secondary residues in milk at 1.0 ppm; at 2.5 ppm in meat, 7 ppm in liver, 32 ppm in kidney, and 3 ppm in fat of cattle, goats, hogs, horses and sheep; at 0.5 ppm in meat, liver, and fat of poultry; 1.4 ppm in poultry meat byproducts; and 0.5 ppm in eggs, with an expiration date of September 30, 1998. EPA extended the expiration date of these tolerances to September 30, 1999 in a **Federal Register** notice published October 7, 1998 (63 FR 53815) (FRL–6034–8). EPA established the tolerances because section 408(l)(6) of the 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 under FIFRA section 18. Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of maleic hydrazide on rice for this year growing season due to the continued emergency situation facing rice growers in Louisiana, Mississippi and Texas. After having reviewed the submissions, EPA concurs that emergency conditions exist. EPA has authorized under FIFRA section 18 the use of maleic hydrazide on rice for control of red rice in rice.

EPA assessed the potential risks presented by residues of maleic hydrazide in or on rice and secondary residues in meat, milk, poultry and eggs. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerances 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 of December 5, 1997 (62 FR 64287) (FRL–5754–5). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerances will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerances are extended for an additional 1-year period. 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 September 30, 2000, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on rice commodities, meat, milk, poultry and eggs after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerances. 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.

I. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by May 10, 1999, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under the ''ADDRESSES'' section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). 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 tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305-5697, tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is 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 in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). 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.

II. Public Record and Electronic Submissions

EPA has established a record for this regulation under docket control number [OPP–300796] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Objections and hearing requests may be sent by e-mail directly to EPA at:
opp-docket@epa.gov.

E-mailed objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this regulation, as well as the public version, as described in this unit will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the Virginia address in ''ADDRESSES'' at the beginning of this document.

III. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

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

In addition, since tolerances and exemptions that are established under section 408(l)(6) of FFDCA, such as the tolerance/exemption 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. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's 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.

IV. 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 the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: February 26, 1999.

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), 346a and 371.

§ 180.175 [Amended]

2. In § 180.175, by amending the table in paragraph (b) for all of the commodities by changing the date ''9/30/99'' to read ''9/30/00''.

[FR Doc. 99–5960 Filed 3–9–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300800; FRL–6065–3]

RIN 2070–AB78

2,4-D; Time-Limited Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for residues of 2,4-dichlorophenoxyacetic acid in or on soybeans. Industry Task Force II on 2,4-D Research Data requested this tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. The tolerance will expire on December 31, 2001.

DATES: This regulation is effective March 10, 1999. Objections and requests for hearings must be received by EPA on or before May 10, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300800], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300800], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall 2 (CM #2), 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket control number [OPP–300800]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne I. Miller, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 235, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, 703–305–6224, miller.joanne@epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 11, 1998 (63 FR 68455) (FRL–6043–3), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) announcing the filing of a pesticide petition (PP) for tolerance by Industry Task Force II on 2,4-D Research Data, McKenna & Cuneo, 1900 K St., NW, Washington, DC 20006–1108. This notice included a summary of the petition prepared by Industry Task Force II on 2,4-D Research Data, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.142 be amended by establishing a time-limited tolerance for residues of the herbicide 2,4-dichlorophenoxyacetic acid, in or on soybeans at 0.02 part per million (ppm). This tolerance will expire on December 31, 2001.

I. Background and Statutory Findings

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

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

II. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of 2,4-D and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for residues of 2,4-dichlorophenoxyacetic acid on soybeans at 0.02 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by 2,4-D are discussed in this unit.

An oral LD_{50} of 2,4-D acid is 699 miligrams/kilograms (mg/kg) in the rat.

The dermal LD_{50} in the rabbit is >2000 mg/kg. The acute inhalation LC_{50} in the rat is >1.8 mg/liter. A primary eye irritation study in the rabbit showed severe irritation. A dermal irritation study in the rabbit showed moderate irritation. A dermal sensitization study in the guinea pig showed no skin sensitization. An acute neurotoxicity study in the rat produced a no observed advers effect level (NOAEL) of 227 mg/kg for systemic toxicity and a neurobehavioral NOAEL of 67 mg/kg with a lowest observed effect level (LOEL) of 227 mg/kg.

Mutagenicity studies including gene mutation, chromosomal aberrations, and direct DNA damage tests were negative for mutagenic effects.

A 2-generation reproduction study was conducted in rats with NOAELs for parental and developmental toxicity of 5 mg/kg/day. The LOELs for this study are established at 20 mg/kg/day based on reductions in body weight gain in F_0 and F_{2b} pups, and reduction in pup weight at birth and during lactation. A teratology study in rabbits given gavage doses at 0, 10, 30, and 90 mg/kg on days 6 through 18 of gestation was negative for developmental toxicity at all doses tested. A teratology study in rats given gavage doses at 0, 8, 25, and 75 mg/kg on days 6 through 15 of gestation was negative for developmental toxicity at all doses tested. A NOAEL for fetotoxicity was established at 25 mg/kg/day based on delayed ossification at the 75 mg/kg dose level. The effects on pups occurred in the presence of parental toxicity.

A subchronic dietary study was conducted with mice fed diets containing 0, 1, 15, 100, and 300 mg/kg/day with a NOAEL of 15 mg/kg/day. The LOEL was established at 100 mg/kg/day based on decreased glucose and thyroxine levels, increases in absolute and relative kidney weights, and histopathological lesions in the liver and kidneys. A 90-day dietary study in rats fed diets containing 0, 1, 15, 100, or 300 mg/kg/day resulted in a NOAEL of 15 mg/kg/day and an LOEL of 100 mg/kg/day. The LOEL was based on decreases in body weight and food consumption, alteration in clinical pathology, changes in organ weights, and histopathological lesions in the kidney, liver, and adrenal glands of both sexes of rats. A 90-day feeding study was conducted in dogs fed diets containing 0, 0.3, 1, 3, and 10 mg/kg/day with a NOAEL of 1 mg/kg/day. The LOEL was established at 3 mg/kg/day based on histopathological changes in the kidneys of male dogs.

A 1-year dietary study was conducted in the dog using doses of 0, 1, 5, and 7.5 mg/kg/day. The NOAEL was 1 mg/kg/day and the LOEL was 5 mg/kg/day based on clinical chemistry changes and histopathological lesions in the liver and kidney. A 2-year feeding/carcinogenicity study was conducted in mice fed diets containing 0, 1, 15, and 45 mg/kg/day with a NOAEL of 1 mg/kg/day. The systemic LOEL was established at 15 mg/kg/day based on increased kidney and adrenal weights and homogeneity of renal tubular epithelium due to cytoplasmic vacuoles. No carcinogenic effects were observed under the conditions of the study at any dosage level tested. A second 2-year oncogenicity study was conducted in mice fed diets containing 0, 5, 62.5, and 125 mg/kg/day (males) and 0, 5, 150, and 300 mg/kg/day (females). No treatment-related oncogenicity was observed. A 2-year feeding/carcinogenicity study was conducted in rats fed diets containing 0, 1, 15, and 45 mg/kg/day with a NOAEL of 1 mg kg/day. Although there appeared to be a slight treatment-related incidence of benign brain tumors (astrocytomas) in male rats fed diets containing 45 mg/kg/day, two different statistical evaluations found no strong statistical evidence of carcinogenicity in male rats. There were no carcinogenic effects observed in female rats. A second 2-year feeding/carcinogenicity study was conducted in rats fed diets containing 0, 5, 75, and 150 mg/kg/day. The NOAEL was 5 mg/kg/day and the LOEL was 75 mg/kg/day based on decreased body weight, body weight gain and food consumption; clinical chemistry changes; organ weight changes and histopathological lesions. No treatment-related carcinogenic effects or increased incidences of astrocytomas were observed.

The metabolism of phenyl ring labeled ^{14}C–2,4-D was studied in the rat following a single intravenous or oral dose of approximately 1 mg/kg/day. At 48 hours after treatment, recovery of radioactivity in urine was in excess of 98%. Parent 2,4-D was the major metabolite (72.9% to 90.5%) found in the urine.

B. Toxicological Endpoints

1. *Acute toxicity*. EPA has used an acute neurotoxicity study in rats for endpoint for acute toxicity. The NOAEL of 67 mg/kg/day was based on the increased incidence of incoordination, slight gait abnormalities, and decreased motor activity in both sexes at the lowest observed adverse effect (LOAEL) of 227 mg/kg/day. This risk assessment will evaluate acute dietary risk to all population subgroups.

2. *Short - and intermediate-term toxicity*. For short-term dermal Margin of Exposure (MOE) calculations, EPA used the maternal NOAEL of 30 mg/kg/day from an oral developmental toxicity study in rabbits. The MOE is a measure of how close the high end of exposure comes to the NOAEL (or LOAEL, as the case may be) and is calculated as the ratio of the NOAEL to the exposure. The LOAEL of 90 mg/kg/day was based on abortions, clinical signs (ataxia, decreased motor activity, and cold extremities during gestation), and decreased body weight gain. For acute toxicity, EPA decided that FQPA factor of 10 should be reduced to 3 for females 13 years old and older (13+) and removed for all other population subgroups. As the short-term and acute endpoints are based on the oral developmental toxicity study, this decision is also applicable to the short-term, nonoccupational assessment. Therefore, based on this recommendation, the MOE needed for females 13+ is 300.

For intermediate-term dermal MOE calculations, EPA used the NOAEL of 1.0 mg/kg/day from a 90-day oral toxicity study in dogs. The LOAEL of 3 mg/kg/day was based on clinical chemistry changes (increased BUN and creatinine levels) and lesions in the kidneys. An MOE of 100 is required.

3. *Chronic toxicity*. EPA has established the RfD for 2,4-D at 0.01 mg/kg/day. This RfD is based on a 1-year oral toxicity study in dogs with a NOAEL of 1 mg/kg/day and an uncertainty factor (UF) of 100, based on alterations in serum chemistry with corroborative histopathological lesions in the liver and kidneys.

4. *Carcinogenicity*. EPA has classified 2,4-D as a Group D chemical (''not classifiable as to human carcinogenicity'') on the basis that ''the evidence is inadequate and cannot be interpreted as showing either the presence or absence of a carcinogenic effect''.

C. Exposures and Risks

1. *From food and feed uses*. Tolerances have been established (40 CFR 180.142) for the residues of 2,4-dichlorophenoxyacetic acid, in or on a variety of raw agricultural commodities. A time limited tolerance of 0.1 ppm was previously established for residues of 2,4-D on soybeans resulting from the preplant use of 2,4-D ester or amine 40 CFR 180.142(a)(11). In order for EPA to recommend favorably for the establishment of permanent tolerances on soybeans, additional field trial data and processing data were required. In response, the Industry Task Force II on

2,4-D Research Data (Task Force II) submitted field residue data on soybeans. EPA reviewed these data and concluded that a tolerance of 0.02 ppm was appropriate for soybean seed. Task Force II has thus proposed to extend the soybean tolerance to December 31, 2001 at a level of 0.02 ppm. Risk assessments were conducted by EPA to assessed dietary exposures from 2,4-D as follows:

i. *Acute exposure and risk.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. The Dietary Exposure Evaluation Model (DEEM) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–91 Nationwide Continuing Surveys for Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. Each analysis assumes uniform distribution of 2,4-D in the commodity supply.

The acute exposure analysis for all subgroup was performed using anticipated and tolerance-level residues and 100 percent crop treated. The high end MOE for the subgroup of Females (13+) was 399, and is no cause for concern given the need of a MOE of 300. The high end MOEs for the remaining populations ranged from 214 (infants less than one year old) to 321 (overall U.S. population, 48 states), and demonstrate no cause for concern given the need of a MOE of 100. Therefore, EPA does not consider the acute food risk to exceed the level of concern.

ii. *Chronic exposure and risk.* A chronic dietary risk assessment was performed for 2,4-D using the RfD for the chronic dietary analysis of 0.01 mg/kg bwt/day. Chronic dietary exposure estimates (DEEM) used mean consumption (3 day average) and anticipated or tolerance-level residues for all commodities. Exposure estimates used 25.6% of the RfD for the general U.S. population (48 states) and 49.2% of the RfD for the most exposed population of non-nursing infants (less than one year old). Since estimated exposures did not exceed the RfD for any subgroup, EPA does not consider the chronic food risk to exceed the level of concern.

2. *From drinking water.* A Maximum Contaminant Level (MCL) of 0.07 mg/L and Health Advisories (HAs) as follows are established for 2,4-D in drinking water: for a 10-kg child, a range of 1 mg/L from 1-day exposure to 0.1 mg/L for longer-term exposure up to 7 years; for a 70-kg adult, a range of 0.4 mg/L for longer-term exposure to 0.07 mg/L for lifetime exposure.

Information in the Pesticides in Groundwater Database (EPA 734–12–92–001, 9/92) indicates that 6,142 wells in 32 States were sampled for residues of 2,4-D during the period 1979-91. Detectable residues were reported (0.0079–57.1 g/L) in 2.3% (139) of those sampled wells.

An FQPA water assessment was conducted by the Environmental Fate and Effects Division (EFED) to support an FQPA tolerance reassessment for the use of 2,4-D dimethylamine salt (DMA), 2,4-D ethylhexyl ester (EHE), and 2,4-D (acid) as a soybean burndown product. Since laboratory environmental fate data indicate that 2,4-D DMA and 2,4-D EHE degrade rapidly to form 2,4-D, the water assessment is focused on the environmental fate and transport of the 2,4-D. The strategy assumes that the 2,4-D DMA and 2,4-EHE are not persistent in the environment, and the environmental fate of these compounds is dependent on the fate properties of the degradate 2,4-D.

It is noteworthy that water treatment processes affect the removal of 2,4-D from raw water (Versar, 1992). These treatments include granulated activated carbon (70–100% removal), packed tower aeration (0-29% removal), and ozone oxidation (30–69% removal).

A review of the labels indicate that the highest single application rate in terrestrial environments (e.g., terrestrial noncrop and terrestrial crop use patterns) for 2,4-D occur at 3.74 pounds of active ingredient per acre (lbs ai/A), for 2,4-D EHE occur at 10 lbs ai/A, and for 2,4-D DMA occur at 2 lbs ai/A. These rates represent seasonal maximum application rates as part of 2,4-D exposure reduction agreement to support 2,4-D use on pasture/rangeland, forestry, and residential and turf (excluding sod farm) sites. It is noteworthy that the 10 lbs ai/A rate corresponds to a basal bark spot treatment. Since this type of application cannot be simulated from Tier 1 models, EFED conducted modeling on the label rate from the 2,4-D label.

For groundwater, SCIGROW modeling indicates that the 2,4-D concentration in ground water is not likely to exceed 0.014 µg/L for both peak (acute) and annual average (chronic) concentration. Since this estimation was less than the actual monitoring concentrations noted above, the actual monitoring concentrations were used in the risk assessment.

For surface water estimates were made using the generic expected environmental concentration (GENEEC) model. GENEEC modeling indicates that 2,4-D concentrations in raw surface water are not likely to exceed 132 µg/L for annual peak (acute) and 48 µg/L for 56 day average (chronic) concentrations. Since Office of Pesticide Program (OPP) policy recommends that the 90/56-day GENEEC value be divided by 3 to obtain a value for chronic risk assessment calculations, the surface water value for use in the chronic risk assessment would be 16 ppb or µg/L.

A Drinking Water Level of Comparison (DWLOC) is a theoretical upper limit on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, drinking water, and through residential uses. A DWLOC will vary depending on the toxic endpoint, with drinking water consumption, and body weights. Different populations will have different DWLOCs. OPP uses DWLOCs internally in the risk assessment process as a surrogate measure of potential exposure associated with pesticide exposure through drinking water. In the absence of monitoring data for pesticides, it is used as a point of comparison against conservative model estimates of a pesticide's concentration in water. DWLOC values are not regulatory standards for drinking water. They do have an indirect regulatory impact through aggregate exposure and risk assessments. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, EPA will reassess the potential impacts of 2,4-D on drinking water as a part of the aggregate risk assessment process.

i. *Acute exposure and risk.* EPA has calculated drinking water levels of comparison (DWLOCs) for acute exposure to 2,4-D in drinking water for the females (13+ years old, nursing) to be 1700 ppb. To calculate the DWLOC for acute exposure relative to an acute toxicity endpoint, the acute dietary food exposure (from the DEEM analysis) was subtracted from the RfD to obtain the acceptable acute exposure to 2,4-D in drinking water. DWLOCs were then calculated using default body weights and drinking water consumption figures. EPA has determined that the maximum estimated concentrations of 2,4-D in surface and/or ground water is not likely to exceed EPA's levels of consideration for 2,4-D in drinking water as a contribution to acute exposure. EPA concludes with reasonable certainty that residues of 2,4-D in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time.

ii. *Chronic exposure and risk.* For chronic (non-cancer), the drinking water levels of concern are 260 and 51 ppb for the U.S. population and non-nursing infants (less than 1 year old), respectively. To calculate the DWLOC for chronic (non-cancer, cancer) exposure relative to a chronic toxicity endpoint, the chronic dietary food exposure (from DEEM) was subtracted from the RfD to obtain the acceptable chronic (non-cancer) exposure to 2,4-D in drinking water. DWLOCs were then calculated using default body weights and drinking water consumption figures. EPA has determined that the maximum estimated concentrations of 2,4-D in surface and/or ground water is not likely to exceed EPA's levels of consideration for 2,4-D in drinking water as a contribution to chronic aggregate exposure. EPA concludes with reasonable certainty that residues of 2,4-D in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time.

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

3. *From non-dietary exposure.* 2,4-D is currently registered for use on the following residential non-food sites: ornamental turf, lawns, and grasses, golf course turf, recreational areas, and several other indoor and outdoor uses. There are chemical-specific and site-specific data available to determine the potential risks associated with residential exposures from the registered uses of 2,4-D. Dislodgeable residues of 2,4-D taken during exposure sessions showed a rapid decline from 1 hour following application (8%) to 24 hours following applications (1%). No detectable residues were found in urine samples supplied by volunteers exposed to sprayed turf 24 hours following application. Intermediate-term postapplication exposure is thus not expected. The following assessments are based on the available chemical specific data.

i. *Chronic exposure and risk.* Although a chronic endpoint was chosen, this risk assessment is not required because there is no chronic exposure scenario for this use.

ii. *Short- and intermediate-term exposure and risk.* For short-term dermal MOE calculations, EPA used the maternal NOAEL of 30 mg/kg/day from the oral developmental toxicity study in rabbits. The LOAEL of 90 mg/kg/day was based on abortions, clinical signs (ataxia, decreased motor activity, and cold extremities during gestation), and decreased body weight gain. For acute toxicity, EPA reduce the FQPA factor of 10 to 3 for females 13+ and removed for all other population subgroups. As the short-term and acute endpoints are based on the oral developmental toxicity study, this decision is also applicable to the short-term, nonoccupational assessment. Therefore, based on this recommendation, the MOE needed for females 13+ is 300.

For intermediate-term dermal MOE calculations, EPA used the NOAEL of 1.0 mg/kg/day from the 90-day oral toxicity study in dogs. The LOAEL of 3 mg/kg/day was based on clinical chemistry changes (increased BUN and creatinine levels) and lesions in the kidneys. An MOE of 100 is required.

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

EPA does not have, at this time, available data to determine whether 2,4-D has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, 2,4-D does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that 2,4-D has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute risk.* The acute dietary MOE was calculated to be 321 for the U.S. population and 399 for females 13+ years/nursing (accounts for both maternal and fetal exposure). These MOE calculations were based on the acute neurotoxicity NOAEL of 67 mg/kg/day. This risk assessment assumed 100% crop-treated with anticipated (blended commodities) or tolerance-level residues on all treated crops consumed, resulting in a significant over estimation of dietary exposure. The acute dietary MOE calculated for the U.S. population and for females 13+ years/nursing provides assurance that there is a reasonable certainty of no harm for acute exposure to 2,4-D.

The maximum estimated concentrations of 2,4-D in surface and ground water are less than EPA's DWLOCs for 2,4-D as a contribution to acute aggregate exposure. Therefore, EPA concludes with reasonable certainty that residues of 2,4-D in drinking water do not contribute significantly to the aggregate acute human health risk at the present time considering the present uses and uses proposed in this action.

EPA bases this determination on a comparison of estimated concentrations of 2,4-D in surface waters and ground waters to levels of comparison for 2,4-D in drinking water. The estimates of 2,4-D in surface and ground waters are derived from water quality models that use conservative assumptions regarding the pesticide transport from the point of application to surface and ground water. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, DWLOCs may vary as those uses change. If new uses are added in the future, EPA will reassess the potential impacts of 2,4-D on drinking water as a part of the aggregate acute risk assessment process.

2. *Chronic risk.* Using the ARC exposure assumptions described in this unit, EPA has concluded that aggregate exposure to 2,4-D from food will utilize 26% of the RfD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is discussed below. 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. Despite the potential for exposure to 2,4-D in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate

exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to 2,4-D residues.

3. *Short- and intermediate-term risk*. Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure.

The short-term NOAEL for dermal exposure is based on the maternal NOAEL of 30 mg/kg/day from the oral developmental toxicity study in rabbits. After factoring in residential exposure, the high end total MOE for females 13+ was 750, and does not exceed EPA's level of concern.

The intermediate-term NOAEL for dermal exposure is based on the NOAEL of 1.0 mg/kg/day from the 90-day oral toxicity study in dogs. As homeowner use of 2,4-D is not expected to result in intermediate-term dermal exposure, only dietary and water exposures need to be considered in this assessment.

There is a potential for short- and intermediate-term exposure from drinking water. However, as estimated average concentrations of 2,4-D in surface and ground water are less than EPA's levels of concern for drinking water as a contribution to chronic aggregate and acute aggregate exposures, contribution to short- and intermediate-term exposure should not exceed EPA's levels of concern.

4. *Aggregate cancer risk for U.S. population*. EPA has classified 2,4-D as a Group D chemical (''not classifiable as to human carcinogenicity'') on the basis that ''the evidence is inadequate and cannot be interpreted as showing either the presence or absence of a carcinogenic effect.'' Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to 2,4-D residues.

5. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainity that no harm will result from aggregate exposure to residues of 2,4-D.

E. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children*— i. *In general*. In assessing the potential for additional sensitivity of infants and children to residues of 2,4-D, EPA considered data from developmental toxicity studies in the rat and rabbit and a 2-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard uncertainty factor (usually 100 for combined inter- and intra-species variability) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

ii. *Developmental toxicity studies*. In a developmental toxicity study in rats, the maternal (systemic) NOAEL was >75 mg/kg/day at the highest dose tested (HDT). The developmental (fetal) NOAEL was 25 mg/kg/day, based on delayed ossification at the developmental LOAEL of 75 mg/kg/day. In a developmental toxicity study in rabbits, the maternal (systemic) NOAEL was 30 mg/kg/day, based on ataxia, decreased motor activity, cold extremities, and decreased body weight gain at the LOAEL OF 90 mg/kg/day. The developmental (fetal) NOAEL was 90 mg/kg/day (HDT).

iii. *Reproductive toxicity study*. In the 2-generation reproductive toxicity study in rats, the parental (systemic) NOAEL of 5 mg/kg/day was based on degenerative effects in the kidneys of males and decreased body weight gain in females at the LOAEL of 20 mg/kg/day. The reproductive (pup) NOAEL was 5 mg/kg/day, based on decreased pup weight at the LOAEL of 20 mg/kg/day. The reproductive effects occurred in the presence of parental toxicity.

iv. *Pre- and post-natal sensitivity*. The toxicological data base for evaluating pre- and post-natal toxicity for 2,4-D is complete with respect to current data requirements. There are pre-natal toxicity concerns for infants and children, based on the results of the rat developmental toxicity study in which developmental toxicity occurred in the absence of maternal toxicity. Based on the developmental and reproductive toxicity studies discussed above, for 2,4-D there does appear to be an extra sensitivity for pre-natal effects.

EPA decided that the FQPA factor of 10 should be reduced to 3 for females 13+ and removed for all other population subgroups. The recommendation was based on the presence of developmental effects in the absence of maternal effects for 2,4 D in the rat developmental study. There was no indication of increased susceptibility in a rabbit developmental study or a multigeneration reproduction study in rats. Currently, the acute dietary risk assessment is based on the NOAEL results of the acute neurotoxicity study and applies to all population subgroups with an MOE requirement of 100. However, due to the FQPA concerns discussed above, females 13+ will require an MOE of 300 (100 x 3 for FQPA), in contrast to the other population subgroups which will continue to require the usual MOE of 100 (FQPA does not apply). In practical terms, the acute dietary risk assessment will be performed for all population subgroups using the NOAEL from the acute neurotoxicity study. However, only females 13+ will require an MOE of 300 and all other population subgroups will require an MOE of 100.

v. *Conclusion*. There is a complete toxicity database for 2,4-D and exposure data is complete or is estimated based on data that reasonably accounts for potential exposures.

2. *Acute risk*. The acute dietary MOE was calculated to be 214 for infants (less than 1 year old), and 399 for females 13+ years (accounts for both maternal and fetal exposure). These MOE calculations were based on the acute neurotoxicity NOAEL of 67 mg/kg/day. This risk assessment assumed 100% crop-treated with anticipated or tolerance-level residues on all treated crops consumed, resulting in a significant over estimation of dietary exposure. The large acute dietary MOE calculated for females 13+ years and infants (less than 1 year old) provides assurance that there is a reasonable certainty of no harm for both females 13+ years and the pre-natal development of infants or infants and children and post-natal exposure to 2,4-D.

The maximum estimated concentrations of 2,4-D in surface and ground water are less than EPA's DWLOCs for 2,4-D as a contribution to acute aggregate exposure. Therefore, EPA concludes with reasonable certainty that residues of 2,4-D in

drinking water do not contribute significantly to the aggregate acute human health risk at the present time considering the present uses and uses proposed in this action.

EPA bases this determination on a comparison of estimated concentrations of 2,4-D in surface waters and ground waters to levels of comparison for 2,4-D in drinking water. The estimates of 2,4-D in surface and ground waters are derived from water quality models that use conservative assumptions regarding the pesticide transport from the point of application to surface and ground water. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, DWLOCs may vary as those uses change. If new uses are added in the future, EPA will reassess the potential impacts of 2,4-D on drinking water as a part of the aggregate acute risk assessment process.

3. *Chronic risk.* Using the conservative exposure assumptions described in this unit, EPA has concluded that aggregate exposure to 2,4-D from food will utilize from 11.4% of the RfD for nursing infants less than one year old up to 49.2% of the RfD for non-nursing infants less than one year old. 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. Despite the potential for exposure to 2,4-D in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to 2,4-D residues.

4. *Short- or intermediate-term risk.* The short-term NOAEL for dermal exposure is based on the maternal NOAEL of 30 mg/kg/day from the oral developmental toxicity study in rabbits. After factoring in for residential exposure, the calculated MOE or the short-term aggregate risk of the most highly exposed subgroup (non-nursing infants (<1 year old)) is 560, and does not exceed EPA's level of concern.

The intermediate-term NOAEL for dermal exposure is based on the NOAEL of 1.0 mg/kg/day from the 90-day oral toxicity study in dogs. As homeowner use of 2,4-D is not expected to result in intermediate-term dermal exposure, only dietary and water exposures need be considered in this assessment.

There is a potential for short- and intermediate-term exposure from drinking water. However, as estimated average concentrations of 2,4-D in surface and ground water are less than EPA's levels of concern for drinking water as a contribution to chronic aggregate and acute aggregate exposures, contribution to short- and intermediate-term exposure should not exceed EPA's levels of concern either.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to 2,4-D residues.

III. Other Considerations

A. Metabolism In Plants and Animals

The nature of the residue in plants is adequately understood. The residue of concern is 2,4-D *per se.* The nature of the residue in animals is adequately understood based upon acceptable ruminant and poultry metabolism studies. The residues of concern in animals is 2,4-D, *per se.*

B. Analytical Enforcement Methodology

Adequate enforcement methodology is available (gas chromatography (GC) with electron capture detection (ECD), EN-CAS Method ENC-2/93. This GC/ECD method has undergone successful independent laboratory validation and is available to enforce the time-limited tolerance on soybean seed.

C. Magnitude of Residues

Residues of 2,4-D are not expected to exceed 0.02 ppm in/on soybean seed as a result of this use. Secondary residues are expected in animal commodities as associated with this use. Meat/milk/poultry/egg tolerances have been established as a result of other 2,4-D uses.

D. International Residue Limits

There are no Codex, Canadian or Mexican residue limits established for 2,4-D on soybeans.

E. Rotational Crop Restrictions

The confined rotational crop data indicate that no plant-back intervals following 2,4-D application are needed.

IV. Conclusion

Therefore, the tolerance is established for residues of 2,4-dichlorophenoxyacetic acid in soybeans at 0.02 ppm.

V. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by May 10, 1999, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under ''ADDRESSES'' section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). 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 tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5697, tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is 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 in the manner sought by the requestor would be adequate to justify

the action requested (40 CFR 178.32). 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.

VI. Public Record and Electronic Submissions

EPA has established a record for this regulation under docket control number [OPP–300800] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Objections and hearing requests may be sent by e-mail directly to EPA at:
opp-docket@epa.gov.

E-mailed objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this regulation, as well as the public version, as described in this unit will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the Virginia address in ''ADDRESSES'' at the beginning of this document.

VII. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

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

In addition, since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance/exemption 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. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's 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.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and

the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: March 1, 1999.

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. 346a and 371.

2. In § 180.142, by revising paragraph (a)(11) to read as follows:

§ 180.142 2,4-D; tolerances for residues.

(a) *General* . * * *

(11) A tolerance that expires on December 31, 2001 is established for residues of the herbicide 2,4-D (2,4-dichlorophenoxyacetic acid) resulting from the preplant use of 2,4-D ester or amine in or on the food commodity as follows:

Commodity	Parts per million
soybean, seed	0.02

* * * * *

[FR Doc. 99–5961 Filed 3–9–99; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300798; FRL–6065–1]

RIN 2070–AB78

Carboxin; Extension of Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends a time-limited tolerance for residues of the fungicide carboxin and its metabolites in or on onions, dry bulb at 0.2 part per million (ppm) for an additional 18-month period.This tolerance will expire and is revoked on June 30, 2000. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on onion seed. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act 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.

DATES: This regulation becomes effective March 10, 1999. Objections and requests for hearings must be received by EPA, on or before May 10, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300798], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300798], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall 2 (CM #2), 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket control number [OPP–300798]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Stephen Schaible, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 271, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, 703–308–9362, schaible.stephen@epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a final rule, published in the **Federal Register** of February 3, 1997 (62 FR 4911) (FRL–5584–5), which announced that on its own initiative under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a and (l)(6), as amended by the Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) it established a time-limited tolerance for the residues of carboxin and its metabolites in or on onion seed at 0.2 ppm, with an expiration date of January 17, 1998. EPA established the tolerance because section 408(l)(6) of the 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 under FIFRA section 18. Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of carboxin on onions, dry bulb for this year growing season due to the urgent and non-routine situation resulting from a lack of effective registered pesticides or alternative practices to control onion smut in northern onion producing states. After having reviewed the submission, EPA concurs that emergency conditionsexist. EPA has authorized under FIFRA section 18 the use of carboxin on onion seed for control of onion smut in onions.

EPA assessed the potential risks presented by residues of carboxin in or on onions, dry bulb. 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 of February 3, 1997 (62 FR 4911) (FRL–5584–5). Based on that data and information considered, the Agency reaffirms that extension of the time-

limited tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerance is extended for an additional 18-month period. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations (CFR). Although this tolerance will expire and is revoked on June 30, 2000, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on onions, dry bulb after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

I. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by May 10, 1999, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under the ''ADDRESSES'' section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). 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 tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5697, tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is 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 in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). 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.

II. Public Record and Electronic Submissions

EPA has established a record for this regulation under docket control number [OPP–300798] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Objections and hearing requests may be sent by e-mail directly to EPA at:

opp-docket@epa.gov.

E-mailed objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this regulation, as well as the public version, as described in this unit will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the Virginia address in ''ADDRESSES'' at the beginning of this document.

III. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

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

In addition, since tolerances and exemptions that are established under section 408(l)(6) of FFDCA, such as the tolerance/exemption 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. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided

to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's 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.

IV. 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 the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: February 26, 1999.

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), 346a and 371.

§ 180.301 Amended

2. In § 180.301, by amending paragraph (b) by removing the expiration date ''1/31/99'' and adding in its place ''6/30/00''.

[FR Doc. 99–5962 Filed 3–9–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6307–9]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Deletion of Cedartown Municipal Landfill Superfund Site from the National Priorities List (NPL).

SUMMARY: EPA, Region 4 (EPA) announces the deletion of the Cedartown Municipal Landfill Superfund Site from the NPL. The NPL constitutes Appendix B of 40 CFR Part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and a Liability Act of 1980 (CERCLA). EPA and the State of Georgia (State) have determined that all appropriate CERCLA actions have been implemented and that no further cleanup by responsible parties is appropriate under CERCLA. Moreover, EPA and the state have determined that remedial activities conducted at the site to date have been protective of public health, welfare, and the environment.

EFFECTIVE DATE: March 10, 1999.

ADDRESSES: Comprehensive information on this Site is available through the EPA Region 4 public docket, which is located at the Region 4 office and is available for viewing by appointment only from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays. Requests for appointments or copies of the background information from the regional public docket should be directed to the EPA Region 4 Docket Office.

The address for the Regional Docket Office is: Ms. Debbie Jourdan, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, S.W., Atlanta, Georgia 30303. Telephone No.: (404) 562–8862.

Background information from the regional public docket is also available for viewing at the Site information repository located at the following address: Cedartown Public Library, 245 East Avenue, Cedartown, Georgia, 30125–3001, Telephone No.: (770) 748–5644.

FOR FURTHER INFORMATION CONTACT: Annie M. Godfrey, Remedial Project Manager, U.S. Environmental Protection

Agency, Region 4, 61 Forsyth Street, S.W., Atlanta, Georgia 30303, (404) 562–8919.

SUPPLEMENTARY INFORMATION: EPA announces the deletion of the Cedartown Municipal Landfill, Cedartown, Polk County, Georgia, from the National Priorities List (NPL), which is Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substances Superfund Response Trust Fund (Fund). Pursuant to 42 U.S.C. 9605 (40 CFR 300.425(e)(3) of the NCP), any site deleted from the NPL remains eligible for fund-financed remedial actions in the unlikely event that conditions at the site warrant such action in the future.

EPA published a Notice of Intent to Delete the Cedartown Municipal Landfill Site from the NPL on November 23, 1998 in the **Federal Register** (63 FR 64668–64669). The closing date for comments on the Notice of Intent Delete was December 23, 1998. EPA received no comments; therefore, no responsiveness summary is necessary for attachment to this Notice of Deletion. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, as that term is defined in 5 U.S.C. 804(3).

List of Subjects in 40 CFR Part 300

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

Dated: January 15, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region 4.

40 CFR Part 300 is amended as follows:

PART 300—[AMENDED]

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

Authority: 33 U.S.C. 9601–9657; 42 U.S.C. 1321(c)(2); E.O. 12777, 56 FR 54757, 3 CFR 191 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

2. Table 1 of Appendix B to Part 300 is amended by removing the site ''Cedartown Municipal Landfill Cedartown, Georgia''.

[FR Doc. 99–5829 Filed 3–9–99; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Parts 302, 303, and 304

RIN 0970–AB69

Child Support Enforcement Program; State Plan Requirements, Standards for Program Operations, and Federal Financial Participation

AGENCY: Office of Child Support Enforcement (OCSE), Administration for Children and Families, HHS.

ACTION: Final rule.

SUMMARY: This final rule implements part of the paternity establishment provisions contained in section 331 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) Pub. L. 104–193 and amended by section 5539 of Pub. L. 105–33, which impose new statutory requirements for a State's voluntary paternity acknowledgment process and require the Secretary to promulgate regulations governing voluntary paternity establishment services and identifying the types of entities other than hospitals and birth record agencies that may be allowed to offer voluntary paternity establishment services. States will be required to adopt laws and procedures that are in accordance with the statutory and regulatory provisions. These regulations address these procedures and related provisions.

EFFECTIVE DATE: The final rule is effective: April 9, 1999.

FOR FURTHER INFORMATION CONTACT: Jan Rothstein, OCSE Division of Policy and Planning, (202) 401–5073. Hearing impaired individuals may call the Federal Dual Party Relay Service at 800–877–8339 between 8:00 a.m. and 7:00 p.m. Eastern time.

SUPPLEMENTARY INFORMATION:

Background

Paternity establishment is a necessary first step for obtaining child support in cases where a child is born out-of-wedlock. In addition to child support, there are other potential financial benefits to establishing paternity, including establishing a child's rights to the father's social security benefits, veterans' benefits, pension benefits, and other rights of inheritance. Paternity establishment could also be the first step in developing a psychological and social bond between the father and child, in giving the child social and psychological advantages and a sense of family heritage, and in providing access to important medical history information.

Congress and the Federal government have long recognized the importance of paternity establishment. In 1975, Title IV–D of the Social Security Act was enacted to require States to establish public child support agencies. These IV–D agencies provided child support enforcement services, including paternity establishment services. The Child Support Enforcement Amendments of 1984 required States to permit paternity to be established until a child's 18th birthday.

The Family Support Act of 1988 contained several provisions designed to improve paternity establishment, including performance standards, timeframes for case processing, enhanced funding (90% Federal financial participation) for genetic testing, a requirement that States compel all parties in a contested paternity case to submit to genetic testing upon the request of a party, a requirement that States compel each parent to provide his or her social security number as part of the birth certificate issuance process, and a clarification of the earlier expansion of the requirement permitting paternity establishment to 18 years of age.

The Omnibus Reconciliation Act of 1993 (OBRA '93) further reformed the child support enforcement program to increase the performance standards for both the number of paternities established for children born out-of-wedlock and the timeliness with which paternity establishment is accomplished. One major provision of OBRA '93 was the requirement that States have laws providing for voluntary paternity establishment services at birthing hospitals statewide.

Partly as a result of these Federal and State statutory provisions and their implementation, the number of paternities established each year by the Title IV–D Child Support Enforcement program has increased substantially from about 270,000 in fiscal year (FY) 1987 to over 553,000 in FY 1993, an increase of over 100 percent in just six years. Nearly a million paternities were established in FY 1996, an increase of

over 80 percent in the three years since enactment of OBRA '93.

Finally, in section 101 of PRWORA, Congress cited a number of social and statistical findings relating to the need for paternity establishment. In 1992, only 54 percent of single-parent families with children had a child support order established and, of that number, only about one-half received the full amount due. Of the cases enforced through the public child support enforcement system, only 18 percent of the caseload has a collection. The number of individuals receiving services under Title IV–A of the Social Security Act more than tripled since 1965, and more than two-thirds of these recipients are children, with eighty-nine percent of children receiving Aid to Families with Dependent Children benefits living in homes in which no father is present. The increase in the number of children receiving public assistance is closely related to the increase in births to unmarried women. Congress further cited that between 1970 and 1991, the percentage of live births to unmarried women increased nearly threefold, from 10.7 percent to 29.5 percent, and if the current trend continues, 50 percent of all births by the year 2015 will be out-of-wedlock. The estimated rate of nonmarital teen pregnancy rose 23 percent from 54 pregnancies per 1,000 unmarried teenagers in 1976 to 66.7 pregnancies in 1991, while the overall rate of nonmarital pregnancy rose 14 percent from 90.8 pregnancies per 1,000 unmarried women in 1980 to 103 in both 1991 and 1992.

Response to Comments

On January 5, 1998, we published a Notice of Proposed Rulemaking in the **Federal Register** with a 60 day comment period (63 FR 187). We received 31 comments from State and local IV–D agencies, national child support enforcement organizations, advocacy groups representing custodial parents and children, and the general public. A summary of the comments received and our responses follow:

Description of Regulatory Provisions—Section 302.70(a)(5)(iii)

Section 302.70(a)(5)(iii) requires a State to have in effect laws requiring procedures for a simple civil process for voluntarily acknowledging paternity. Under these procedures, before a mother and putative father can sign a voluntary acknowledgment of paternity, the mother and the putative father must be given notice, orally or through the use of video or audio equipment and in writing, of the alternatives to, the legal consequences of, and the rights (including any rights, if a parent is a minor, due to minority status) and responsibilities of acknowledging paternity, and ensure that due process safeguards are afforded.

Paragraph (a)(5)(iii)(B) requires that State procedures must include a program for voluntary acknowledgment of paternity in State birth record agencies, and in other entities designated by the State and participating in the State's voluntary paternity establishment program. Paragraph (a)(5)(iii)(C) requires that State procedures governing hospital-based programs and birth record agencies must also apply to other entities designated by the State and participating in the State's voluntary paternity establishment program, including the use of the same notice provisions, the same materials, the same evaluation methods, and the same training for the personnel of these other entities providing voluntary paternity establishment services.

Response to Comments on Section 302.70 Required State Laws

1. *Comment:* One commenter was concerned that the regulation appears to require the State birth record agency to offer voluntary paternity services. The State currently uses a collaborative method in which the IV–D agency, birthing hospitals and birth record agencies work together to secure acknowledgments of paternity. The commenter wondered if the entities have to establish separate programs under these revised regulations?

Response: The State must make voluntary paternity establishment services available at birthing hospitals and the State birth record agency. However, these agencies may share staff to provide the services to parents. For example, many States station IV–D staff in hospitals to facilitate the acknowledgment process.

2. *Comment:* One commenter was concerned that the Notice of Proposed Rulemaking published January 5, 1998 (63 FR 187) gives no guidance to States on how to carry out the oral presentation on rights and responsibilities and no guidance on what to include on the acknowledgment form about how parents were given oral notice.

Response: We encourage States to place the explanation of rights and responsibilities in writing on the acknowledgment form itself. However, consistent with past policy, we are not mandating detailed Federal due process requirements. The explanation of rights and responsibilities should describe the rights and responsibilities, including the duty to support the child financially, that each party will assume as a result of signing the acknowledgment. It should also describe rights that each party may be giving up by signing the acknowledgment (e.g., right to genetic testing). These rights and responsibilities will vary by State, depending on State law. Generally, we think a State is in a better position than the Federal government to determine the exact nature of such requirements in light of the State's particular circumstances. States' due process requirements also vary depending on State law and court rulings. However, because of the importance of the due process and rights and responsibilities issue, OCSE is committed to providing technical assistance, within its available resources, including sharing sample forms and materials from other jurisdictions, in order to assist States.

The oral presentation of rights and responsibilities may be made in several ways: through conversation with the mother and putative father, through use of an audio or video tape played for the mother and putative father or through the use of a tape recorded message the mother and putative father can call at their convenience.

3. *Comment:* One commenter wanted the regulation to include a date certain by which all States are to implement the oral presentation.

Response: Section 395 of PRWORA established dates for implementation of the oral presentation. The dates vary, depending on the beginning and ending of legislative sessions in each State. Statutory requirements should be in effect in all jurisdictions.

4. *Comment:* One commenter was concerned about the potential burden on States and other entities if they have to provide for the needs of hearing impaired mothers and putative fathers.

Response: While we are concerned that parents with special needs are also able to learn of their rights and responsibilities, we do not believe that this regulation should specify how the States operationalize these program requirements when interacting with parents with special needs. We are confident that each State has appropriate procedures for use with all parents and see our role as providing the overall program direction, to be implemented by the States in an appropriate manner for the particular circumstance.

5. *Comment:* One commenter proposed using other entities as ''referral centers'' that would direct parties to the locations already equipped to provide voluntary paternity services (i.e., hospitals). The commenter

suggested revising this section of the regulations to allow a category of entities which could assist in the establishment process without being subject to the procedures currently governing State hospital-based programs.

Response: States may choose to make voluntary paternity establishment services available in as few or as many entities beyond hospitals and birth record agencies as they see fit. If a State would prefer to make information about voluntary paternity services available at many locations but to restrict the number of entities actually providing the service, that would be perfectly within State flexibility. We do not think it is necessary to revise the regulations to grant States this flexibility. However, any entity that is providing voluntary paternity acknowledgment services will be subject to the procedures governing hospitals and birth record agencies.

6. *Comment:* One commenter requested that the regulations make it absolutely clear that State law must provide that, for a paternity acknowledgment to be valid, it must be signed by both parents. The commenter advised moving the language from section 303.5(g)(4) to section 302.70 so it is clear that this is a State plan requirement. The commenter further suggested that this section specify that it is a State plan requirement that both parents' signatures be authenticated for an acknowledgment to be valid and add a State plan requirement about the minimum data elements of the paternity acknowledgment form.

Response: The statute requires States to develop procedures under which the name of the father will be included on the record of birth of unmarried parents only if the father and mother have signed a voluntary acknowledgment of paternity or a court or an administrative agency has issued an adjudication of paternity. The State plan requirement at section 454(20) cross references all of section 466. Therefore, compliance with the paternity establishment requirements of section 466(a)(5) and the implementing regulations at 45 CFR 303.5(g) is required of all States in order to receive Federal funding under Title IV–D. As we stated in the preamble to the NPRM, we have not regulated the use of data elements set forth in OCSE–AT–98–02 paternity acknowledgment affidavit. We continue to think that is appropriate because, whether or not referenced in the regulations, States must include the mandated data elements developed by the Secretary in their paternity acknowledgment affidavits.

7. *Comment:* One commenter recommended the regulations provide more information on what the consequences of signing the acknowledgment are.

Response: Since the specific consequences may vary State-by-State and we are concerned about giving States more flexibility in designing their programs and the materials to be used to explain them, we think it is better to avoid being overly prescriptive and to avoid developing Federal requirements that would unnecessarily disrupt or interfere with the operation of existing, successfully functioning programs. Possible consequences include: establishment of a child support order, income withholding to pay child support ordered, and custody and visitation issues.

8. *Comment:* Two commenters objected to expanding the program to other entities including the State and local birth record agencies. At a minimum, this commenter felt States should have flexibility to determine what entities other than birthing hospitals and IV–D agencies should be involved in the program.

Response: Section 466(a)(5)(C)(iii)(I) of the Act requires that the State's procedures must require the State agency responsible for maintaining birth records to offer voluntary paternity establishment services. Section 466(a)(5)(C)(iii)(II) of the Act requires the Secretary to prescribe regulations governing voluntary paternity establishment services offered by hospitals and birth record agencies and to prescribe regulations specifying the types of other entities that may offer voluntary paternity establishment services. Thus, the statute and this regulation give States the flexibility to determine what entities, other than hospitals and birth record agencies, should be involved in the voluntary paternity establishment program. A State may choose to make the program available at one or all of the locations described in section 303.5(g)(1) of the final regulation.

9. *Comment:* One commenter was concerned that the requirement for oral *and* written notice would make it problematic to inform parents who are unable to come to an office of their rights and responsibilities.

Response: Parents do not need to be present in order to receive an explanation of their rights and responsibilities. Oral notice may be provided to parents via a phone line with recorded information, if the parents are given the number to call. Furthermore, we encourage States to place a written explanation of the parent's rights and responsibilities on the paternity acknowledgment form itself.

Description of Regulatory Provisions—Section 303.5(g)

Section 303.5(g)(1) requires that the State's voluntary paternity establishment program be available at hospitals, State birth record agencies, and other entities designated by the State and participating in the State's voluntary paternity establishment program. The designation of the particular entities that may offer voluntary paternity establishment services is the responsibility of the State.

These entities to be identified by the State could include the following and similar entities: public health clinics (including Supplementary Feeding Program for Women, Infants, and Children (WIC) and Maternal and Child Health (MCH) clinics); private health care providers (including obstetricians, gynecologists, pediatricians, and midwives); agencies providing assistance or services under Title IV–A of the Act; agencies providing food stamp eligibility services; agencies providing child support enforcement (IV–D) services; Head Start and child care agencies (including child care information and referral providers); individual child care providers; Community Action Agencies and Community Action Programs; secondary schools (particularly those that have parenthood education curricula); Legal Aid agencies; and private attorneys; and any similar public or private health, welfare, or social services organization.

Sections 303.5(g)(2)–(8) apply to all hospitals, State birth record agencies, and other entities designated by the State and participating in the State's voluntary paternity establishment program. This is consistent with the statutory requirement that the Secretary prescribe regulations governing the provision of services by the other entities. The statute specifies that the other entities participating in the State's voluntary paternity establishment program must use the same materials and be trained and evaluated in the same manner as the voluntary paternity establishment programs of hospitals and birth record agencies. We believe this consistency will greatly facilitate the establishment of paternities by entities other than hospitals and birth record agencies.

Section 303.5(g)(2)(i)(C) and 303.5(g)(5)(iii) require that hospitals, State birth record agencies, and other entities designated by the State and participating in the State's voluntary

paternity establishment program provide the mother and putative father an oral as well as written description of the consequences of voluntarily acknowledging paternity. The information about consequences may also be provided through the use of video or audio equipment. In response to comments, we revised this section to delete the phrase ''if he is present'' in reference to the father. We agreed that the phrase could lead some to think that the mother and father should be treated differently by the entity participating in the State's voluntary paternity establishment program.

The NPRM proposed to replace the reference to the requirement in section 303.5(g)(8) that the State designate an entity to which the voluntary acknowledgment program must forward completed voluntary acknowledgment forms or copies with a requirement that the State designate the State registry of birth records as the entity to which the voluntary acknowledgment program must forward completed voluntary acknowledgment forms or copies. In response to comments, we revised section 303.5(g)(8) to reflect that a State must designate an entity to which hospitals, State birth record agencies, and other entities designated by the State and participating in the State's voluntary paternity establishment program must forward completed voluntary acknowledgments or copies in accordance with section 303.5(g)(2)(iv). If States opt to file the signed original voluntary acknowledgment or an adjudication of paternity with an entity other than the State registry of birth records, a copy must be filed with the State birth record registry, in accordance with section 303.5(g)(2)(iv).

Response to Comments on Section 303.5 Establishment of Paternity

Section 303.5(g)(1)

1. *Comment*: One commenter expressed fear that the wholesale involvement of other agencies in acknowledging paternity may not provide the kind of support that parents need to make an informed choice about completing a voluntary paternity acknowledgment.

Response: We are confident that States will not expand the program too quickly. We also feel that the protections built into section 303.5(g)(6) will require States to expand the program in a thoughtful and deliberate manner.

2. *Comment*: One commenter suggested adding correctional officers to the list of entities that may participate in a State's voluntary paternity establishment program.

Response: States may choose to add to the list at section 303.5(g)(1). We intentionally added the sentence ''any similar public or private health, welfare or social services organization'' at section 303.5(g)(1)(G) to allow States the flexibility to add to the list of entities as they saw fit. However, correctional officers are law enforcement or penal officers and do not qualify as health, welfare or social service organizations. Due to the nature of the relationship between such officers and their charges and the authority or power of such officers over their charges, there would be significant risk for coercion. We do not believe they would be an appropriate category to be added for participation in the voluntary paternity establishment program.

3. *Comment*: One commenter wanted to know if a State would be in compliance if it only choose to identify one entity in addition to hospitals and birth record agencies to provide voluntary paternity services.

Response: Yes. The regulations require voluntary paternity establishment services to be available at hospitals and at State birth record agencies. States may choose to also make the services available at one or more of the other entities listed in the regulations at section 303.5(g)(1).

4. *Comment*: Several commenters were concerned that birth record agencies as the term is used in section 466(a)(5)(C)(iii)(II)(aa) should be interpreted to mean only State level birth record agencies and not to refer to local-level birth record agencies.

Response: We agree and have made several slight changes to emphasize that fact in the final regulations. Local birth record agencies *i.e.,* those operated by county or municipal agencies, may participate in a State's voluntary paternity establishment program if designated by the State, but are not Federally-mandated to participate.

5. *Comment*: One commenter recommended the preamble address the issue of the right to rescind a voluntary paternity acknowledgment and provide guidance on appropriate procedures for States.

Response: Section 466(a)(5)(D)(ii) of the Act requires the States to enact laws and develop procedures under which an individual who has signed a voluntary acknowledgment has the right to rescind that acknowledgment within the earlier of 60 days or the date of an administrative or judicial proceeding relating to the child. We think this is an area where further regulation is not needed at this time. We are prepared to work with States to help them address any specific problems they face in implementing the minimum data requirements of the paternity affidavit which include a reference to the 60-day recession requirement. OCSE's paternity establishment workgroup has distributed copies of a model rescission form that has been proposed by the Association for Public Health Statistics and Information Systems. In addition, OCSE regional staff will be compiling information on State paternity programs including how States manage the 60 day rescission. Once the information has been compiled, it will be disseminated via the ''State Paternity Profiles.''

6. *Comment*: One commenter proposed that States establish voluntary paternity establishment services in cooperation with all birthing hospitals but not in cooperation with every hospital in the State.

Response: Neither the statute nor the regulations require that the State's procedures must include a program in all hospitals in the State. The hospital-based program requirement is limited to hospitals that either have an obstetric care unit or that provide obstetric services, consistent with previously issued regulations. A clarifying change was made by adding the word ''all'' and the regulation now reads ''all private and public birthing hospitals'' at section 303.5(g)(1)(i).

7. *Comment*: One commenter proposed revising this section to clarify that the staff of a paternity establishment services provider may be based out of any agency or contractor designated by the State, and need not be available outside of normal business hours.

Response: States are free to make voluntary paternity acknowledgment services available in as many locations and at any times they choose, so long as the services are available at hospitals and at State birth record agencies. We want to encourage States to make paternity acknowledgment services available to as many parents as possible after a thorough explanation of the rights and responsibilities of doing so. In fact, States have been successful making staff available outside of normal business hours, to recognize after-working-hour visits to the hospital.

8. *Comment*: One commenter recommended OCSE assist States in implementing in-hospital paternity acknowledgment before expanding paternity establishment services to other entities.

Response: OCSE has assisted States in several ways as they have moved to implement the OBRA '93 provisions related to in-hospital paternity

establishment. In the past, we have conducted meetings with our Regional Offices to bring together hospital personnel, IV-D staff and birth registry personnel to air issues and concerns about in-hospital paternity establishment and more recently we are moving to develop a national video on paternity establishment for unmarried parents regarding the benefits, rights, and legal consequences of signing a voluntary acknowledgment of paternity. We have also provided States copies of model agreements between State IV-D agencies and hospitals and will be publishing a resource handbook entitled ''State Paternity Profiles,'' which will allow States to learn from other States what works to increase paternity establishment. In addition, we will be preparing a national paternity establishment training video for personnel directly involved in providing paternity acknowledgment services in entities designated by the State as participating in the State's voluntary paternity acknowledgment program.

Section 303.5(g)(2)

1. *Comment:* One commenter recommended deleting ''if he is present'' because in the context of participating entities it is likely to cause confusion, leading the entity to think it has to deal in person with the mother and by some other means with the father, but not to deal in person with the father and by some other means with the mother.

Response: We agree and are deleting the phrase in the two places in section 303.5(g)(2) where it appeared. All entities participating in the State's voluntary paternity establishment program should treat the mother and father equally and ensure that each has access to all the same information before signing the voluntary acknowledgment of paternity.

2. *Comment:* One commenter suggested adding a reference in the regulations to the effect that participating entities must provide both the mother and the father assurance that their eligibility for services from the entity would not be affected by their decision to acknowledge paternity. The same commenter also suggested adding a timeframe within which the entity must forward the acknowledgment to the State registry of birth records, and adding a requirement that State registries of birth records send written notice of receipt of the acknowledgment to both parents.

Response: We think that these suggestions warrant consideration by the States. As discussed in more detail in the regulatory philosophy section above, we believe it is prudent at this time to use these regulations to extend existing regulatory requirements which govern voluntary paternity acknowledgment in hospitals to govern State birth record agencies and other entities participating in the State's voluntary paternity establishment program.

3. *Comment:* One commenter recommended that the consequences of acknowledging paternity vis-á-vis custody and visitation should be explained to both the mother and father.

Response: We are not specifying explicit rights and responsibilities regarding custody and visitation because these are essentially State matters, governed by State law. States are required by section 466(a)(5)(C)(i) of the Act to explain the alternatives to, the legal consequences of, and the rights and responsibilities that arise from signing the acknowledgment. When giving the parents the opportunity to voluntarily acknowledge paternity, we would also encourage that both parents receive an explanation about the potential impact of an acknowledgment under State law on custody and visitation, as well as the consequences.

4. *Comment:* One commenter recommended the regulation be amended to require that entities participating in the State's voluntary paternity establishment program afford parents a ''reasonable'' opportunity to speak with staff. The commenter was concerned that without this restriction, the language in section 303.5(g)(2) could be interpreted to mean staff would have to be available to answer questions 24-hours per day.

Response: Section 303.5(g)(2) was added to the regulations as a result of OBRA '93 (59 FR 66204) and it is only being amended by this final rule to reflect that it now applies to not only hospital-based programs, but to all entities participating in the State's voluntary paternity establishment program. As established in OBRA '93, to meet this requirement an entity participating in the State's program must: (1) have staff available during its regular business hours to talk with parents in person, or (2) provide written materials with a telephone number for State agency (IV–D or other agency) personnel that the parties may contact for additional information. A program may utilize both of these approaches. The technical amendments to PRWORA added videos to the list of material that can be used.

5. *Comment:* One commenter proposed the regulations be revised to apply only when both parents intend to sign an acknowledgment so as not to waste the valuable time of staff.

Response: We do not agree that the regulations need to be revised in this manner. States can not know the intent of a parent when he or she volunteers to acknowledge paternity. States can only attempt to ensure that parents are fully informed of their rights and responsibilities before signing the form.

6. *Comment:* One commenter recommended that the text in section 303.5(g)(2)(i)(C) regarding notice be stated in a manner similar to that in section 302.70(a)(5)(iii). The commenter suggested the phrasing was confusing as written.

Response: We agree that the section could be written more clearly and have rewritten the section to more fully mirror the language in section 302.70(a)(5)(iii).

Section 303.5(g)(4)

1. *Comment:* One commenter recommended the preamble to the regulations make it plain that a State may determine that two separate acknowledgments (one signed by the mother and one by the father) will suffice to establish paternity.

Response: The Federal statute does not require both signatures on the same acknowledgment form.

Section 303.5(g)(6)

1. *Comment:* One commenter was concerned that the regulations could be interpreted as precluding a State from furnishing offices such as those of obstetricians/gynecologists with informational brochures concerning voluntary paternity acknowledgment without designating such offices as participating in the State's voluntary paternity acknowledgment program. Another commenter recommended communicating information about voluntary paternity acknowledgment services through expanded outreach efforts.

Response: Nothing in this regulation precludes a State from providing informational brochures or otherwise promoting the concept of the voluntary acknowledgment of paternity in any setting the State may choose. States select the entities (beyond hospitals and State birth record agencies) that will provide voluntary paternity acknowledgment services and they certainly can use other sites to promote the program. A site may be chosen to promote as well as to provide paternity services, or only to promote such services.

2. *Comment:* One commenter recommended the regulations distinguish between entities which offer

paternity establishment services and entities which participate in a State's voluntary paternity acknowledgment program. An example would be lawyers who may offer paternity services in their offices without participating in the State's program.

Response: These regulations apply only to those entities that are providing voluntary paternity acknowledgment services to parents in conjunction with the State IV–D agency's voluntary paternity acknowledgment program. They do not preclude private attorneys from helping parents with paternity establishment or contested paternity establishment. The regulations consistently refer to ''entities participating in the State's voluntary paternity establishment program'' to make it clear as to what entities are covered.

3. *Comment:* One commenter was concerned about the potential that exists for a lack of quality control if multiple entities are providing voluntary paternity acknowledgment services to the public.

Response: It is for that reason that the regulations require States to provide training, guidance, and written instructions regarding voluntary acknowledgment of paternity as necessary to operate the program to all entities providing these services. States must assure quality control by participating entities through evaluation and training.

Section 303.5(g)(7)

1. *Comment:* One commenter recommended the regulations provide general evaluation criteria for the annual assessment of entities participating in the State's voluntary paternity establishment program.

Response: Existing prior requirements did not set specific evaluation criteria related to in-hospital paternity establishment programs because that is a State responsibility. In addition, since the statute and regulations require States to apply the same evaluation standard to other entities that they currently apply to the in-hospital paternity program, we do not want to introduce a new standard when States are already evaluating their in-hospital paternity program under existing requirements and State procedures.

Section 303.5(g)(8)

1. *Comment:* We received several comments regarding the proposed requirement that States designate the State registry of birth records as the entity to which hospitals, birth record agencies and other entities participating in the State's voluntary paternity establishment program must forward completed voluntary acknowledgments or copies in accordance with section 303.5(g)(2)(iv). Most comments concerned allowing States to designate an agency other than the State registry of birth records as the agency to receive and process the completed acknowledgment of paternity forms.

Response: We agree that the statute only requires States to develop procedures under which voluntary acknowledgments and adjudications of paternity by judicial or administrative processes are *filed* with the State registry of birth records for comparison with information in the State case registry. We also recognize that a number of States have established alternative repositories for voluntary acknowledgments. Therefore, States must file a copy of the signed original voluntary acknowledgment or an adjudication of paternity with the State registry of birth records if they file the original with another designated entity (e.g. the State IV–D agency or another agency or a contractor as the State deems appropriate). We do not think it is necessary that the State choose the State registry of birth records as the sole repository of these records. We have amended the regulation to allow States to designate an entity to which hospitals, birth record agencies and other entities must forward completed voluntary acknowledgments or copies. In accordance with section 303.5(g)(2)(iv), if the entity designated is not the birth record agency, a copy must be filed with the birth record agency.

2. *Comment:* One commenter was under the impression that States would be able to select the central registry of their choice via waiver or comparable process and wants that flexibility.

Response: The regulation allows States to designate another entity to which acknowledgments may be sent, as long as the birth registry also receives a copy. However, if a State does not want to send a copy to the birth record agency, as authorized by section 466(d), States may request an exemption from the requirement that acknowledgments be filed with the State registry of birth records, in accordance with OCSE–AT–97–02 which was issued February 10, 1997. The State must demonstrate that implementing this requirement will not increase the effectiveness and efficiency of its child support program. Until such request is approved, a State must comply with the requirement for filing with the State registry of birth records.

Description of Regulatory Provisions—Section 304.20(b)(2)

We have revised sections 304.20 (b)(2)(vi), (vii), and (viii) to provide that Federal financial participation is available for allowable costs with respect to hospitals, State birth record agencies, and other entities designated by the State and participating in the State's voluntary paternity establishment program. This is consistent with the expansion of the applicability of all existing provisions in sections 303.5(g)(2)–(8) to birth record agencies and other entities designated by the State and participating in the State's voluntary paternity establishment program.

Response to Comments on Section 304.20 Availability and Rate of Federal Financial Participation

1. *Comment:* One commenter proposed deleting the reference to ''short-term'' as the training itself is not short-term in nature.

Response: We think it continues to be appropriate to refer to this training as short-term, especially as this section contains a discussion of the sorts of activity Federal financial participation (FFP) will be available for. As the regulations state, FFP is available for reasonable and essential short-term training regarding voluntary acknowledgments of paternity associated with a State's program of voluntary paternity establishment services under section 303.5(g). Although the training must be short-term in order to be eligible for FFP, training of new staff may be provided on a periodic basis as necessary to assure understanding of the process and indeed, we think that is the most reasonable manner in which to provide it.

2. *Comment:* One commenter recommended FFP be made available to the IV–D agency to pay the State registry of birth records for costs relating to the statewide paternity database.

Response: According to the Office of Management and Budget's Circular A–87, ''Cost Principles for State and Local Governments,'' the general rule governing this issue is that Federal funds are not available to offset the general costs of a State or local government. (See OMB Circular A–87, attachment B, #23.) That is, Federal funds may not be used to finance general types of government services normally provided to the public, such as the filing of birth records. Under this principle, FFP is not available for paying the start-up or ongoing costs of the State or local birth record agency

that has responsibility for maintaining completed acknowledgments of paternity. Likewise, FFP is also not available to reimburse a State or local vital records office for the costs of establishing a system to process or store paternity affidavits because those activities are required of those entities under general State law. However, as previously stated in OCSE–AT–94–06, ''Final Rule—Paternity Establishment and Revision of Child Support Enforcement Program and Audit Regulations,'' FFP is available for the IV–D agency's cost in determining whether a voluntary acknowledgment has been recorded with the statewide database in IV–D cases needing paternity establishment. In addition, FFP is available for the IV–D agency's cost incurred under an agreement governing the routine exchange of information or documents regarding acknowledgments between the IV–D agency and the agency that maintains the statewide database.

3. *Comment*: One commenter recommended amending the regulations to clarify that FFP is available for the costs associated with the recording of and access to identifying information and documentation.

Response: FFP is available for three related costs. First, under section 304.20(b)(2)(i), which allows FFP for costs associated with reasonable efforts to determine the identity of a child's father, FFP is available for the IV–D agency's costs in determining, in accordance with section 303.5(h), whether a voluntary acknowledgment has been recorded with the statewide data base in IV–D cases needing paternity establishment. Second, FFP is available for reasonable and necessary costs, including fees, incurred by the IV–D agency in obtaining copies of documents such as voluntary acknowledgments or birth certificates. Third, FFP is available, under previously-existing policy, for the IV–D agency's costs of establishing an agreement, governing the routine exchange of information or documents regarding acknowledgments, between the IV–D agency and the entity designated in section 303.5(g)(8), the agency that maintains the statewide database, or any entity that gives the IV–D agency access to copies of acknowledgments.

4. *Comment*: One commenter wrote that FFP should be available for the costs of hiring and training hospital and other entity staff.

Response: As stated above, FFP is available for only a limited range of activities. While FFP is available for training of staff, it is not available for hiring staff outright.

5. *Comment*: One commenter wondered if a State would have to have agreements with local Health Departments if these are to provide services or will a State level agreement suffice?

Response: Consistent with past policy, we are not mandating at what level of State government agreements between entities participating in a State's voluntary paternity acknowledgment program and the IV–D agency must be reached. We think this is an area where States should be granted flexibility. However, it is critical to ensure that all entities participating in a State's program of voluntary paternity establishment meet all Federal requirements.

6. *Comment*: One commenter suggested the regulations be amended to provide guidance to States on the development of materials in languages other than English, the design of materials for the visually or hearing impaired, and the proper literacy level for materials to be presented to the public.

Response: Just as we defer to State law regarding due process protections for persons with such limited abilities, we think it is appropriate to give States discretion in this matter. We encourage and expect States to address the special circumstances of individuals with limited understanding of English and to prepare materials geared to the general population in language and at reading levels appropriate to them.

7. *Comment*: One commenter felt the regulations should address the legal structure of the relationship between the State and the various entities participating in the voluntary paternity establishment program.

Response: We think this is legitimately an area where each State must have flexibility. Each State will have to determine for itself the structure of the relationship with the entities that will participate in the State's voluntary paternity establishment program.

8. *Comment*: One commenter felt the regulations should be more explicit that entities participating in the State's voluntary paternity establishment program have to use materials provided by the State.

Response: We think the statute and regulations are already quite clear that in order to participate in a State's voluntary paternity establishment program, an entity must use the same notice provisions used by, use the same materials used by, provide the personnel providing such services with the same training provided by, and evaluate the provision of such services in the same manner as the provision of such services is evaluated by voluntary paternity establishment programs of hospitals and State birth record agencies.

Regulatory Impact Analyses

Paperwork Reduction Act

Section 466(a)(5)(C) of the Social Security Act (the Act) (42 U.S.C. 666(a)(5)(C)), as added by section 331 of Pub. L. 104–193 and amended by section 5539 of Pub. L. 105–33, contains a requirement that information be disclosed to a third party. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), this request for approval of a new information collection has been approved by Office of Management and Budget as of March 2, 1998 under OMB control number 0970–0175. 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.

Section 466(a)(5)(C) of the Act requires States to pass laws ensuring a simple civil process for voluntarily acknowledging paternity under which the State must provide that, before a mother and putative father can sign a voluntary acknowledgment of paternity, the mother and putative father must be given notice, orally or through the use of video or audio equipment and in writing of the alternatives to, the legal consequences of, and the rights (including any rights, if a parent is a minor, due to minority status) and responsibilities of acknowledging paternity. To comply with this requirement States must disclose information about these rights in written and oral formats or through the use of video or audio equipment to mothers and putative fathers. We estimate the time needed to disclose the information to mothers and putative fathers to be approximately 10 minutes (0.17 hours). In order to ensure effective disclosure of this information, States will need to provide training to other State employees and the employees of local governments, non-profit and for profit businesses. We estimate this training will take an additional 1,600 hours yearly for all entities. We have added these hours to the time estimated to be necessary for the third party disclosure in order to establish the total estimated burden hours for this requirement. The total burden hours estimated for the third party disclosure are 76,059.

Regulatory Flexibility Act

The Secretary certifies, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this rule will not result in a significant impact on a substantial number of small entities. The primary impact of these regulations is on State governments, which are not considered small entities under the Regulatory Flexibility Act. Most of the requirements being imposed on entities are required by statute. The regulations require hospitals, birth record agencies and the other entities participating in the State's voluntary paternity establishment program to be subject only to certain minimal requirements. These requirements include: undergoing training, being evaluated annually, providing oral and written information to mothers and putative fathers, and transmitting the acknowledgments to the State registry of birth records. The information about consequences may also be provided through the use of video or audio equipment. The Federal regulations do not specify the nature or extent of the training, evaluation or materials to be provided. The States will furnish the training, conduct the evaluation, and provide the materials and forms to be used. The requirements imposed by the regulations do not result in a significant impact on a substantial number of small entities. Therefore, the Secretary certifies, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that these regulations will not result in a significant impact on a substantial number of small entities.

Executive Order 12866

Executive Order 12866 requires that regulations be reviewed to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with these priorities and principles. The regulations are required by PRWORA and represent expansion of the existing regulations to cover birth record agencies and other entities.

Unfunded Mandates Act

The Department has determined that this final rule is not a significant regulatory action within the meaning of the Unfunded Mandates Reform Act of 1995.

Congressional Review of Regulations

This final rule is not a ''major'' rule as defined in Chapter 8 of 5 U.S.C.

List of Subjects in 45 CFR Parts 302, 303, and 304

Accounting, Child support, Grant programs—social programs, and Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Program No. 93.563, Child Support Enforcement Program)

Dated: October 21, 1998.

Olivia A. Golden,

Assistant Secretary for Children and Families.

Approved: December 1, 1998.

Donna E. Shalala,

Secretary, Department of Health and Human Services.

For the reasons set forth in the preamble, 45 CFR chapter III of the Code of Federal Regulations is amended as follows:

PART 302—STATE PLAN REQUIREMENTS

1. The authority citation for part 302 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p) and 1396(k).

2. Section 302.70 is amended by revising paragraph (a)(5)(iii) introductory text by revising paragraph (a)(5)(iii)(B), and by adding paragraph (a)(5)(iii)(C) to read as follows:

§ 302.70 Required State laws.

(a) * * *

(5) * * *

(iii) Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that, before a mother and putative father can sign a voluntary acknowledgment of paternity, the mother and the putative father must be given notice, orally or through video or audio equipment, and in writing, of the alternatives to, the legal consequences of, and the rights (including any rights, if a parent is a minor, due to minority status) and responsibilities of acknowledging paternity, and ensure that due process safeguards are afforded. Such procedures must include:

(A) * * *

(B) A process for voluntary acknowledgment of paternity in hospitals, State birth record agencies, and in other entities designated by the State and participating in the State's voluntary paternity establishment program; and

(C) A requirement that the procedures governing hospital-based programs and State birth record agencies must also apply to other entities designated by the State and participating in the State's voluntary paternity establishment program, including the use of the same notice provisions, the same materials, the same evaluation methods, and the same training for the personnel of these other entities providing voluntary paternity establishment services.

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PART 303—STANDARDS FOR PROGRAM OPERATIONS

3. The authority citation for part 303 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p) and 1396(k).

4. Section 303.5 is amended by revising paragraph (g) to read as follows:

§ 303.5 Establishment of paternity.

* * * * *

(g) *Voluntary paternity establishment programs.* (1) The State must establish, in cooperation with hospitals, State birth record agencies, and other entities designated by the State and participating in the State's voluntary paternity establishment program, a program for voluntary paternity establishment services.

(i) The hospital-based portion of the voluntary paternity establishment services program must be operational in all private and public birthing hospitals statewide and must provide voluntary paternity establishment services focusing on the period immediately before and after the birth of a child born out-of-wedlock.

(ii) The voluntary paternity establishment services program must also be available at the State birth record agencies, and at other entities designated by the State and participating in the State's voluntary paternity establishment program. These entities may include the following types of entities:

(A) Public health clinics (including Supplementary Feeding Program for Women, Infants, and Children (WIC) and Maternal and Child Health (MCH) clinics), and private health care providers (including obstetricians, gynecologists, pediatricians, and midwives);

(B) Agencies providing assistance or services under Title IV–A of the Act, agencies providing food stamp eligibility service, and agencies providing child support enforcement (IV–D) services;

(C) Head Start and child care agencies (including child care information and referral providers), and individual child care providers;

(D) Community Action Agencies and Community Action Programs;

(E) Secondary education schools (particularly those that have parenthood education curricula);

(F) Legal Aid agencies, and private attorneys; and

(G) Any similar public or private health, welfare or social services organization.

(2) The hospitals, State birth record agencies, and other entities designated by the State and participating in the State's voluntary paternity establishment program must, at a minimum:

(i) Provide to both the mother and alleged father:

(A) Written materials about paternity establishment,

(B) The forms necessary to voluntarily acknowledge paternity,

(C) Notice, orally or through video or audio equipment, and in writing, of the alternatives to, the legal consequences of, and the rights (including any rights, if a parent is a minor, due to minority status) and responsibilities or acknowledging paternity, and

(D) The opportunity to speak with staff, either by telephone or in person, who are trained to clarify information and answer questions about paternity establishment;

(ii) Provide the mother and alleged father the opportunity to voluntarily acknowledge paternity;

(iii) Afford due process safeguards; and

(iv) File signed original of voluntary acknowledgments or adjudications of paternity with the State registry of birth records (or a copy if the signed original is filed with another designated entity) for comparison with information in the State case registry.

(3) The hospitals, State birth record agencies, and other entities designated by the State and participating in the State's voluntary paternity establishment program need not provide services specified in paragraph (g)(2) of this section in cases where the mother or alleged father is a minor or a legal action is already pending, if the provision of such services is precluded by State law.

(4) The State must require that a voluntary acknowledgment be signed by both parents, and that the parents' signatures be authenticated by a notary or witness(es).

(5) The State must provide to all hospitals, State birth record agencies, and other entities designated by the State and participating in the State's voluntary paternity establishment program:

(i) Written materials about paternity establishment,

(ii) Form necessary to voluntarily acknowledge paternity, and

(iii) Copies of a written description of the alternatives to, the legal consequences of, and the rights (including any rights, if a parent is a minor, due to minority status) and responsibilities of acknowledging paternity.

(6) The State must provide training, guidance, and written instructions regarding voluntary acknowledgment of paternity, as necessary to operate the voluntary paternity establishment services in the hospitals, State birth record agencies, and other entities designated by the State and participating in the State's voluntary paternity establishment program.

(7) The State must assess each hospital, State birth record agency, local birth record agency designated by the State, and other entity participating in the State's voluntary paternity establishment program that are providing voluntary paternity establishment services on at least an annual basis.

(8) Hospitals, State birth record agencies, and other entities designated by the State and participating in the State's voluntary paternity establishment program must forward completed voluntary acknowledgments or copies to the entity designated by the State. If any entity other than the State registry of birth records is designated by the State, a copy must be filed with the State registry of birth records, in accordance with section 303.5(g)(2)(iv). Under State procedures, the designated entity must be responsible for promptly recording identifying information about the acknowledgments with a statewide database, and the IV–D agency must have timely access to whatever identifying information and documentation it needs to determine in accordance with § 303.5(h) if an acknowledgment has been recorded and to seek a support order on the basis of a recorded acknowledgment in accordance with § 303.4(f).

* * * * *

PART 304—FEDERAL FINANCIAL PARTICIPATION

5. The authority citation for part 304 continues to read as follows:

Authority: 42 U.S.C. 651 through 655, 657, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p) and 1396(k).

6. Section 304.20 is amended by revising paragraph (b)(2)(vi) through paragraph (b)(2)(viii) to read as follows:

§ 304.20 Availability and rate of Federal financial participation.

(b) * * *

(2) * * *

(vi) Payments up to $20 to hospitals, State birth record agencies, and other entities designated by the State and participating in the State's voluntary paternity establishment program, under § 303.5(g) of this chapter, for each voluntary acknowledgment obtained pursuant to an agreement with the IV–D agency;

(vii) Developing and providing to hospitals, State birth record agencies, and other entities designated by the State and participating in the State's voluntary paternity establishment program, under § 303.5(g) of this chapter, written and audiovisual materials about paternity establishment and forms necessary to voluntarily acknowledge paternity; and

(viii) Reasonable and essential short-term training associated with the State's program of voluntary paternity establishment services under § 303.5(g).

* * * * *

[FR Doc. 99–5832 Filed 3–9–99; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 303

RIN 0970–AB82

Child Support Enforcement Program; Standards for Program Operations

AGENCY: Office of Child Support Enforcement (OCSE), Administration for Children and Families, HHS.

ACTION: Final rule.

SUMMARY: This final rule amends Federal regulations which govern the case closure procedures for the child support enforcement program. The final rule clarifies the situations in which States may close child support cases and makes other technical changes.

EFFECTIVE DATE: The final rule is effective: April 9, 1999.

FOR FURTHER INFORMATION CONTACT: Betsy Matheson, Director, Division for Policy and Planning, Office of Child Support Enforcement, 202–401–9386. Hearing-impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 between 8:00 A.M. and 7:00 P.M.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This rule does not contain information collection provisions subject to review by the Office of

Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)).

Statutory Authority

This regulation is issued under the authority granted to the Secretary by section 1102 of the Social Security Act (the Act). Section 1102 of the Act requires the Secretary to publish regulations that may be necessary for the efficient administration of the functions for which she is responsible under the Act.

Background

The Child Support Enforcement program was established under Title IV–D by the Social Services Amendments of 1974, for the purpose of establishing paternity and child support obligations, and enforcing support owed by noncustodial parents. At the request of the States, OCSE originally promulgated regulations in 1989 which established criteria for States to follow in determining whether and how to close child support cases. In the final Program Standards regulations dated August 4, 1989 (54 FR 32284), and issued in OCSE–AT–89–15, we gave examples of appropriate instances in which to close cases. In the Supplementary Information section accompanying the final regulations, we stated that the goal of the case closure regulations was not to mandate that cases be closed, but rather to clarify conditions under which cases may be closed. The regulations allowed States to close cases that were not likely to result in any collection and to concentrate their efforts on the cases that presented a likelihood of collection.

In an effort to be responsive to the President's Memorandum of March 4, 1995, which announced a government-wide Regulatory Reinvention Initiative to reduce or eliminate burdens on States, other governmental agencies or the private sector, and in compliance with section 204 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4, OCSE formed a regulation reinvention workgroup to exchange views, information and advice with respect to the review of existing regulations in order to eliminate or revise those regulations that are outdated, unduly burdensome, or unproductive. This group is made up of representatives of Federal, State and local government elected officials and their staffs.

As part of the regulation reinvention effort, § 303.11 on case closure criteria was reviewed to determine what changes could be made to help States with their case closure process, while ensuring that all viable cases remained open. Somewhat earlier, the State IV–D Directors' Association had established a committee to examine the case closure issue. The committee developed several recommendations, which were considered in the development of the notice of proposed rulemaking, published in the **Federal Register** on February 24, 1998 (63 FR 9172). In preparing the notice of proposed rulemaking, we also consulted with several advocates and other interested parties and stakeholders, including custodial parents and groups advocating on their behalf, to discuss their concerns with the IV–D Directors' Association recommendations and about the case closure criteria in general. Thirty-one individuals or organizations provided comments to the proposed rule.

This final rule balances our concern that all children receive the help they need in establishing paternity and securing support, while being responsive to administrative concerns for maintaining caseloads that include only those cases in which there is adequate information or likelihood of successfully providing services. The circumstances under which a case could be closed include, for example, instances in which legitimate and repeated efforts over time to locate putative fathers or obligors are unsuccessful because of inadequate identifying or location information, or in interstate cases in which the responding State lacks jurisdiction to work a case and the initiating State has not responded to a request for additional information or case closure. Decisions to close cases are linked with notice to recipients of the intent to close the case and an opportunity to respond with information or a request that the case be kept open. The final rule balances good case management and workable administrative decisions with providing needed services, always erring in favor of including any case in which there is any chance of success. For example, cases must remain open even if there is no likelihood of immediate or great success in securing support, perhaps because of a period of incarceration.

Discussion of the Regulation

Description of Regulatory Provisions—-§ 303.11; Case Closure Criteria

This final rule revises § 303.11 to eliminate the term ''absent parent'' and replace it with the term ''noncustodial parent'' throughout, for consistency with preferred statutory terminology under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104–193.

Section 303.11(b)(1) as revised, provides that, ''There is no longer a current support order and arrearages are under $500 or unenforceable under State law[.]'' Previously, the only distinction between paragraphs (b)(1) and (b)(2) was whether the child had reached the age of majority. Since the criteria is the same for both subsections, the distinction is unnecessary. Therefore, the final rule removes the reference to the child's age, thereby eliminating any distinction between paragraphs (b)(1) and (b)(2). Accordingly, paragraph (b)(2) is removed. The removal of (b)(2) necessitates that paragraphs (b)(3) and (b)(4) be redesignated as paragraphs (b)(2) and (b)(3).

This final rule amends redesignated paragraph (b)(3) to include a new subparagraph (iv). Paragraph (b)(3)(iv) allows a case to be closed when the identity of the biological father is unknown, and cannot be identified after diligent efforts, including at least one interview by the Title IV–D agency with the recipient of services.

Paragraph (b)(5) is redesignated as paragraph (b)(4). This final rule amends redesignated paragraph (b)(4) by adding new subparagraphs (i) and (ii). Paragraph (b)(4) allows a case to be closed when the noncustodial parent's location is unknown, and the State has made diligent efforts in accordance with Section 303.3 of this part, all of which have been unsuccessful, to locate the noncustodial parent ''(i) over a three-year period when there is sufficient information to initiate automated locate efforts; or (ii) over a one-year period when there is not sufficient information to initiate automated locate efforts.''

Paragraphs (b)(6) through (b)(12) are renumbered as (b)(5) through (b)(11). In redesignated paragraphs (b)(8), (b)(10) and (b)(11) the term ''custodial parent'' is revised to read ''recipient of services'' to reflect that Title IV–D child support enforcement services may be requested by either the custodial or noncustodial parent.

Redesignated paragraph (b)(9) adds IV–D and food stamp agencies to the list of State agencies with the authority to make good cause determinations. The addition of the Title IV–D and food stamp agencies to this list is required by section 454(29) of the Act, which provides flexibility to the States in selecting the agency authorized to make good cause determinations. The Act allows States to place the responsibility for making the good cause determination in either the State IV-D agency or the State agency funded under part A, part E or Title XIX. In the case of the food stamp program, the Act

requires that the good cause determination in food stamp cases subject to referral to the State IV–D agency be administered by the food stamp agency itself. In addition, the final rule revises paragraph (b)(9) to expand good cause to include ''other exceptions'' from cooperation, to more accurately implement the requirements of section 454(29) of the Act. Finally, redesignated paragraph (b)(9) removes the reference to Federal AFDC regulations concerning the good cause determination because that regulation is obsolete.

Redesignated paragraph (b)(10) allows a nonassistance case to be closed when the State IV–D agency is unable to contact the service recipient within a 60 calendar day period despite an attempt by at least one letter, sent by first class, to the service recipient's last known address. In order to actually close the case, the State IV–D agency must send the letter required by paragraph (c) notifying the service recipient of the intent to close the case. This second letter is separate from the letter of contact described in paragraph (b)(10).

The final rule adds a new paragraph, (b)(12) to § 303.11. Paragraph (b)(12) allows a case to be closed when ''the IV–D agency documents failure by the initiating State to take an action which is essential for the next step in providing services.'' Under the previous case closure regulations, a responding State was not free to close a case without the permission of the initiating State. In some of these cases, the responding State may have been unable to locate the noncustodial parent, or may have located him or her in another State. If, in these instances, the initiating State failed to respond to the responding State's request for case closure, the responding State was obligated to leave the case open in its system. Similarly, if the initiating State failed to provide necessary information to enable the responding State to provide services, and failed to respond to requests to provide the information, the responding State was required to keep the case open, although it was unable to take any action on it. The final rule permits the responding State to close the case if it is unable to process the case due to lack of cooperation by the initiating State.

Paragraph (c) is revised to incorporate the renumbering of paragraph (b). In the first sentence, the reference to ''paragraphs (b)(1) through (7) and (11) and (12) of this section'' is changed to read ''paragraphs (b)(1) through (6) and (10) through (12) of this section[.]'' Paragraph (c) was also revised to clarify that the responding State, upon deciding to close a case pursuant to the authority of paragraph (b)(12) must send a notice of case closure to the initiating State. In addition, the references to ''custodial parent'' are revised to read ''recipient of services,'' for the reasons explained above. Also, in the second sentence, the reference to ''paragraph (b)(11)'' is changed to ''paragraph (b)(10),'' based upon the renumbering of paragraph (b).

In paragraph (d), we are making a technical amendment to the rule by removing the reference to ''subpart D,'' as that subpart has been reassigned and no longer addresses the issue of record retention.

Response to Comments

We received thirty-one comments from representatives of State and local IV–D agencies, national organizations, advocacy groups and private citizens on the proposed rule published February 24, 1998 in the **Federal Register** (63 FR 9172). A summary of the comments received and our responses follows:

General Comments

1. *Comment:* One commenter suggested the addition of a new criterion for case closure. This commenter suggested that the State IV–D agency be authorized to close a case when the obligor presented a risk of serious harm to State or local IV–D staff.

Response: The State is obligated under the Title IV–D program to provide child support enforcement services to eligible families. The protection of IV–D staff is the responsibility of the State, and States should develop procedures to deal with such situations. However, families needing child support enforcement services should not be punished for the possible threats or actions of obligors. Each State has laws designed to afford protection to the general public, including civil servants. In addition, IV–D offices can be designed in such a fashion to heighten the personal safety and security of staff. In light of these considerations, this recommendation was not adopted.

2. *Comment:* One commenter suggested that this regulation allow a State to close the non-IV–D case that remains in existence (e.g., payment registry responsibility) after a IV–D case is closed.

Response: We are unable to adopt this recommendation because it is inconsistent with Federal law. Specifically, section 454B(a)(1)(B) of the Social Security Act (the Act) requires that payment registry services be provided to non-IV–D orders meeting the eligibility criteria.

3. *Comment:* Two commenters objected to the incorporation of the term ''recipient of services'' into the case closure regulation. One commenter objected because he saw this term as subject to change within a case. Another commenter objected that this term was too broad and recommended that the term ''custodial parent'' be retained.

Response: These comments will not be incorporated because we believe that the term ''recipient of services'' best describes the individual at issue. Under section 454(4) of the Act, a IV–D case is established in response to two scenarios: (1) an individual applies for, and receives, certain forms of public assistance (TANF, IV–E foster care, medical assistance under Title XIX, and when cooperation with IV–D is required of a Food Stamp recipient) and good cause or another exception to cooperation with IV–D does not exist; or (2) when an individual not receiving the aforementioned types of public assistance makes an application for such services. IV–D services are available to both custodial and noncustodial parents. Finally, once a IV–D case is established, it is inappropriate to ''change'' the service recipient to another individual who neither received the appropriate form of public assistance nor applied for IV–D services.

4. *Comment:* One commenter recommended that OCSE consider a ''soft closure'' case type, for use in removing certain cases (low collection potential or where payments are legally being made directly to the family outside of the IV–D program) from the State's open case count.

Response: This comment will not be incorporated. The rule, as revised, provides the IV–D agencies with sufficient flexibility to manage cases with ''low collection potential.'' At § 303.11(b)(3)(iv), the final rule allows a case to be closed when paternity is in issue and the identity of the biological father cannot be identified after diligent efforts, which include at least one interview of the service recipient by the IV–D agency. In addition, § 303.11(b)(4) allows the IV–D agency to close cases in one year when the location of the noncustodial parent is unknown and the State has been unsuccessful, after regular attempts of multiple sources, to locate the parent, and insufficient information exists to allow the agency to conduct automated locate efforts. This paragraph also allows the IV–D agencies to close cases after three years where the noncustodial parent's location is unknown and the State has been unsuccessful, after regular attempts of multiple sources, to locate the parent when there is sufficient information to

allow the agency to conduct automated locate efforts.

With respect to the example in the comment of payments being made directly to the family, in IV–D cases, payments must be made through the State IV–D agency and then forwarded to the family. Therefore, we are unaware of any circumstances in which payments in a IV–D case flow directly from the obligor to obligee.

OCSE believes that attempts to further define cases with ''low collection potential'' in regulation is inappropriate. PRWORA has greatly expanded the pool of locate resources which, when all States are automated, will have a significant impact upon this universe of cases. Finally, the term ''low collection potential'' is extremely difficult to define in an objective fashion. As stated in the preamble to the proposed rule, although OCSE is revising this regulation to provide the States with additional flexibility to manage their IV–D caseloads, we are aware of the necessity to balance this flexibility against the program's mission to ensure that the public receives needed child support enforcement services. When these two factors came into direct conflict, we attempted to resolve the issue in favor of keeping a case open if there is a chance of success.

5.*Comment:* One commenter suggested that, in light of PRWORA, a reduction in the time required for automated searches was unreasonable.

Response: The reduction of the case closure time frame, from three years to one year, appears in § 303.11(b)(4)(ii). In order for a case to be eligible for closure under this authority there are three requirements. First, the location of the noncustodial parent must be unknown. Second, the State must have made diligent efforts in accordance with the Federal locate requirements in cection 303.3, using multiple sources, to locate the noncustodial parent. Finally, there must be insufficient information concerning this noncustodial parent to perform an automated locate search. OCSE reminds States that enhancements to the Enumeration Verification System (EVS) frequently allow unknown or incomplete social security numbers to be identified by the Social Security Administration when the State has an individual's full name and date of birth. OCSE Central Office coordinates the EVS program with the Social Security Administration. In addition, information provided by the custodial parent such as former addresses or employers could lead to identification of the noncustodial parent's social security number.

Although it is true that PRWORA provides expansive new locate resources to the IV–D community, the fact remains that you must have sufficient identifying information concerning the individual you are trying to locate in order to take advantage of these new locate tools. The reduction in this case closure time frame only applies to those cases where the IV–D agency is unable to make an automated locate effort.

6. *Comment:* One commenter raised the concern that the NPRM's proposed revisions to the case closure regulation would result in the closure of many cases that should not be closed.

Response: As stated in the preamble to the NPRM, one of the objectives of this revision to the case closure regulation was to provide the States with additional flexibility to manage their IV–D caseloads in an efficient manner. However, the NPRM also noted that any additional flexibility provided to the States was always balanced against the need to provide families with effective child support enforcement services. OCSE believes that this final rule is successful in striking a good balance between these two factors and, as a result, we expect that the public will receive improved services from the IV–D program.

Comments to Paragraph 303.11(b)(1)

1. *Comment:* One reviewer questioned whether a temporary order would apply to the requirement at paragraph (b)(1) that ''there is no longer a current support order?''

Response: Under the appropriate circumstances, a temporary order could apply to this requirement in paragraph (b)(1). State law governs the particular circumstances and duration for which a temporary child support order is enforceable. However, if the application of State law resulted in the termination of a temporary child support order during the minority of a child, it would be incumbent upon the State IV–D agency to attempt to establish a final order, provided the parent's legal liability to provide child support continued beyond the termination of the temporary order. If the next appropriate action in the case was the establishment of a final order, then the case could not be closed.

2. *Comment:* One commenter asked if paragraph (b)(1) could be used as authority for a IV–D agency to close a case that was opened after a child attained the age of majority, during which there was no need for a child support order, but subsequently (after emancipation) became disabled and under State law a support order was entered against this individual's parents?

Response: Under the IV–D program, the State is not required to open a case under these circumstances and this individual is not entitled to receive IV–D services because the obligation to provide support did not arise until after the child became emancipated. A State would not be entitled to receive FFP under the IV–D program for its efforts to establish and/or enforce such an order.

3. *Comment:* One commenter requested that paragraph (b)(1) be expanded to allow for the closure of a case which has a valid enforceable current support order, but where there has been no collection for a period of three years, to allow a State to close cases with low collection potential.

Response: This suggestion was not incorporated into the final rule because the reviewer is confusing ''unenforceable'' to mean ''low collection potential.'' The purpose of the case closure rule is to allow States to close unworkable cases thereby allowing each State to focus its resources on those cases which are workable. According to paragraph (b)(1), a case is ''unworkable'' if there is no current support order and the arrears are either under $500, or unenforceable under State law. Clearly, a case with a current child support order that does not qualify for closure under any other criteria in § 303.11(b), cannot be closed pursuant to paragraph (b)(1) simply because it has been deemed a low collection potential case.

Comments to Subparagraph 303.11(b)(3)(iv)

1. *Comment:* Two commenters requested clarification of the requirement in subparagraph (b)(3)(iv) that at least one interview of the recipient of services be conducted by IV–D staff. Specifically, these commenters asked if an entity working with the IV–D agency via a cooperative agreement would qualify as IV–D staff?

Response: If the IV–D agency enters into a cooperative agreement to implement this requirement in accordance with the authority at 45 CFR 302.12(a)(3), then the other entity would perform this interview as IV–D staff. As stated in the NPRM's Description of Regulatory Provisions, the purpose of this requirement was to clarify that the eligibility interview conducted by staff associated with the State's public assistance agency would not be sufficient for purposes of this subparagraph.

2. *Comment:* Nine commenters asked for clarification of the nature of the interview of the recipient of IV–D

services. Specifically, they asked if the interview was required to be conducted ''face-to-face,'' or could a separate IV–D interview be conducted over the telephone?

Response: OCSE recommends that, when logistically practicable, the interview of the recipient of services be conducted in-person. However, we recognize that in many States there are great distances between the public and the closest IV–D office and working parents may not be able to take time off for a face-to-face interview. Therefore, the IV–D interview of the recipient of services need not be a face-to-face interview, but may be conducted via the telephone, when appropriate.

3. *Comment:* Two commenters requested clarification of the application of subparagraph (b)(3)(iv) with respect to TANF recipients. These commenters were concerned that, in the event the identity of the biological father remained unknown following the IV–D interview of the recipient of services, the recipient of services would be determined to be not cooperating with the State IV–D agency for purposes of TANF eligibility.

Response: Under sections 408(a)(2) and 454(29)(A) of the Act, the State's IV–D agency is responsible for making the determination as to whether or not a TANF recipient is cooperating with the IV–D agency. Clearly, not every TANF recipient will be able to provide the IV–D agency with sufficient information about the biological father to allow the IV–D agency to proceed with an action to establish paternity. Because of this, not every individual who is unable to provide the IV–D agency with sufficient information should be determined to be not cooperating with the IV–D agency. Similarly, should the State close a IV–D case in accordance with paragraph (b)(3) or (4), for example, because the location of the individual being sought is unknown, IV–D case closure alone may not be used to determine noncooperation by a TANF recipient.

4. *Comment:* One commenter asked that the term ''identity'' be clarified in the final rule. The commenter was questioning whether this term meant more than a name.

Response: For purposes of subparagraph (b)(3)(iv), the term ''identity'' means the name of the biological father. That is, a case may be closed under the authority of this subparagraph only when, after diligent efforts (including at least one interview by the IV–D agency with the recipient of services), the name of the biological father remains unknown. If the IV–D agency knows the name of the biological father but cannot proceed because it does not have any additional information to locate this individual, then the case would be eligible for closure under the authority of subparagraph (b)(4)(ii).

5. *Comment:* Two commenters requested that the final rule clarify the use of the term ''diligent efforts'' in subparagraph (b)(3)(iv).

Response: In order for a paternity establishment case to be eligible for closure under subparagraph (b)(3)(iv), a State must make a meaningful attempt to identify the biological father. Under this subparagraph, this attempt to identify the biological father must include an interview of the recipient of services by IV–D staff. If, for example, the interview with the recipient of services failed to result in the identity of the biological father, but did result in a last known address or employer, a ''diligent effort'' to identify the biological father requires the IV–D agency to pursue these leads in an attempt to identify the biological father. States are required to comply with Federal locate requirements in 45 CFR 303.3 and to make a serious and meaningful attempt to identify the biological father (or any individual sought by the IV–D agency.)

Comments to Paragraph 303.11(b)(4)

1. *Comment:* One commenter requested a clarification of the term ''regular'' attempts to locate.

Response: Use of the term ''regular'' attempts in the proposed rule was intended to include attempts conducted in accordance with the program standards set forth in 45 CFR 303.3, which contains Federal location requirements. However, for clarity and consistency with terminology used in paragraph (b)(3)(iv), we have replaced ''regular attempts'' with ''diligent efforts'', and added a cross reference to locate regulations at 45 CFR 303.3.

2. *Comment:* Four commenters requested a clarification of the term ''sufficient information to initiate an automated locate effort.''

Response: As a general rule, the data elements needed to conduct an automated locate effort include an individual's name and social security number. It is possible that additional data elements will be required to undertake some automated locate efforts. For example, some entities identify individuals by name and date of birth. However, for purposes of this paragraph the data elements required for an automated locate effort are simply the individual's name and social security number. As stated above, in response to comment #5 (General Comments), the Enumeration Verification System will assist States in the identification of missing or incomplete social security numbers. Also, since States must meet Federal location requirements set forth in 45 CFR 303.3, diligent efforts to obtain the data elements critical for an automated search must occur and be unsuccessful before a State may consider closing the case using criteria in paragraph (b)(4).

3. *Comment:* One commenter asks if paragraph (b)(4)'s use of the term ''noncustodial parent's location is unknown'' means the physical address and the location of any assets attributable to the noncustodial parent?

Response: For purposes of paragraph (b)(4), the term ''noncustodial parent's location'' means the resident or employment address of the noncustodial parent. Under this paragraph, a case would not be available for closure if the resident address of the noncustodial parent was known but the IV–D agency was unable to locate any assets attributable to the noncustodial parent.

4. *Comment:* One commenter objected to paragraph (b)(4) on the basis that it assumes a level of State automation which does not currently exist.

Response: Automated location attempts do not require statewide automated systems. While it is true that, as of the date of this final rule, not all States have certified statewide automated systems in place, States do have automated locate systems capability and the majority of States have Statewide systems mandated by section 454(16) of the Social Security Act. In addition, this final rule is intended to provide program guidance well into the future. Because OCSE expects that all States will implement certified statewide automated systems as required by law, we are confident that this rule's reliance upon enhanced automated locate resources will prove beneficial to both the IV–D program and the families we serve.

5. *Comment:* One commenter suggested adding to the case closure criteria set forth in paragraph (b)(4) that the IV–D agency interview the recipient of services.

Response: In this final rule OCSE makes a distinction between ''identifying'' and ''locating'' the noncustodial parent. When the IV–D agency is unable to identify the noncustodial parent, the only resource available to assist the IV–D agency is the recipient of services. However, if the identity of the noncustodial parent is known, but his/her location is unknown, then there are multiple locate resources available to the IV–D agency.

Certainly one of these resources is the recipient of services. In fact, 45 CFR 303.2(b)(1) requires the IV–D agency to ''solicit necessary and relevant information from the custodial parent.''

6. *Comment:* Two commenters questioned the wisdom of the one-year waiting period before a case can be closed under the authority of subparagraph (b)(4)(ii) when the noncustodial parent's location is unknown and the IV–D agency does not have sufficient information to initiate an automated locate effort. Conversely, another commenter objected to reducing the existing three-year period to one year.

Response: As discussed in the preamble to the NPRM, the establishment of the new case closure criterion that appears at subparagraph (b)(4)(ii), which allows a case to be closed after one year when the location of the noncustodial parent is unknown and insufficient information exists to conduct an automate locate effort, was made at the request of the IV–D Directors' Association. We believe a one-year waiting period achieves a reasonable balance between the desire to assure that workable cases remain open and the desire to close those cases which show no promise of being workable. During that time period, a State IV–D agency must meet location requirements within specified timeframes as set forth in section 303.3. As stated in the preamble to the NPRM, we continue to believe that PRWORA's cooperation requirements will provide adequate safeguards against the premature closing of cases where a reasonable potential for establishment or enforcement exists. Should the recipient of services provide additional information that allows the State IV–D agency to locate the noncustodial parent, the case will remain open.

Comments to Paragraph 303.11(b)(9)

1. *Comment:* One commenter requested the final rule include a definition of the term ''good cause.''

Response: Section 454(29) of the Act provides the States the option to have good cause determined by either the State IV–D agency, or the agencies administering the State's TANF, IV–E or Title XIX funded program. For the food stamp program, the State agency responsible for administering that program is also responsible for determining good cause. Congress made it clear that determinations of good cause were to be ''defined, taking into account the best interests of the child, and applied'' by the State agency. Because of this directive OCSE is unable to adopt the suggestion of this commenter.

2. *Comment:* One commenter recommended that the reference to 45 CFR 232.40 be removed from paragraph (b)(9) because this Federal regulation was obsolete.

Response: OCSE concurs with this suggestion and the reference to 45 CFR 232.40 is removed from the final rule.

3. *Comment:* Two commenters observed that section 454(29) of the Act exempts a public assistance recipient from the requirement to cooperate with the IV–D program for good cause ''and other exceptions.'' Both commenters recommended that a reference to ''other exceptions'' be included in paragraph (b)(9) when the final rule was issued.

Response: OCSE concurs with this recommendation and the final rule revises paragraph (b)(9) to expand good cause to include ''other exceptions.''

Comments to Paragraph 303.11(b)(10)

1. *Comment:* One commenter asked if a State could retain a requirement that one attempt to contact the service recipient be by certified mail?

Response: A State is free to continue the requirement that at least one attempt to contact the service recipient be conducted by certified mail. The Federal regulations set forth the minimum program standards with which the States must comply. As previously stated in the preamble to the final case closure rule issued on August 4, 1989, (54 FR 32284) and in OCSE–AT–89–15, there is nothing to prohibit a State from establishing criteria which make it harder to close a case than those established in paragraph (b).

2. *Comment:* Five commenters asked if the 60 calendar day period (related to time frame in which the IV–D agency is unable to contact the recipient of services) referenced in paragraph (b)(10) could be viewed as satisfying the 60 calendar day period (related to the notice of case closure time frame during which the recipient of services may respond to the notice) referenced in paragraph (c). Conversely, one commenter expressed a concern that the States would compress these two 60 calendar day time frames into a single 60 calendar day period.

Response: The 60 calendar day time periods that appear in paragraph (b)(10) and paragraph (c) are independent time frames. It is not appropriate for a State to close a case upon the occurrence of the criterion set forth in paragraph (b)(10) without fully complying with the requirements of paragraph (c). In other words, when the IV–D agency is unable to contact the non-IV–A recipient of services during a 60 calendar day period, the IV–D agency may not automatically close that case without first complying with the requirement in paragraph (c) by providing the recipient of services 60 calendar days to respond to a written notice of the State's intent to close the case.

3. *Comment:* One commenter objected to the criterion of (b)(10) on the basis that this would allow the States to close many ''workable'' cases.

Response: By definition, the criterion for closing a case set forth in paragraph (b)(10) applies only to non-IV–A cases. In non-IV–A cases the IV–D program is required to distribute child support collections to the recipient of services. If the recipient of services fails to keep the IV–D program apprised of his/her mailing address, child support cannot be distributed. In these instances the case is no longer ''workable'' under the requirements of IV–D, and, therefore, it is appropriate for the IV–D agency to close the case. If, following the closure of the case, the former recipient of services wishes to reapply for IV–D services, he/she may do so.

4. *Comment:* One commenter requested an explanation as to what triggered the start of the 60 calendar day time period referenced in paragraph (b)(10).

Response: The 60 calendar day time period appearing in paragraph (b)(10) commences with the date the letter is mailed to the recipient of services.

5. *Comment:* One commenter asked that if the letter sent to the recipient of services in accordance with paragraph (b)(10) is returned to the IV–D agency with a notation by the Postal Service that the addressee has moved and left no forwarding address, is it still necessary to wait 60 calendar days before commencing the case closure process detailed in paragraph (c)?

Response: Yes, it is appropriate to provide the 60 calendar day time frame in instances where the letter sent to the recipient of services is returned marked ''moved, left no forwarding address.'' The reason for this is to allow the recipient of services, who may have just moved, sufficient time to contact the IV–D agency to provide his/her new address. In addition, if the paragraph (b)(10), 60 calendar day time frame was waived in these instances, and the IV–D agency immediately issued the written closure notice required in paragraph (c), this notice would undoubtedly be sent to the very same address reported by the Postal Service to be obsolete. OCSE recognizes that in some cases the recipient of services will fail to contact the IV–D agency during the paragraph (b)(10), 60 day time period and the agency will be required

to issue a notice to an address they know to be obsolete. However, OCSE believes that a good number of these service recipients will contact the IV–D program and provide their new addresses. By waiting an additional 60 calendar days, a State will be able to save itself the time and trouble of closing and then reopening a great number of cases.

6. *Comment:* One commenter objected to the replacement of the former ''certified'' mailing requirement with the current ''regular'' mailing requirement.

Response: As stated in the preamble to the NPRM, the allowance of the first class letter is in accord with the new requirements in welfare reform. In addition, it must be kept in mind that the individuals the IV–D agency is attempting to contact with this mailing are recipients of services who are not receiving public assistance. These are the individuals to whom the IV–D agency is required to send the child support collection. If non-IV–A recipients of services fail to keep the IV–D agency apprised of their current addresses, they effectively deny that agency the ability to provide child support enforcement services to them.

7. *Comment:* One commenter objected to the minimum requirement of ''one'' attempt to contact the non-IV–A recipient of services by regular mail on the basis of the commenter's belief that the Postal Service provides poor mail service to low income communities.

Response: OCSE is not aware of any authority for the statement that the Postal Service provides poor mail service to low income communities. As previously stated in the preamble to the NPRM for this rule, the trend is moving toward a reduction in the mailing standard. Both PRWORA and the Uniform Interstate Family Support Act (UIFSA) frequently allow notices to be sent by regular mail. For these reasons, OCSE has determined that a regular first class mailing is appropriate for the purposes of paragraph (b)(10).

Comments to Paragraph 303.11(b)(12)

1. *Comment:* Two commenters objected to what they perceived to be a subjective standard in paragraph (b)(12) under which the responding State is authorized to close an interstate case when it documents a failure on the part of the initiating State to take an action which is essential for the next step in providing services.

Response: This standard of review, as to when an action is ''essential'' for taking the next step in a IV–AD case, is not new. In fact, this standard has been in existence since 1989, when the Federal case closure regulation was originally promulgated and remains the basis for case closure under former paragraph (b)(12)/new paragraph (b)(11). The States have been successful in implementing this standard of review and OCSE has no reason to believe that this standard, when applied to an initiating State as opposed to a custodial parent, will become problematic.

One example which would not meet the condition for case closure under section 303.11(b)(12) involves direct withholding under the Uniform Interstate Family Support Act. Under UIFSA, States may send a withholding notice directly to an employer in another State. Traditionally, interstate case processing goes from a IV–AD agency in one State to a IV–AD agency in another State, which then forwards a withholding order to an employer in its State. However, if a State, using authority under its UIFSA statute, sends a withholding notice directly to an employer in another State, it cannot be considered noncooperation and a rationale for case closure under section 303.11(b)(12) by the employer's State which is otherwise processing an interstate case for the State that sends the direct withholding.

2. *Comment:* Two commenters requested a revision to paragraph (b)(12) to provide for specific criteria which would support the case closure decision made by a responding State. Three other commenters offered related recommendations that the final rule clarify that the interstate program standards in 45 CFR 303.7 apply to the application of paragraph (b)(12).

Response: Because this paragraph only applies to interstate cases, the program standards appearing at § 303.7 apply and will drive the decision as to whether or not an initiating State has failed to take an action that is essential to the next step in providing services. The requirements and time frames of § 303.7 are to be used by the responding State in making this determination.

3. *Comment:* One commenter requested that the final rule require the responding State, upon deciding to close a case pursuant to the authority of paragraph (b)(12), to send a notice of case closure to the initiating State.

Response: Yes, OCSE concurs with this recommendation and the final rule revises paragraph (c) to require the responding State, upon deciding to close a case pursuant to the authority of paragraph (b)(12), to send a notice of case closure to the initiating State.

4. *Comment:* One commenter suggested that the final rule incorporate a 60 calendar day time frame to the paragraph (b)(12) interstate case closure criterion.

Response: Yes, this recommendation was adopted by including paragraph (b)(12) closures in the sections referenced by paragraph (c), which incorporates a 60 calendar day case closure time frame.

5. *Comment:* One commenter requested that the final rule clarify that paragraph (b)(12) applied in both assistance and nonassistance cases.

Response: Paragraph (b)(12) applies to all interstate IV–D cases, assistance and nonassistance alike.

6. *Comment:* One commenter recommended that the final rule require the responding State to send a notice of case closure directly to the custodial parent in the initiating State.

Response: This suggestion is inconsistent with OCSE's long-standing interstate policy that the responding State not have direct contact with the custodial parent residing in, and receiving IV–D services from, the initiating State. In OCSE–AT–88–02, in response to a similar suggestion, OCSE announced that ''it is not the responding State's responsibility to be in direct contact with the custodial parent and it would be overly burdensome to require them to do so.'' Another reason why it would be imprudent to adopt this recommendation is that the interstate request for services may be based solely upon an arrearage owed to the initiating State, and the whereabouts of the custodial parent may be unknown to both States.

Comments to Paragraph 303.11(c)

1. *Comment:* One commenter requested that the 60 calendar day notice of case closure time frame appearing in paragraph (c) be reduced to a period of 30 calendar days.

Response: The 60 calendar day time frame the commenter is addressing has been required under Federal case closure regulations since the original final rule was promulgated on August 4, 1989. The 60 calendar day time frame has worked well for the past ten years and, at this time, OCSE does not believe that it would be appropriate to reduce it to 30 days.

2. *Comment:* One commenter requested that the final rule expressly provide that the paragraph (c) notice of case closure may be sent by first class mail.

Response: OCSE believes that, by remaining silent on the manner in which the notice of case closure is to be sent, the States are provided the maximum amount of flexibility. As noted above, one State responded to the NPRM with the request that they be

allowed to continue to use certified mailings for their case closure notices. As currently drafted, the paragraph (c) notice of case closure may be sent by either first class or certified mail. For these reasons OCSE decided not to adopt this recommendation.

3. *Comment:* Two commenters responded to the NPRM by asking that paragraph (c) exempt a number of factual situations from the requirement that a notice of case closure be sent. The following examples of such fact patterns were received: when the obligor, obligee or child has died; when the obligor's duty to support the child has been terminated by a court; when the obligor and obligee reconcile; and when the child leaves a IV–E funded foster care placement.

Response: OCSE has decided not to adopt this suggestion. In fact, in some of these situations, it may not be appropriate to close the case, let alone send the notice of case closure. For example, the obligor's duty to provide child support survives the death of the obligee. If arrears are owed in the case, the obligor's duty to repay these arrears will survive the death of a child. The existing regulations have included the requirement to send this notice in situations where the case is closed under former paragraph (b)(3)/new paragraph (b)(2) which is based upon the death of the obligor because the recipient of services may have knowledge of available assets in the decedent's estate. OCSE is addressing the continuation of services issue in IV–E cases in another rulemaking activity. In addition to what has already been stated in this response, OCSE believes that it is important for the IV–D agency to notify the recipient of services of its intention to close a case based upon the criteria identified in paragraph (c).

4. *Comment:* One commenter recommended that paragraphs (b) (1), (2) and (3) be removed from the requirement to send the notice of case closure in paragraph (c) because those criteria did not pertain to the recipient of services' cooperation.

Response: The reasoning behind the paragraph (c) requirement that the recipient of services receive notice of the case closure is based upon the duty of the IV–D agency to keep the recipient of services informed of the actions undertaken on his/her child support case. The notice of case closure is not to be limited solely to instances where the case is being closed due to the noncooperation of the recipient of services. For these reasons, OCSE has decided not to adopt this recommendation.

5. *Comment:* Two commenters requested that the final rule clarify that, should a former recipient of services contact the IV–D agency to request child support enforcement services subsequent to the closure of his/her case, then this former recipient of services would be required to complete a new application and pay any applicable application fee. Another commenter offered a related suggestion. This commenter requested that paragraph (c) be revised to indicate that the ''recipient of services'' is, in fact, the ''former'' recipient of services when this term is referencing an individual whose case has been closed.

Response: OCSE concurs with both of these suggestions. After a IV–D agency has closed a case pursuant to the procedures outlined in 45 CFR 303.11, the former recipient of services may reapply for services at any time, provided this individual is otherwise eligible to receive IV–D services. Should a former recipient of services request IV–D services be resumed, this individual would be required to complete a new application for IV–D services and pay any applicable application fee.

6. *Comment:* One commenter noted the change in terminology from ''custodial parent'' to ''recipient of services'' and asked if this meant the States needed to change this term on all of their local forms.

Response: It is not necessary for a State to change the terminology within its local forms to comply with such changes OCSE is making in this final rule. However, OCSE encourages the States to keep this issue in mind when they are otherwise revising their local forms. If the term ''recipient of services'' more accurately reflects the individual at issue, then the States should consider making a change in this terminology at that time.

Regulatory Impact Analyses

Paperwork Reduction Act

This rule does not contain information collection provisions subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)).

Regulatory Flexibility Analysis

The Secretary certifies, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this final rule will not result in a significant impact on a substantial number of small entities. The primary impact is on State governments. State governments are not considered small entities under the Act.

Executive Order 12866

Executive Order 12866 requires that regulations be reviewed to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with these priorities and principles. No costs are associated with this final rule.

Unfunded Mandates Act

The Department has determined that this final rule is not a significant regulatory action within the meaning of the Unfunded Mandates Reform Act of 1995.

Congressional Review of Rulemaking

This final rule is not a ''major'' rule as defined in Chapter 8 of 5 U.S.C.

List of Subjects in 45 CFR Part 303

Child support, Grant programs/social programs, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Programs No. 93.563, Child Support Enforcement Program)

Dated: October 21, 1998.

Olivia A. Golden,

Assistant Secretary for Children and Families.

Approved: November 30, 1998.

Donna E. Shalala,

Secretary, Department of Health and Human Services.

For the reasons set forth in the preamble, 45 CFR Part 303 is amended as follows:

PART 303—STANDARDS FOR PROGRAM OPERATIONS

1. The authority citation for Part 303 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396(d)(2), 1396b(o), 1396b(p), and 1396(k).

§ 303.11 [Amended]

2. Section 303.11 is amended as follows:

a. Paragraph (b)(1) is revised and paragraph (b)(2) is removed to read as follows:

* * * * *

(b) * * *

(1) There is no longer a current support order and arrearages are under $500 or unenforceable under State law;

* * * * *

b. Paragraph (b)(3) is redesignated as paragraph (b)(2).

c. Paragraph (b)(4) is redesignated as paragraph (b)(3) and amended by adding paragraph (b)(3)(iv) to read as follows:

* * * * *

(b) * * *

(3) * * *

(iv) The identity of the biological father is unknown and cannot be identified after diligent efforts, including at least one interview by the IV–D agency with the recipient of services;

* * * * *

d. Paragraph (b)(5) is redesignated as paragraph (b)(4) and revised to read as follows:

* * * * *

(b) * * *

(4) The noncustodial parent's location is unknown, and the State has made diligent efforts using multiple sources, in accordance with § 303.3, all of which have been unsuccessful, to locate the noncustodial parent:

(i) Over a three-year period when there is sufficient information to initiate an automated locate effort, or

(ii) Over a one-year period when there is not sufficient information to initiate an automated locate effort;

* * * * *

e. Paragraphs (b)(6) through (b)(12) are redesignated as paragraphs (b)(5) through (b)(11), respectively.

f. Newly redesignated paragraph (b)(9) is revised to read as follows:

* * * * *

(b) * * *

(9) There has been a finding by the responsible State agency of good cause or other exceptions to cooperation with the IV–D agency and the State or local IV–A, IV–D, IV–E, Medicaid or food stamp agency has determined that support enforcement may not proceed without risk of harm to the child or caretaker relative;

* * * * *

g. Newly redesignated paragraph (b)(10) is revised to read as follows:

* * * * *

(b) * * *

(10) In a non-IV–A case receiving services under § 302.33(a)(1) (i) or (iii), the IV–D agency is unable to contact the recipient of services within a 60 calendar day period despite an attempt of at least one letter sent by first class mail to the last known address;

* * * * *

h. Paragraph (b)(12) is added to read as follows:

* * * * *

(b) * * *

(12) The IV–D agency documents failure by the initiating State to take an action which is essential for the next step in providing services.

* * * * *

i. Paragraph (c) is revised to read as follows:

* * * * *

(c) In cases meeting the criteria in paragraphs (b) (1) through (6) and (10) through (12) of this section, the State must notify the recipient of services, or in an interstate case meeting the criteria for closure under (b)(12), the initiating State, in writing 60 calendar days prior to closure of the case of the State's intent to close the case. The case must be kept open if the recipient of services or the initiating State supplies information in response to the notice which could lead to the establishment of paternity or a support order or enforcement of an order, or, in the instance of paragraph (b)(10) of this section, if contact is reestablished with the recipient of services. If the case is closed, the former recipient of services may request at a later date that the case be reopened if there is a change in circumstances which could lead to the establishment of paternity or a support order or enforcement of an order by completing a new application for IV–D services and paying any applicable application fee.

* * * * *

j. Paragraph (d) is revised to read as follows:

* * * * *

(d) The IV–D agency must retain all records for cases closed pursuant to this section for a minimum of three years, in accordance with 45 CFR part 74.

* * * * *

k. In addition to the amendments set forth above, remove the words ''absent parent('s)'', and add, in their place, the words ''noncustodial parent('s)'' in the following places:

(1) Newly redesignated paragraph (b)(2);

(2) Newly redesignated paragraph (b)(4);

(3) Newly redesignated paragraph (b)(5); and

(4) Newly redesignated paragraph (b)(6).

l. In addition to the amendments set forth above, remove the words ''custodial parent('s)'', and add, in their place, the words ''recipient('s) of services'' in the following places:

(1) Newly redesignated paragraph (b)(8);

(2) Newly redesignated paragraph (b)(10); and

(3) Newly redesignated paragraph (b)(11).

[FR Doc. 99–5831 Filed 3–9–99; 8:45 am]

BILLING CODE 4184–01–P

Proposed Rules

Federal Register
Vol. 64, No. 46
Wednesday, March 10, 1999

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 ENERGY

10 CFR Part 707

RIN 1991–AA90

Workplace Substance Abuse Programs at DOE Sites; Random Alcohol Abuse Testing

AGENCY: Department of Energy (DOE).

ACTION: Withdrawal of proposed rule.

SUMMARY: DOE withdraws a proposed rule that would have amended substance abuse testing regulations applicable to contractor employees who are authorized to have access to DOE-owned, contractor-operated sites. The proposed rule would have provided for testing for alcohol abuse on a random basis. This rulemaking is no longer necessary because DOE has successfully implemented an employee assistance program that appears effectively to deal with the potential for alcohol abuse at which the proposed rule was aimed.

FOR FURTHER INFORMATION CONTACT: Stephanie Weakley, Office of Contract and Resource Management (HR–53), Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20085, (202) 586–4156.

SUPPLEMENTARY INFORMATION: DOE began this rulemaking by publishing a notice of proposed rulemaking on July 22, 1992 (57 FR 32664). The contractor employees at whom the proposed regulations were aimed are authorized to have access to sites where DOE carries out programs under the Atomic Energy Act of 1954.

In response to the notice of proposed rulemaking, DOE received a variety of public comments. Some commenters maintained that the rule is overly broad in that it does not establish a nexus between job responsibilities and testing. Others opposed any form of random testing for alcohol, requesting that such testing be only for reasonable suspicion or probable cause, while some believed that the proposed regulatory rates set forth for random testing should be reviewed or revised. Some commenters raised a general legal objection to the institution of alcohol tests, arguing that such tests were beyond the scope of the current case law regarding testing for illegal drugs, and they expressed concerns about the privacy implications of the proposed alcohol testing policy. One commenter was concerned that the proposed rule did not properly take into account the collective bargaining rights of union members. One commenter observed that the declaration of an impasse after a year of bargaining over implementation of the substance abuse program was too arbitrary.

Since DOE published the notice of proposed rulemaking and received public comments, DOE has successfully tried an alternative, non-regulatory approach to dealing with alcohol abuse that substantially avoids the concerns articulated by the commenters and appears adequately to deal with DOE's actual experience with the potential for alcohol abuse. In 1993, DOE established its Employee Assistance Program Referral Option (EAPRO). Since its inception, DOE has used EAPRO as a tool to encourage individuals with alcohol or drug abuse problems that also hold access authorizations (*i.e.*, security clearances) to seek and participate in rehabilitation programs while maintaining their access authorizations. EAPRO provides incentives for cleared individuals to seek professional assistance from qualified providers in dealing with alcohol and drug abuse problems.

On the basis of the foregoing, DOE concludes that it would be appropriate to withdraw the proposed rule at this time without prejudice to possible reconsideration of the matter should future circumstances warrant. Accordingly, the proposed revisions to 10 CFR Part 707, which were announced in a notice of proposed rulemaking in the July 22, 1992, **Federal Register** (57 FR 32664), are hereby withdrawn.

Issued in Washington, DC, on March 4, 1999.

Mary Anne Sullivan,

General Counsel.

[FR Doc. 99–5875 Filed 3–9–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AEA–05]

Proposed Amendment to Class E Airspace; Babylon, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Babylon, NY. The development of new Standard Instrument Approach Procedures (SIAP) based on the Global Positioning System (GPS) and amendments to the Instrument Landing System (ILS) SIAP and the Non Directional Radio Beacon (NDB) SIAP at Republic Airport, Farmingdale, NY, has made this proposal necessary. Amendments to the controlled airspace extending upward from 700 feet Above Ground Level (AGL) are needed to accommodate the SIAPs and for Instrument Flight Rules (IFR) operations at the airport.

DATES: Comments must be received on or before April 9, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. 99–AEA–05, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, New York, 11430.

An informal docket may also be examined during normal business hours in the Airspace Branch, AEA–520, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520 F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking

by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 99–AEA–05.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Class E airspace area at Babylon, NY. A GPS RWY 01 SIAP, GPS RWY 14 SIAP, GPS RWY 19 SIAP have been developed and the ILS RWY 14 SIAP and NDB RWY 01 SIAP have been revised for Republic Airport, Farmingdale, NY. Amendments to the controlled airspace extending upward from 700 feet AGL are needed to accommodate the SIAPs and for IFR operations at the airport. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—[AMENDED]

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

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

§ 71.1 [Amended□

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, is proposed to be amended as follows:

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

* * * * *

AEA NY E5 Babylon, NY [Revised]

Republic Airport, Farmingdale, NY
(Lat. 40°43′44″N., long. 73°24′49″W.)
Babylon NDB
(Lat. 40°40′21″N., long. 73°23′03″W.)

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Republic Airport and within 3.1 miles each side of a 155° bearing from the Babylon NDB extending from the 8-mile radius to 7 miles southeast of the NDB, excluding that portion that coincides with the Islip, NY, Class E airspace area.

* * * * *

Issued in Jamaica, New York, on March 1, 1999.

Franklin D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 99–5926 Filed 3–9–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AEA–04]

Proposed Amendment to Class E Airspace; Frederick, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Frederick, MD. Amendments to the Global Positioning System (GPS) Runway (RWY) 05 Standard Instrument Approach Procedure (SIAP), Instrument Landing System (ILS) RWY 23 SIAP and VHF Omni-directional Radio Range (VOR) or GPS–A SIAP at Frederick Municipal Airport have made this proposal necessary. Amendments to the controlled airspace extending upward from 700 feet Above Ground Level (AGL) are needed to accommodate the amended SIAPs and for Instrument Flight Rules (IFR) operations at the airport.

DATES: Comments must be received on or before April 9, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. 99–AEA–04, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the Airspace Branch, AEA–520, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520 F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International

Airport, Jamaica, New York 11430; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 99–AEA–04.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Class E airspace area at Frederick, MD. The GPS RWY 05 SIAP, ILS RWY 23 SIAP and VOR or GPS–A SIAP for the Frederick Municipal Airport have been amended. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP and for IFR operations at the airport. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, is proposed to be amended as follows:

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

* * * * *

AEA MD E5 Frederick, MD [Revised]

Frederick Municipal Airport, MD
(Lat. 39° 25′03″N., long. 77°22′28″W.)

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Frederick Municipal Airport.

* * * * *

Issued in Jamaica, New York, on February 24, 1999.

Franklin D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 99–5927 Filed 3–9–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF JUSTICE

Federal Prison Industries, Inc.

28 CFR Part 302

[BOP 1081–P]

RIN 1120–AA84

Federal Prison Industries, Inc. (FPI) Standards and Procedures That Facilitate FPI's Ability To Accomplish Its Mission

AGENCY: Federal Prison Industries, Inc., Justice.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: Federal Prison Industries, Inc. (FPI) is reopening the comment period for the **Federal Register** notice of proposed rulemaking entitled ''Federal Prison Industries, Inc. (FPI)'s Standards and Procedures That Facilitate FPI's Ability To Accomplish Its Mission'' published on January 7, 1999 (64 FR 1082). FPI is reopening the comment period in order to allow additional time for public review and comment.

DATES: Comments due by May 10, 1999.

ADDRESSES: Rules Unit, Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Marianne S. Cantwell, Corporate Counsel, Federal Prison Industries, Inc., phone (202) 305–3501.

SUPPLEMENTARY INFORMATION: FPI published a notice of proposed rulemaking entitled ''Federal Prison Industries, Inc. (FPI)'s Standards and Procedures That Facilitate FPI's Ability To Accomplish Its Mission'' in the **Federal Register** on January 7, 1999 (64 FR 1082). The publication of the proposed rulemaking marks the culmination of a process that began a few years ago in efforts to clarify certain provisions of FPI's statute, 18 U.S.C. 4121 *et seq.* The proposed rulemaking represents a continuing effort to make the use of FPI as a provider of goods and services to the Government as simple and efficient as possible. The

document's provisions include: purpose and scope; definitions; a mission statement; roles and responsibilities of FPI's Board of Directors, Chief Executive Officer, Chief Operating Officer, and the Ombudsman; agency meeting procedures; inmate employment levels; provision of products as a mandatory source; provision of products as a non-mandatory source; provision of services to the commercial market; waiver and appeal procedures; pricing; and new product development or expansion. Comments on the proposed rulemaking were due on March 8, 1999. In order to allow additional time for public review and comment, FPI is reopening and extending the deadline for public comment to May 10, 1999.

Steve Schwalb,

Chief Operating Officer, Federal Prison Industries, Inc.

[FR Doc. 99–5931 Filed 3–9–99; 8:45 am]

BILLING CODE 4410–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[CO–001–0029b; FRL–6236–8]

Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Greeley Carbon Monoxide Redesignation to Attainment, Designation of Areas for Air Quality Planning Purposes, and Approval of a Related Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing approval of the Greeley carbon monoxide redesignation request, maintenance plan, and 1990 base year emissions inventory. The redesignation request, maintenance plan, and 1990 base year emissions inventory were submitted by the Governor on September 16, 1997. In the Final Rules Section of this **Federal Register,** EPA is approving the State's redesignation request and State Implementation Plan (SIP) revisions as a direct final rule without prior proposal because the Agency views the redesignation and SIP revisions as noncontroversial and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by April 9, 1999.

ADDRESSES: Written comments may be mailed to: Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466.

Copies of the documents relevant to this action are available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday at the following office: United States Environmental Protection Agency, Region VIII, Air Program, 999 18th Street, Suite 500, Denver, Colorado 80202–2466.

FOR FURTHER INFORMATION CONTACT: Tim Russ, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466. Telephone number (303) 312–6479.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules Section of this **Federal Register.**

Dated: February 12, 1999.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

[FR Doc. 99–5662 Filed 3–9–99; 8:45 am]

BILLING CODE 6560–50–M

Notices

Federal Register

Vol. 64, No. 46

Wednesday, March 10, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Request an Extension of a Currently Approved Information Collection

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13) and Office of Management and Budget (OMB) regulations at 5 CFR Part 1320 (60 FR 44978, August 29, 1995), this notice announces the Agricultural Research Service's (ARS) intention to request an extension for a currently approved information collection in support of USDA's Biological Control Documentation Program dealing with documenting the importation and release of foreign biological control agents.

DATES: Comments on this notice must be received by May 17, 1999, to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Jack R. Coulson, Director, ARS Biological Control Documentation Center, National Program Staff, National Agricultural Library, ARS, USDA, 10301 Baltimore Avenue, Beltsville, MD 20705–2330, (301) 504–6350.

SUPPLEMENTARY INFORMATION:

Title: USDA Biological Shipment Record—Beneficial Organisms.

OMB Number: 0518–0013.

Expiration Date of Approval: June 30, 1999.

Type of Request: To extend a currently approved information collection.

Abstract: The purpose of the Biological Control Documentation Program is to record the importation (AD–941), release from quarantine (AD–942), and shipment and/or field release/recolonization (AD–942 and AD–943) of foreign/introduced beneficial organisms (biological control agents and pollinators). The information collected is entered into the USDA ''Releases of Beneficial Organisms in the United States and Territories'' (ROBO) database, established in 1984. It is a cooperative program among USDA and other federal agencies, state governmental agencies, and U.S. universities. The use of the forms and the information provided is voluntary. The program is for the benefit of biological control research and action agency personnel, taxonomists, federal and state regulatory agencies, agricultural administrators, and the general public. Efforts are underway to replace the paper forms with computerized information collection, and when completed, only those units for which computerized input is not possible would use the forms.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1/12 hour per response.

Non-Federal Respondents: Non-profit institutions, universities, and state and local governments.

Estimated Number of Non-Federal Respondents: 100.

Estimated Number of Responses per Respondent: An average of 3 (range 1–60).

Estimated Total Annual Burden on Respondents: 25 hours.

Copies of the 3 forms used in this information collection can be obtained from Jack R. Coulson, ARS Biological Control Documentation Center, at (301) 504–6350.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology. Comments may be sent to: Jack R. Coulson, Director, ARS Biological Control Documentation Center, National Program Staff, ARS, USDA, National Agricultural Library, 10301 Baltimore Avenue, Beltsville, MD 20705–2350.

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.

Signed at Beltsville, MD, February 26, 1999.

Judy St John,

Associate Deputy Administrator, Plant Sciences, National Program Staff, Agricultural Research Service Department of Agriculture.

[FR Doc. 99–5952 Filed 3–9–99; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 99–014N]

Codex Alimentarius Commission (Codex): Meeting of the Codex Committee on Food Labelling

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, United States Department of Agriculture and the Food and Drug Administration, United States Department of Health and Human Services are sponsoring a public meeting on March 16, 1999, to provide information and receive public comments on agenda items that will be discussed at the Twenty-Seventh Session of the Food Labelling Committee of Codex, which will be held in Ottawa, Canada, April 27–30, 1999. The co-sponsors of the March 16 public meeting recognize the importance of providing interested parties the opportunity to obtain background information on the Twenty-seventh Session of the Food Labelling Committee of Codex and to address items on the agenda.

DATES: The public meeting is scheduled for Tuesday, March 16, 1999, from 1:30 p.m. to 4:30 p.m.

ADDRESSES: The public meeting will be held in Room 1813 Federal Office

Building 8, 200 C St. SW, Washington, DC. To register for the meeting, contact Ms. Theresa Thomas by telephone at (202) 205–4210 or by FAX at (202) 205–4594 no later than March 10, 1999. If a sign language interpreter or other special accommodation is necessary, contact Ms. Thomas at the above telephone number. Submit one original and two copies of comments to the FSIS Docket Clerk, Docket No. 99–014N, Room 102, Cotton Annex, 300 12th Street, SW, Washington, DC 20250–3700. All comments submitted in response to this notice will be considered part of the public record and will be available for viewing in the Docket Room between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Patrick J. Clerkin, Associate U.S. Manager for Codex, U.S. Codex Office, Food Safety and Inspection Service, Room 4861, South Building, 1400 Independence Avenue, SW, Washington, DC 20250–3700, Phone: (202) 205–7760, Fax: (202) 720–3157.

SUPPLEMENTARY INFORMATION:

Background

Codex was established in 1962 by two United Nations organizations, the Food and Agriculture Organization and the World Health Organization. Codex is the major international organization for encouraging fair international trade in food and protecting the health and economic interests of consumers. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled.

The Codex Committee on Food Labelling was established to draft provisions on labelling applicable to all foods; to consider, amend if necessary, and endorse draft specific provisions on labelling prepared by the Codex Committees drafting standards, codes of practice and guidelines; to study specific labelling problems assigned to it by the Commission; and to study problems associated with the advertisement of food with particular reference to claims and misleading descriptions. Issues to be discussed at the March 16, 1999, public meeting:

1. Matters referred by the Codex Alimentarius Commission and other Codex committees
2. Draft guidelines for the production, processing, labelling and marketing of organically produced foods
3. Draft amendment to the general standard for the labelling of prepackaged foods (25% Rule)
4. Proposed draft recommendations for the labelling of foods obtained through biotechnology
5. Proposed draft amendment to the general standard (class names)
6. Proposed draft amendment to the guidelines on nutrition labelling
7. Proposed draft recommendations for the use of health claims
8. Proposed draft guidelines for sport and energy drinks
9. Proposed draft guidelines for the use of the term vegetarian

F. Edward Scarbrough,

U.S. Manager for Codex.

[FR Doc. 99–5850 Filed 3–9–99; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–813]

Canned Pineapple Fruit from Thailand: Notice of Extension of Time Limits for Antidumping Duty Administrative Review

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

EFFECTIVE DATE: March 10, 1999.

FOR FURTHER INFORMATION CONTACT: Charles Riggle or Kris Campbell, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–0650 and (202) 482–3813, respectively.

SUPPLEMENTARY INFORMATION:

Postponement of Preliminary Results

On August 27, 1998, the Department of Commerce initiated the third administrative review of the antidumping duty order on canned pineapple fruit from Thailand, covering the period July 1, 1997, through June 30, 1998 (63 FR 45796). The current deadline for the preliminary results of this review is April 2, 1999. Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), requires the Department to make a preliminary determination in an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested. However, if it is not practicable to complete the review within the time period, section 751(a)(3)(A) allows the Department to extend this time period to up to 365 days.

We determine that it is not practicable to complete this review within the original time frame because this review involves collecting and analyzing information from a large number of companies, including investigating sales below the cost of production for several companies. Although section 751(a)(3)(A) of the Act allows for an extension of up to 120 days, we believe at this time that only a limited extension of the deadline is necessary to analyze the complex legal and methodological issues involved in this case. Accordingly, the Department is extending the time limit for completion of the preliminary results of this administrative review by 60 days, or until June 1, 1999. We plan to issue the final results of this administrative review within 120 days after publication of the preliminary results.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: March 3, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–5941 Filed 3–9–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–807]

Carbon Steel Butt-Weld Pipes from Thailand; Antidumping Duty Administrative Review: Time Limits

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

ACTION: Notice of extension of time limits of preliminary results of review.

SUMMARY: The Department of Commerce is extending the time limits of the preliminary of the antidumping duty administrative review of the antidumping duty order on carbon steel butt-weld pipe fittings from Thailand. The review covers one manufacturer/exporter of the subject merchandise to the United States for the period July 1, 1997, through June 30, 1998.

EFFECTIVE DATE: March 10, 1999.

FOR FURTHER INFORMATION CONTACT: Zev Primor or Wendy Frankel, Office of AD/CVD Enforcement, Group II, Office IV, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–4114, or (202) 482–5849, respectively.

POSTPONEMENT OF PRELIMINARY RESULTS OF ADMINISTRATIVE REVIEW: The Department initiated the administrative review of the antidumping duty order on carbon steel butt-weld pipe fittings from Thailand on August 27, 1998 (63 FR 45796). The current deadline for the preliminary results in this review is April 1, 1999. In accordance with section 751(a)(3)(A) of the Tariff Act of 1930 (''the Act''), as amended, the Department finds that it is not practicable to complete this administrative review within the original time frame. (*See* memorandum from Holly Kuga to Robert LaRussa, dated March 3, 1999). Thus the Department is extending the time limit for completion of the preliminary results until August 2, 1999, which is 365 days after the last day of the anniversary month of the order. The final determination will occur within 120 days of the publication of the preliminary results.

Dated: March 4, 1999.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 99–5946 Filed 3–9–99; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–421–804]

Certain Cold-rolled Carbon Steel Flat Products from the Netherlands: Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On September 4, 1998, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on certain cold-rolled carbon steel flat products from the Netherlands (63 FR 47227). This review covers one manufacturer/exporter of the subject merchandise to the United States during the period of review (POR), August 1, 1996, through July 31, 1997. We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, we have not changed the results from those presented in the preliminary results of review.

EFFECTIVE DATE: March 10, 1999.

FOR FURTHER INFORMATION CONTACT: Helen Kramer or Linda Ludwig, Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0405 or (202) 482–3833, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 4, 1998, the Department published in the **Federal Register** (63 FR 47227) the preliminary results of the administrative review of the antidumping duty order on certain cold-rolled carbon steel flat products from the Netherlands (58 FR 44172, August 19, 1993), as amended pursuant to Court of International Trade (CIT) decision (61 FR 47871, September 11, 1996). The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended.

Applicable Statute and Regulations

Unless otherwise stated, all citations to the Tariff Act of 1930, as amended (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 351 (1998).

Scope of this Review

The products covered by this review include cold-rolled (cold-reduced) carbon steel flat-rolled products, of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished or coated with plastics or other nonmetallic substances, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule (HTS) under item numbers 7209.15.0000, 7209.16.0030, 7209.16.0060, 7209.16.0090, 7209.17.0030, 7209.17.0060, 7209.17.0090, 7209.18.1530, 7209.18.1560, 7209.18.2550, 7209.18.6000, 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7210.70.3000, 7210.90.9000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500, 7211.23.6030, 7211.23.6060, 7211.23.6085, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7215.50.0015, 7215.50.0060, 7215.50.0090, 7215.90.5000, 7217.10.1000, 7217.10.2000, 7217.10.3000, 7217.10.7000, 7217.90.1000, 7217.90.5030, 7217.90.5060, and 7217.90.5090. Included in this review are flat-rolled products of non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (i.e., products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges. Excluded from this review is certain shadow mask steel, i.e., aluminum-killed, cold-rolled steel coil that is open-coil annealed, has a carbon content of less than 0.002 percent, of 0.003 to 0.012 inch in thickness, 15 to 30 inches in width, and has an ultra flat, isotropic surface. These HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The POR is August 1, 1996, through July 31, 1997. This review covers entries of certain cold-rolled carbon steel flat products from the Netherlands by Hoogovens Staal B.V. (Hoogovens).

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received case briefs on October 13, 1998, and rebuttal briefs on October 19, 1998, from the respondent (Hoogovens) and petitions (Bethlehem Steel Corporation, U.S. Steel Company (a Unit of USX Corporation), Inland Steel Industries, Inc., Geneva Steel, Gulf States Steel Inc. of Alabama, Sharon Steel Corporation, and Lukens Steel Company).

Comment 1: Classifying U.S. Sales as EP or CEP Sales

Petitioners urge the Department to reclassify sales that Hoogovens reported as Export Price (EP) sales as Constructed Export Price (CEP) sales. Petitioners argue that all of Hoogoven's direct sales should be treated as CEP sales because the role of Hoogovens' U.S. affiliate, HSUSA, in the sales process was allegedly more than merely incidental or ancillary. Petitioners cite U.S. Steel Group—a Unit of USX Corporation v. United States, Slip Op. 98–96 (U.S. Court of International Trade (CIT), 1998) (''U.S. Steel Group'') and Certain Cold-

Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea; Final Results of Antidumping Duty Administrative Reviews, 63 FR at 13182 (March 18, 1998) (''Korean Flat Products''), as supporting CEP treatment of sales treated as EP in previous reviews.

Petitioners argue that the Department has previously found that contacting customers and soliciting orders are selling functions that are more than merely incidental or ancillary to U.S. sales, citing Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Spain, 63 FR 40391, 40395 (July 29, 1998) (''Spanish Wire Rod''); Certain Porcelain-on-Steel Cookware from Mexico; Final Results of Antidumping Duty Administrative Review, 63 FR at 38377 (July 16, 1998); and Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Italy, 63 FR 40422 (July 29, 1998) (''Italian Wire Rod''). Petitioners claim that HSUSA officials participate in contract discussions between Hoogovens and customers, sometimes negotiate contract terms without any Hoogovens officials being present, and do not receive price guidelines from Hoogovens. Petitioners cite the Department's verification report, which stated that HSUSA informs Hoogovens whether price quotes received from U.S. customers are reasonable based on its research into market prices. Verification at Hoogovens Steel USA, Inc., July 15, 1998 (July 21, 1998) at 3 (Public Version). Petitioners argue that the Department and the CIT have found that negotiating sale terms with U.S. customers is a substantive sales function supporting CEP treatment of U.S. sales. Koenig & Bauer-Albert v. United States, Consol, Ct. Slip Op. 98–83 (CIT, June 23, 1998); Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Korea, 63 FR 40404, 40418 (July 29, 1998) (''Korean Wire Rod''); Italian Wire Rod, 63 FR 40422. Petitioners refer to a statement in the Department's verification report that HSUSA is always involved with the service technician's visits to U.S. customers. Verification of Sales at Hoogovens Staal B.V., Beverwijk and IJmuiden, the Netherlands, June 8–12, 1998 at 9. Petitioners argue that HSUSA provides significant other after-sale support functions which are more than incidental or ancillary, including quarterly sales visits to U.S. customers, and troubleshooting performance problems, both in product quality and delivery services.

Petitioners allege that Hoogovens' claim that it has to approve all contract terms negotiated by HSUSA is unsubstantiated, and that during the POR Hoogovens never rejected any contract term, including price. Petitioners therefore urge the Department to ignore Hoogovens' claim. Petitioners further argue that even if the claim that Hoogovens has to approve all prices were substantiated, under Department practice this would not mean that HSUSA's role was incidental or ancillary (citing Korean Flat Products, 63 FR at 13177).

Petitioners cite the CIT's decision in U.S. Steel Group, where the court held that the U.S. affiliate was more than a mere processor of sales-related documentation and a communications link, despite the fact that the foreign producer set minimum prices above which the U.S. affiliate could negotiate. On this basis, petitioners argue that the case for reclassifying Hoogovens' sales as CEP is even stronger, because Hoogovens does not give HSUSA any price guidelines, except the U.S. Steel price list, which is used to determine the prices for extras. *See* Vertification of Sales at Hoogovens Staal B.V. at 4. Petitioners claim that the absence of a set minimum price shows that HSUSA's negotiating authority is broader than that of the U.S. affiliate in U.S. Steel Group, where the CIT upheld CEP treatment because of the U.S. affiliate's activities, even though the foreign producer responded to customer inquiries with a price quote and provided daily guidance to its U.S. affiliate regarding prices and product specifications.

Hoogovens argues that reclassification of its sales reported as EP is unwarranted because there have been no changes in the facts or law and regulations, pointing out that in the investigation and three prior administrative reviews the Department has consistently treated Hoogovens' direct U.S. sales as EP sales. Furthermore, Hoogovens cites the Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, which states that no change is intended in the circumstances under which EP or CEP is used. SAA at 822–23. Petitioners rejoin that in other cases where the facts on the record of a particular review showed that the U.S. affiliate's role was more than incidental or ancillary, the Department reclassified U.S. sales as CEP despite having treated those sales as EP in prior reviews. Petitioners cite the decision in Asociacion Colombiana de Exportadores de Flores v. United States, 6 F. Supp. 2d 865 (CIT, 1998), in which the court held that ''Commerce has the flexibity to change its position providing that it explain[s] the basis for its change and providing that the explanation is in accordance with law and supported by substantial evidence.''

Although in Hoogovens' view the Department appears recently to have applied a lower threshold for the number and level of services required for a CEP finding, even under the standards articulated in Certain Cut-to-Length Carbon Steel Plate from Germany; Final Results of Antidumping Duty Administrative Review, 62 FR 18390 (April 15, 1997) (''German Plate'') and in Korean Flat Products, 63 FR at 13182–83 (March 18, 1998), Hoogovens argues that its sales should still be classified as EP. In the cited German Plate and Korean Flat Products cases, Hoogovens points out that the Department paid particular attention to the respective levels of involvement in the sales negotiation process of the U.S. affiliate and the foreign exporter. In both cases, Hoogovens argues, the U.S. affiliate had significant, and almost exclusive, responsibility for both the setting and negotiation of prices. Hoogovens cites the Department's conclusion in Korean Flat Products that respondent's U.S. customers ''seldom have contact'' with the foreign exporter in Korea, and the CIT's affirmance of the Department's CEP classification in the German Plate case on the grounds that the U.S. affiliate had flexibility to make decisions on its own as to price, and that communication regarding prices between respondent and the U.S. affiliate was not on a continuous basis. Hoogovens points to the Department's decision in Certain Welded Stainless Steel Pipe from Taiwan; Final Results of Antidump Duty Administrative Review, 63 FR 38382, 38385 (July 16, 1998) (''Pipe from Taiwan'') that mere participation by a U.S. affiliate in sales-related communication does not justify CEP classification. In that case, the Department concluded that EP classification is appropriate where there is no record evidence to indicate that the U.S. affiliate has any independent authority to negotiate or set prices for direct sales in the United States. According to Hoogovens, the Department concluded that the fact that the U.S. affiliate has no say whatever in the profitability of its own sales of the subject merchandise by determining the amount of a price markup was further evidence that the entire sales process is controlled by the producer in Taiwan. Hoogovens contrasts this to the German Plate case, where the U.S. affiliate could negotiate above a minimum price

established by the foreign exporter. Finally, Hoogovens notes, in Pipe from Taiwan the Department pointed to the fact that unaffiliated U.S. customers maintain direct contact with the foreign exporter as an indicator that the U.S. affiliate was not involved in negotiations, further distinguishing the case from Korean Flat Products and German Plate.

Hoogovens argues that the record in this review is replete with evidence that, as in Pipe from Taiwan, Hoogovens' U.S. affiliate has no independent negotiating authority, no incentive to increase profitability, and serves only as a facilitator in the sales process, thus distinguishing this case from German Plate and Korean Flat Products. Hoogovens further maintains that the record clearly establishes that it maintains direct communications links with its U.S. customers and engages in continuous and frequent communications with these customers without the involvement of HSUSA, pointing out that such contact was infrequent or non-existent in German Plate and Korean Flat Products.

Hoogovens insists that the Department's statement in the preliminary results of review in this case that ''Hoogovens has stated that HSUSA negotiates prices with U.S. customers, subject to Hoogovens' approval'' is without foundation, and that nowhere in the record or any of the verification reports or memoranda filed in this case is there any evidence to support such a statement. While Hoogovens acknowledges that HSUSA communicates offers and quotes back and forth between Hoogovens and its customers, it insists that the record supports the conclusion that HSUSA does not have authority to engage in negotiations of prices or any other terms of sale with Hoogovens' U.S. customers.

According to Hoogovens, the Department did not reach its CEP finding in German Plate and Korean Flat Products based on an isolated examination of the U.S. affiliate's participation in sales negotiations, but rather on the totality of sales services performed by the affiliate, which in each case were substantial. In their case brief in German Plate, petitioners enumerated the U.S. affiliate's sale activities they considered to be appropriate grounds for reclassifying sales as CEP. In addition to setting and negotiating of prices, these activities included purchasing and reselling the subject merchandise, bearing risk of loss, holding itself out as the seller of the merchandise, financing the sale to the unaffiliated U.S. customer, and creating and maintaining extensive sales documentation. According to Hoogovens, the evidence on the record of this case makes clear that HSUSA performs none of those functions.

Hoogovens contrasts its circumstances to Korean Wire Road, 63 FR 40418–19 (July 29, 1998), where the U.S. affiliate took title to the merchandise in back-to-back transactions, whereas Hoogovern's sales are made directly to the U.S. customer, and HSUSA never takes title to the subject merchandise. In Korean Wire Rod, the Department classified respondent's sales as EP in circumstances where the sales process was allegedly similar to Hoogovens', but the U.S. affiliate was more involved in the sale process than was HSUSA. Hoogovens also distinguishes its situation from the circumstances in Spanish Wire Rod, in which the Department reclassified sales the respondent reported as EP as CEP. Hoogovens argues that in Spanish Wire Rod the key factors in the Department's decision were that the U.S. affiliate could accept the customer's order for certain sales without seeking the approval of the foreign producer/exporter, and that there was no evidence of direct contact between the foreign producer/exporter and the unaffiliated U.S. customer. Hoogovens claims that HSUSA had no independent negotiating authority and that the record is replete with evidence of direct contact between Hoogovens and its unaffiliated U.S. customers, including contacts that do not involve HSUSA. Hoogovens cites HSUSA Verification Exhibit 4 at 27, which refers to a price agreed to in the Netherlands between Hoogovens' sales director and the president of Hoogovens' largest U.S. customer for the subject merchandise. Hoogovens argues that the Department's use of the word ''negotiate'' in its verification report, where it stated that ''HSUA needs final approval from Hoogovens on sales details it negotiates with the customers,'' does not undermine the extensive evidence indicating that HSUSA's role in the sales process is limited to relaying price offers back and forth between Hoogovens and the customers and that HSUSA has no independent authority to negotiate sales on behalf of Hoogovens. Hoogovens rejects petitioners' claim that HSUSA solicits orders, pointing out that there has been no expansion in the U.S. customer base during this or previous PORs, and that the sole basis for this claim is the legal authority to solicit sales in the Amended Agency Agreement, which also specifies that HSUSA has no legal authority to act on behalf of Hoogovens. Hoogovens argues that petitioners have misconstrued the Department's statement in the HSUSA verification report that Hoogovens does not provide price guidelines to be used by HSUSA in negotiating prices as meaning that HSUSA has unfettered negotiating authority. On the contrary, according to Hoogovens, the Department made this statement to highlight the fact that Hoogovens does not set parameters within which HSUSA may then independently negotiate. Rather, Hoogovens states, it sets prices itself and does not grant HSUSA any negotiating authority whatever, but uses HSUSA to relay price offers back and forth to its customers. Hoogovens claims that the record of this review is replete with evidence that Hoogovens sets the terms for its U.S. sales and communicates this information to its customers either directly or through HSUSA. Accordingly, Hoogovens asserts that it does not reject prices ''negotiated'' by HSUSA, but rather its normal sales process does not provide HSUSA with the opportunity to agree to prices with the customer and submit them to Hoogovens for final approval. Consequently, Hoogovens argues, petitioners are misinterpreting the relevance of the CIT's decision in U.S. Steel Group to this case.

Hoogovens claims that petitioners have failed to demonstrate how the exchange of market information between HSUSA and Hoogovens constitutes negotiations with the unaffiliated customer, arguing that HSUSA's activities represent a communications link. Similarly, Hoogovens rejects petitioners' contention that HSUSA negotiates or drafts contracts, citing the Department's finding at verification that HSUSA prepares the contract forms after price and quantity have been agreed upon between Hoogovens and the U.S. customer as a customary practice carried over from an earlier corporate structure predating the formation of NVW, HSUSA's predecessor affiliated company. HSUSA Verification Report at 3.

Hoogovens rebuts petitioners' claim that HSUSA provides technical services by noting that their argument involves a misreading of a statement in the Department's verification report that HSUSA ''is always involved'' with the technician's visits to U.S. customers. Hoogovens points out that this involvement consisted primarily of arranging the logistics of these service visits. Hoogovens argues further that in the cases cited by petitioners in which after sales services were at issue, the U.S. affiliate took sole responsibility for, and performed substantial services on

behalf of, the foreign producer, and these services were only a small part of the wide array of services provided by the U.S. affiliate. Hoogovens asserts that whatever services HSUSA performed were at most incidental.

Department's Position: We agree with Hoogovens and have continued to treat its direct U.S. sales as EP for purposes of the final results of review. To ensure proper application of the statutory definitions of EP and CEP, where a U.S. affiliate is involved in making a sale, we consider the sale to be CEP unless the record demonstrates that the U.S. affiliate's involvement in making the sale is incidental or ancillary. Thus, whenever sales are made prior to importation through an affiliated sales agent in the United States, the Department determines whether to characterize the sales as EP sales based upon the following criteria: (1) Whether the merchandise was shipped directly to the unaffiliated buyer, without being introduced into the affiliated selling agent's inventory; (2) whether this procedure is the customary sales channel between the parties; and (3) whether the affiliated selling agent located in the United States acts only as a processor of documentation and a communications link between the foreign producer and the unaffiliated buyer. See e.g., Notice of Final Determination of Sales at Less Than Fair Value: Newspaper Printing Presses From Germany, 61 FR 38175 (July 23, 1996); Certain Corrosion Resistant Carbon Steel Flat Products From Korea: Final Results of Antidumping Administrative Review, 61 FR 18547, 18551 (April 26, 1996); Certain Cut-To-Length Carbon Steel Plate From Germany: Final Results of Antidumping Duty Administrative Review, 62 FR 18390 (April 15, 1997); Certain Cold-Rolled and Corrosion Resistant Carbon Steel Flat Products From Korea: Final Results of Antidumping Duty Administrative Reviews, 63 FR 13170, 13177 (March 18, 1998).

In the preliminary results, we considered this issue and concluded that Hoogovens' U.S. sales through HSUSA satisfied at least two out of the three criteria the Department uses to determine whether sales are EP, *i.e.*, method of shipment and customary channel of trade. In regard to the third criterion, the affiliate's role in the sales process, we determined that HSUSA did not engage in the types of activities the Department considers in classifying U.S. sales as CEP, such as: taking title to the subject merchandise, maintaining inventory, conducting customer credit checks, financing sales, providing technical service, receiving compensation based on price or quantity, and issuing order confirmations and invoices. In addition, HSUSA received payments from customers only in exceptional circumstances, i.e., when customers lack the capacity to make wire transfers. The Department invited additional information on whether the U.S. affiliate acts only as a processor of documentation and a communications link between the foreign producer and the unaffiliated buyer in the United States. See Preliminary Results, 63 FR at 47228–29.

In the instant review, the sales in question were made prior to importation to unaffiliated customers in the United States. The fact that the subject merchandise was shipped directly from Hoogovens to the unaffiliated U.S. customers and that this was the customary commercial channel between these parties is not disputed. The issue is whether HSUSA's role in the sales process was incidental or ancillary to the sale, i.e., limited to that of a processor of sales-related documentation and a communications link.

The record in this case shows that HSUSA was involved in the sales process as a facilitator, processor of documentation and a communications link, and that the preponderance of selling functions involved in U.S. sales occurred in the Netherlands. This finding is consistent with the Department's practice in other cases cited by petitioners. In contrast with the respective roles of the producer and its U.S. affiliate in Spanish Wire Rod, HSUSA has no authority to negotiate prices, nor did it initiate contact with the U.S. customers on its own authority. In addition, we note that the petitioners' citation to Korean Flat Products is not relevant here. In Korean Flat Products, one of the U.S. affiliates had the authority to write and sign sales contracts, while another performed significant after-sale support functions. Neither of these conditions applies in this case.

While HSUSA writes contracts on behalf of Hoogovens, it merely records the agreement reached between Hoogovens and its customer. It has no authority to approve the terms. Although the Department's verification report paraphrased a Hoogovens official as stating that ''HSUSA is the primary contact with Hoogovens' customers but needs final approval from Hoogovens on sales details it negotiates with the customers,'' (Hoogovens Verification Report at 4) a preponderance of the evidence nevertheless shows that HSUSA is a facilitator and communications link between U.S. customers and Hoogovens in negotiating sales contract terms.

Hoogovens sales representatives visited U.S. customers at least once a year, accompanied by HSUSA officials, who arranged the visits. U.S. customers visited Hoogovens either annually or biannually. Hoogovens concluded annual contracts with its U.S. customers in October or November, setting base prices for the first quarter or half of the coming year and annual quantities. These negotiations usually occurred in the United States, and occasionally in the Netherlands, depending on the schedule of customer visits to Hoogovens. HSUSA served as the intermediary between U.S. customers and Hoogovens, relaying customer price quotes and quantities to the Netherlands and advising Hoogovens whether the quotes were reasonable on the basis of HSUSA's research into market conditions. HSUSA then transmitted Hoogovens' replies to the customer. The record shows that HSUSA was in constant daily communication with Hoogovens. HSUSA had no independent authority to set prices or accept orders. When agreement was reached between Hoogovens and the customer, HSUSA drew up and signed the sales contract on behalf of Hoogovens. Hoogovens issued an order confirmation to the customer. Customers indicated by facsimile the schedule of desired delivery dates, either directly to Hoogovens or through HSUSA. Hoogovens arranged for shipment to the United States. HSUSA processed the U.S. Customs declarations. During the POR, HSUSA acted as the importer of record for some shipments, while for others Hoogovens was the importer. In those cases in which the terms of sale required arranging for U.S. internal freight, HSUSA made the arrangements with freight forwarders. Hoogovens issued the invoices, performed credit checks, financed customer credit, and recorded the sales in its accounts. Most customers paid Hoogovens directly by wire transfers. HSUSA received payments by check in a small number of instances from customers lacking wire transfer facilities, and remitted payment to Hoogovens by wire after the checks cleared.

Although the agency agreement authorizes HSUSA to solicit new customers and orders, there is no indication that this was a substantial function during this review, as Hoogovens correctly pointed out that its U.S. customer base for the subject merchandise has not changed between this review and the preceding ones.

Second, HSUSA's role in after-sale support functions is limited to facilitating visits by Hoogovens' service technician and serving as a communications link to relay complaints. If there were any problems with the quality of the merchandise, HSUSA relayed customer complaints to Hoogovens. HSUSA sales representatives discussed quality issues with customers during their quarterly vists. HSUSA made arrangements for U.S. technical service visits by the technician based in the Netherlands. All technical services were provided by Hoogovens. U.S. customers communicated directly with Hoogovens regarding post-sale price adjustments for quality defects or unacceptable variances in coil weights. U.S. customers also communicated directly with Hoogovens regarding new applications and trial runs.

Based upon the functions performed by Hoogovens and HSUSA, we conclude that HSUSA's role in the sales process was to act as a processor of documentation and a communications link. Therefore we have continued to treat Hoogovens' sales as EP sales in this case.

Comment 2: Deduct Indirect Selling Expenses

Petitioners point out that Hoogovens reported the indirect selling expenses (ISE) incurred by HSUSA in the field for ISE incurred in the Netherlands (DINDIRSU), and ask the Department to deduct DINDIRSU in calculating CEP if the Department reclassifies the U.S. sales that were reported as EP.

Hoogovens responds that if the Department deducts HSUSA's ISE, it should take care not to deduct ISE incurred in the Netherlands from the CEP, in accordance with the Department's practice of deducting only expenses associated with economic activity in the United States.

Department's Position: As we have not reclassified EP sales, these arguments are moot.

Comment 3: Level of Trade of CEP Sales

Hoogovens argues that if the Department reclassifies the sales reported as EP as CEP, it must reconsider its determination that all of the sales were at the same level of trade (LOT), and should either make a CEP offset to normal value or it should not deduct certain expenses incurred in the Netherlands from CEP in its margin calculations.

Department's Position: As we have not reclassified EP sales, these arguments are moot.

Comment 4: Date of Sale

Petitioners argue that the Department should use the invoice date as the date of sale for all of Hoogovens' home market sales. For most of its home market sales, Hoogovens reported the date of long-term contracts as the date of sale. Petitioners argue that the record shows that these contracts did not contain binding quantities, and that the sales database shows that the quantities sold sometimes deviated from the amount specified in the contracts.

Hoogovens responds that the Department should continue to use the reported dates of sale for the final results, pointing out that at verification the Department found no discrepancies in Hoogovens' reported date of sale and verified that the price and quantity were established in the contract for all relevant home market sales examined, taking into account that deviations in quantity up to ten percent are considered normal in the steel industry. Hoogovens considers it ironic that petitioners are now making this argument, when in the previous review they made the opposite argument in objecting to Hoogovens' initial use of the invoice date as the date of sale (a change from previous practice in response to the Department's new regulations, which was reversed in a supplemental response). Hoogovens also reports that in responding to petitioners' comments, it found an error in coding the date of sale for one quarter of a customer's contracts.

Department's Position: We agree with Hoogovens. Its methodology for determining the date of sale in this review is consistent with the three previous reviews. Further, in this review the Department verified that long-term contracts established the prices and quantities.

In regard to the clerical error reported by Hoogovens in its rebuttal brief, in light of the decision of the United States Court of Appeals for the Federal Circuit (CAFC) in NTN Bearing Corp. v. United States, Slip. Op. 94–1186 (Fed. Cir. 1995) (NTN), we have adopted the following policy for correcting clerical errors of respondents brought to our attention after the preliminary results. We accept corrections of such errors if all of the following conditions are satisfied: (1) the error in question must be demonstrated to be a clerical error, not a methodological error, an error in judgment, or a substantive error; (2) the Department must be satisfied that the corrective documentation provided in support of the clerical error allegation is reliable; (3) the respondent must have availed itself of the earliest reasonable opportunity to correct the error; (4) the clerical error allegation, and any corrective documentation, must be submitted to the Department no later than the due date for the respondent's administrative case brief; (5) the clerical error must not entail a substantial revision of the response; and (6) the respondent's corrective documentation must not contradict information previously determined to be accurate at verification. See Roller Chain, Other Than Bicycle From Japan: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 63 FR 63671 (November 16, 1998); Certain Fresh Cut Flowers From Colombia; Final Results of Antidumping Duty Administrative Reviews, 61 FR 42833, 42834 (August 19, 1996).

In this case, conditions two, three and four are not met. Hoogovens did not avail itself of the earliest reasonable opportunity to correct the error. In its corrections letter submitted at the beginning of verification (Verification Exhibit 1), Hoogovens reported an error in the date of sale for some of the sales in question here, but gave the wrong date as the correction. In addition, the corrections at issue were submitted in the rebuttal brief, rather than the case brief, and are thus too late. Moreover, while the number of shipments reported on both occasions as having incorrect dates of sale is the same, there are some differences between the two lists in which sales are included. We therefore conclude that the later corrections list is not reliable. Consequently, we have not made these corrections to the date of sale.

Comment 5: Exclude Movement Expenses from CEP Profit Calculation

Petitioners state that the Department should exclude movement expenses from the denominator of the ratio used to determine the profit to be deducted from CEP sales, on the grounds that in U.S. Steel Group, the CIT held that ''movement expenses may not be included in the denominator of the ratio to be applied to actual total profit.''

Hoogovens rejoins that pending the resolution of the remand in U.S. Steel Group, the Department should not depart from the methodology used in the preliminary results. Hoogovens submits that the statutory reference to all expenses incurred in the production and sale of the subject merchandise must be read to include movement expenses, which are an essential element of making any sale. In addition, Hoogovens notes, the court appeared concerned that the numerator in the allocation of total profit to CEP sales, CEP selling expenses (''CEPSELL''),

should be in symmetry with the denominator, total selling expenses (''TOTEXP''). Hoogovens argues that it is not clear that the statute requires such symmetry, pointing out that the purpose of the CEP profit calculation is to determine the amount of profit allocable to selling activities in the United States, which is then deducted from the U.S. price. Hoogovens contends it is reasonable for the Department to conclude that the statute does not intend to allocate profit to the cost of moving goods within the United States, even though such movement costs are included in the calculation of the respondent's total expenses in both markets. Thus, Hoogovens concludes, symmetry in mathematical calculations does not comport with or serve the statutory goal, and the Department should not revise it methodology for the final results in this review.

Department's Position: We agree with Hoogovens. The Department is currently appealing the CIT decision in U.S. Steel Group, and will continue to follow its policy of including movement expenses in the denominator of the CEP profit calculation in accordance with the Department's interpretation of section 772(f) of the Act. See Policy Bulletin 97.1, ''Calculation of Profit for Constructed Export Price Transactions,'' (September 4, 1997).

Nothing in the statute or its legislative history requires that the Department include exactly the same kinds of expenses in total United States expenses as it includes in total expenses for purposes of allocating an amount of profit for constructing an export price. To the contrary, the statute narrowly defines ''total United States expenses'' (the numerator) to include only commissions, direct and indirect selling expenses, expenses assumed by the seller on behalf of the purchaser, and the cost of further manufacturing. See sections 772(f)(2)(B) and 772(d)(1) and (2). Thus, the statute prohibits the inclusion of movement expenses in the calculation of total United States expenses. In our view, the exclusion of express language on movement expenses demonstrates that Congress did not intend that Commerce deduct any profit allocated to the cost of moving goods for purposes of constructing an export price. Furthermore, the statute cannot be interpreted to require symmetry in the CEP profit ratio (i.e., that the same types of expenses be included in both the numerator and denominator) because the statute provides that other expenses, other than movement expense, shall be included in the total expenses denominator, but does not require inclusion of such expenses in the U.S. expense numerator (e.g., U.S. import duties and export taxes; see sections 772(c)(2)(A) and (B)).

Unlike the definition of ''total United States expenses,'' the statute does not further define ''total expenses'' incurred in the production and sale of the merchandise. In fact, the CIT acknowledged that ''the language defining total expenses is not entirely clear as to whether movement expenses should be included in the total expenses denominator.'' *U.S. Steel Group*, at 3. However, section 772(f) of the Act requires the Department to use ''total actual profit'' in calculating the CEP profit deduction. To the extent that the producer/exporter and its U.S. affiliates incur movement expenses to deliver the merchandise to customers, these expenses must be included in total expenses in order to calculate actual profit. Indeed, this interpretation is based on the axiom that total profit equals total revenue minus total expenses, and resolves any confusion surrounding the definition of total expenses in favor of the inclusion of movement expenses. Furthermore, we do not believe it is reasonable to interpret the term ''total expenses'' one way in calculating a respondent's total actual profit, and another way in summing expenses for the denominator of the CEP profit ratio. Rather, a reasonable interpretation requires a unified reading and application of the CEP profit provisions in which the meaning of ''total expenses'' does not vary.

To calculate the profit to be allocated to CEP sales, total actual profit is multiplied by the ratio of total United States expenses to total expenses. Thus, no portion of total profit is allocated to U.S. movement expenses for purposes of calculating the CEP, but all movement expenses, like any other expense incurred by the seller, must be included in total expenses in order to calculate total profit accurately. Because the statutory goal of accurately calculating total profit and reasonably allocating a portion of the total profit to CEP sales is served by the Department's current CEP profit methodology, we have continued to apply the methodology established in Policy Bulletin 97.1.

Comment 6: Offset for Cost of Financing Cash Deposits

Hoogovens claims that the Department's decision in the previous review to deny an offset to its reported U.S. indirect selling expenses (ISE) for the cost of financing cash deposits of estimated antidumping duties during the POR is incorrect, and that the Department should grant this adjustment for the reasons stated in the bearings determinations. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or less in Outside Diameter, and Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825, 11826–30 (March 13, 1997).

Hoogovens submits that the CIT has consistently upheld the Department's exercise of its discretion to make this adjustment, citing *Timken Company v. United States*, Ct. No. 97–04–00562, Slip. Op. 98–42 at 4–10 (CIT, July 2, 1998); *Timken Company v. United States*, 989 F. Supp. 234, 250–55 (CIT 1997). Finally, Hoogovens claims this adjustment can be readily calculated using data already on the record.

Petitioners urge the Department to adhere to its decision to deny this adjustment, citing *Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom; Final Results of Antidumping Duty Administrative Review*, 63 FR 3320, 33348 (June 18, 1998) (''AFBs'') and *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan; Final Results of Antidumping Duty Administrative Review, 63 FR 20585, 20595* (April 27, 1998). Petitioners point out that Hoogovens does not address any of the Department's reasons for denying offsets for the cost of financing cash deposits, and instead cities one of the older cases whose methodology the Department has rejected. Petitioners conclude that the request for an adjustment should be denied because Hoogovens provides no reason for the Department to change its policy.

Department's Position: We agree with petitioners that we should continue to deny an adjustment to Hoogovens' U.S. ISE for expenses which Hoogovens claims are related to the financing of cash deposits. The statute does not contain a precise definition of what constitutes a selling expense. Instead, Congress granted the administering authority broad discretion in this area. It is a matter of policy whether we consider there to be any financing expenses associated with cash deposits. We recognize that we have, to a limited extent, allowed deductions of such expenses in past reviews of the orders on antifriction bearings. However, we have reconsidered our position on this matter and have concluded that this practice is inappropriate.

We have long maintained, and continue to maintain, that antidumping duties, and cash deposits of antidumping duties, are not expenses that we should deduct from U.S. price. To do so would involve a circular logic that could result in an unending spiral of deductions for an amount that is intended to represent the actual offset for the dumping. We have also declined to deduct legal fees associated with participation in an antidumping case, reasoning that such expenses are incurred solely as a result of the existence of the antidumping duty order. *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al.; Final Results of Antidumping Duty Administrative Reviews,* 57 FR 28360 (June 24, 1992). Underlying our logic in both these instances is an attempt to distinguish between business expenses that arise from economic activities in the United States and business expenses that are direct, inevitable consequences of the antidumping duty order.

Financial expenses allegedly associated with cash deposits are not a direct, inevitable consequence of an antidumping duty order. Money is fungible within a corporate entity. Thus, if an importer acquires a loan to cover one operating cost, that may simply mean that it will not be necessary to borrow money to cover a different operating cost. Companies may choose to meet obligations for cash deposits in a variety of ways that rely on existing capital resources or that require raising new resources through debt or equity. For example, companies may choose to pay deposits by using cash on hand, obtaining loans, increasing sales revenues, or raising capital through the sale of equity shares. In fact, companies face these choices every day regarding all their expenses and financial obligations. There is nothing inevitable about a company having to finance cash deposits and there is no way for the Department to trace the motivation or use of such funds even if it were inevitable.

So, while under the statute we may allow a limited exemption from deductions from U.S. price for cash deposits and legal fees associated with participants in dumping cases, we do not see a sound basis for extending this exemption to expenses allegedly associated with financing cash deposits. By the same token, for the reasons stated above, we would not allow an offset for financing the payment of legal fees associated with participants in a dumping case.

Finally, we have previously determined that we should not use an imputed amount theoretically associated with financing of cash deposits. There is no real opportunity cost associated with cash deposits when the paying of such deposits is a precondition for doing business in the United States. Like taxes, rent, and salaries, cash deposits are simply a financial obligation of doing business. Companies have no choice about paying cash deposits if they want to import nor can they dictate the terms, conditions, or timing of such payments. By contrast, we impute credit and inventory carrying costs when companies do not show an actual expense in their records, because companies have it within their discretion to provide different payment terms to different customers and to hold different inventory balances for different markets. We impute costs in these circumstances as a means of comparing different conditions of sale in different markets.

Comment 7: Interest Rate for Imputed U.S. Credit Expenses

Hoogovens states that in all previous reviews, the Department calculated Hoogovens' U.S. imputed credit expenses using the weight-averaged interest rate on Hoogovens' dollar-denominated short-term loans in the Netherlands to finance U.S. sales. Accordingly, Hoogovens used the same methodology in this review, and the Department verified the interest rate used. However, in the preliminary results the Department recalculated U.S. credit expenses using the interest rate paid by HSUSA on loans used for another purpose. Hoogovens claims that the Department's determination is illogical, inconsistent with the purposes of its policy, and directly contradicts past practice.

Hoogovens argues that when an exporter incurs credit expenses for sales to U.S. customers in dollars, in effect it is extending credit to its purchasers on dollar terms, citing *Mitsubishi Heavy Industries, Ltd.* v. *United States,* Slip. Op. 98–82 (CIT, June 23, 1998) and *Oil Country Tubular Goods from Austria,* 60 FR 33551, 33555 (June 28, 1995). Accordingly, Hoogovens argues, the Department uses the actual dollar-based interest rate of the exporter as the best measure of the exporter's imputed credit expenses, and only uses publicly available information to establish an appropriate rate when the exporter does not have dollar-denominated borrowings.

Hoogovens states there is no reason to use HSUSA's loans made for other purposes, which represent a theoretical cost of borrowing, when the actual cost of extending credit on U.S. sales is available on the record. Hoogovens notes that the Department has previously rejected the methodology it advances here, citing *Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Canada; Final Results of Antidumping Duty Administrative Reviews,* 63 FR 12725, 12742 (March 16, 1998) (''Steel from Canada''), in which the U.S. affiliate maintained a dollar-denominated line of credit, but the Department rejected the interest rate on this credit in favor of a surrogate rate.

Petitioners support the Department's determination on the grounds that loans incurred in the United States best reflect the cost of selling to U.S. customers. They point out that in the current review of Steel from Canada, the Department instructed the respondent to recalculate credit expenses using the interest rate at which the U.S. affiliate actually borrowed the funds.

Department's Position: We agree with Hoogovens that, in accordance with the Department's established policy and practice, we should have accepted the interest rate on its short-term dollar-denominated loans taken out by Hoogovens rather than the rate received by HSUSA. Accordingly, for the final results we have used the reported imputed U.S. credit expenses.

Comment 8: Credit Expenses on Unshipped Sales

Hoogovens argues that the Department should have deducted credit expenses on unshipped home market sales on the grounds that these sales are included in the calculation of the dumping margin. Hoogovens claims there is no logical reason for imputing these expenses on shipped sales but not on unshipped sales. Further, Hoogovens argues that its method of reporting these expenses using the average days to payment on a customer-specific basis has been previously accepted by the Department and is reasonable.

Petitioners point out that there is no actual credit expense incurred on unshipped sales. They argue that if the Department accepts Hoogovens' claim and allows an adjustment for credit expense, then it must also increase the gross price of unshipped sales to account for freight revenue on them. Petitioners note that such an adjustment would be consistent with Department practice.

Department's Position: We agree with Hoogovens. The Department recalculated Hoogovens' reported credit expenses on home market sales in order to correct the payment dates for some sales. To calculate imputed credit expenses on receivables, we take the

difference between the date of payment and the date of shipment and multiply by the daily short-term interest rate and the gross price, obtaining the per unit expense. However, in the case of unshipped quantities, there is neither a shipment date nor a payment date. In previous reviews the Department accepted Hoogovens' claimed credit expenses on unshipped sales, calculated on the basis of the customer-specific average number of days between shipment and payment. Since we are including these sales in the margin calculation, it is reasonable to make a deduction for imputed credit expenses. This is consistent with the Department's practice in Final Determination of Sales at Less Than Fair Value: Certain Pasta from Italy, 61 FR 30324 (June 14, 1996).

We disagree with petitioners that inland freight should be added to the reported gross price. We verified that the reported price already includes freight in those cases where the terms of sale include inland freight.

Comment 9: Correction of Ministerial Error

Petitioners point out that an error found at verification in reporting international freight and brokerage expense for one U.S. sale was not corrected in the preliminary results. Hoogovens responds that the freight expense by petitioners is incorrect, and provides the figures calculated by the Department at verification. Hoogovens Verification Report at 20.

Department's Position: We agree with petitioners that an error found at verification was not corrected in the preliminary results through an oversight. However, the international freight charge suggested by petitioners is inconsistent with the amount calculated by the Department at verification. *See* Verification Exhibit 27. We have corrected the international freight and brokerage expenses for this sale in the final results of this review.

Comment 10: Reimbursement

Petitioners argue that the Department should apply its reimbursement regulation. They note that during part of the POR, HSUSA was the importer of record and was reimbursed by Hoogovens for cash deposits paid against antidumping duties to be assessed. Petitioners claim that the restructuring of Hoogovens' U.S. operations was in essence financial intermingling aimed at avoiding the application of the reimbursement regulation.

During the remainder of the POR, Hoogovens served as the importer of record. Petitioners claim that from a commercial standpoint, there has been no substantive change, and that the subject merchandise is still being sold to U.S. customers at unremediated dumped prices. Petitioners point out that in previous reviews of this proceeding, the Department has required the importer to demonstrate that it has the financial resources to pay antidumping duties. See Certain Cold-Rolled Carbon Steel Flat Products from the Netherlands; Final Results of Antidumping Duty Administrative Review, 63 FR at 13214 (March 18, 1998). Petitioners argue that these resources must be acquired for legitimate business needs rather than for the purpose of paying antidumping duties, and that all of the Department's prior work will have been for naught if a remibursement finding can be avoided simply by listing the foreign producer as the importer of record. Consequently, petitioners conclude, the Department should find that reimbursement is occurring whenever the foreign producer is also the importer of record. Petitioners claim that the Department recognized that the reimbursement regulation may be interpreted to apply in such situations in Circular Welded Non-Alloy Steel Pipe and Tube from Mexico; Final Results of Antidumping Duty Administrative Review, 63 FR 33041, 33044 (June 17, 1998). They also cite the statement in the SAA that ''Commerce has full authority under its current regulations (19 CFR 353.26) to increase the duty when an exporter directly pays the duties due, or reimburses the importer, whether independent or affiliated, for the importer's payment of duties.'' SAA at 886. Petitioners conclude that the interpretation that sales for which Hoogovens acted as the importer of record fall within the reimbursement regulation is the only interpretation that will prevent the remedial effects of the antidumping law from being frustrated.

Hoogovens replies that the Department lacks the statutory authority to apply the reimbursement regulation on the basis of affiliated party transactions. While Hoogovens acknowledges that the CIT rejected this argument in Hoogovens' appeal of the final results of the first review, Hoogovens believes that the correct interpretation of the Department's authority is that expressed by the Court of Appeals in footnote 2 of its opinion in *The Torrington Co.* v. *United States,* 127 F.3d 1077, where it stated, ''the statute does not seem to authorize a further assessment of duty to the same importer on the theory that a foreign supplier may have helped an importer with its duty burden.''

Hoogovens argues there is substantial verified evidence on the record in this review to support the Department's decision not to apply the reimbursement regulation in the preliminary results. This evidence includes the Agency Agreement, the refund by HSUSA to Hoogovens of the amount of antidumping duties calculated by the Department in its final results in the 1993/94, 1994/95 and 1995/96 administrative reviews, and HSUSA's assumption of liability for antidumping duties for the period 1993–96, as shown in its audited 1997 financial statements. Accordingly, Hoogovens argues, the Department should not apply the regulation to sales for which HSUSA was the importer of record.

Hoogovens notes that the CIT recently affirmed the Department's decision not to apply the reimbursement regulation in the final results of the second administrative review (1994/95). *Bethlehem Steel Corp.* v. *United States,* Slip Op. 98–145 at 13–17 (October 14, 1998), and argues that petitioners have failed to advance any argument or evidence that would support a different outcome in this review, continuing to raise the same arguments regarding the restructuring of Hoogovens' U.S. operations that they raised unsuccessfully in previous reviews.

Hoogovens points out that it has entered into a joint venture with Weirton Steel Company to build a galvanizing plant in Indiana, which was a major element of Hoogovens' restructuring, which also included the transfer of HSUSA of the Rafferty-Brown companies. As a result, HSUSA's consolidated sales revenues have substantially increased. Hoogovens argues that this restructuring was intended to organize its U.S. holdings in the same manner as in other countries, and are legitimate business arrangements which do not constitute any basis to double its antidumping duty liability.

Hoogovens argues further that applying the reimbursement regulation in situations where the exporter acted as importer of record would mean treating those duties as a cost, and double-counting those duties in the calculation of a respondent's antidumping duty liability, which is contrary to the Department's longstanding policy. Hoogovens rejects petitioners' interpretation of the SAA at 886, pointing out that they fail to explain why this reference to an exporter who ''directly pays the duties due'' necessarily refers to an exporter who is also the importer. Hoogovens claims

there is nothing in the SAA to suggest such a reading, and points out that the SAA states that the Department ''intends no change in its practice in this area.'' SAA at 886. Hoogovens states its is unaware of any instance prior to the SAA in which the Department applied the regulation where the exporter was the importer of record, and concludes there is no basis for petitioners' argument that their interpretation was ''the very one adopted'' by the Congress and the administration in the SAA. Moreover, Hoogovens points out, the SAA expressly rejects the concept of duty as a cost (SAA at 885), suggesting that this undermines petitioners' interpretation. Finally, Hoogovens notes that petitioners appear to argue that the Department should apply the reimbursement regulation simply because it has found reimbursement in a previous review, and asserts that Hoogovens is entitled to take steps to reduce its antidumping duty liability from review to review.

Department's Position: We disagree with petitioners that the Department should invoke 19 CFR 351.401(f), the reimbursement regulation, in this case. Consistent with our findings in the previous review, we find in the current review that the amended agency agreement between HSUSA and Hoogovens continues in force, and that HSUSA, pursuant to its contractual obligations, continues to repay advances for antidumping duty deposits. Further, for those sales in which HSUSA was the importer of record, we find that HSUSA (1) continues to be solely responsible for the payment of the antidumping duties in this review, and (2) is able to generate sufficient income to pay the antidumping duties to be assessed in this review. See Exhibit A–30 (Agency Agreements) of Hoogovens' January 30, 1998, supplemental response (Proprietary Version); HSUSA's audited financial statements in Exhibit A–11 (Hoogovens Steel Division Audited Financial Statements) of Hoogovens' Section A response (Proprietary Version, October 6, 1997) and in Verification Exhibit 2 of the verification at HSUSA on July 15, 1998; and Exhibit B–31 (Refund of Duties) in Hoogovens' May 6, 1998 supplemental response (Proprietary Version). Further, the corporate restructuring of HSUSA entailed entering into a joint venture with Weirton Steel Company and the transfer of the Rafferty-Brown companies to HSUSA. As the Department has recognized, and the Courts have affirmed, affiliated companies can transfer funds for a variety of reasons, unrelated to reimbursement of antidumping duties. *See Torrington Co.* v. *United States,* 127 F.3d 1077 (Fed. Cir. 1997). As in the previous review, the Department does not construe this restructuring to be inappropriate financial intermingling or reimbursement within the meaning of 351.402(f) as petitioners suggest. In the present case, the facts and circumstances surrounding the corporate restructuring are clear and consistent with the purposes of the regulation.

Finally, we disagree with petitioners that the reimbursement regulation is applicable where the importer and exporter are the same corporate entity. Our decision as to reimbursement is based upon our regulatory interpretation of 19 CFR 351.401(f), which is that two separate corporate entities must exist in order for the Department to invoke the reimbursement regulation. See Circular Welded Non-Alloy Steel Pipe and Tube from Mexico; Final Results of Antidumping Duty Administrative Review, 63 FR 33041, 33044 (June 17, 1998). While we recognize that petitioners' position may be a permissible interpretation of the regulation, the Department continues to believe that our interpretation is more appropriate. Accordingly, for these final results, we have not invoked the Department's reimbursement regulation with respect to Hoogovens.

Comment 11: Level of Trade

Hoogovens urges the Department to maintain its conclusion in the preliminary results that there are no level of trade (LOT) differences for any sales. Hoogovens points out that this conclusion was based on an exhaustive investigation of Hoogovens' selling functions and channels of distribution in both the U.S. and home markets. The LOT issue was addressed in the original and two supplemental questionnaires, and the Department conducted extensive interviews with sales personnel and technical service and research managers during its verifications in both IJmuiden and Scarsdale. Hoogovens notes that the Department reviewed the record evidence with respect to nine different selling functions and activities performed by Hoogovens: (1) Strategic and economic planning; (2) market research; (3) advertising; (4) inventory maintenance; (5) post-sale warehousing; (6) freight and delivery arrangements; (7) technical support services, warranty services and customer-specific R&D support; (8) computer, legal, and accounting assistance; and (9) procurement services. The only observations the Department noted were: (1) Larger customers received more frequent visits from sales personnel, and (2) home market automotive customers received a higher level of service than other end users, though sales are at the same stage of marketing as all other home market sales.

Hoogovens argues that the record evidence does not even approach a showing of the level of differences in selling functions performed for different customers required for a finding of different LOTs under existing practice; citing AFBs at 33331; Certain Stainless Steel Wire Roads from France; Final Results of Antidumping Duty Administrative Review, 63 FR 30185 at 30190 (June 3, 1998), and *Pipe from Taiwan* at 1439.

Department's Position: Based on our examination of the selling functions performed for U.S. and home market ales, we agree Hoogovens that all sales are made at the same level of trade. Although in the preliminary results of review the Department invited the filing of additional information and comment on this issue, petitioners did not comment.

Final Results of Review

As a result of our review, we determine that the following weighted-average margin exists:

Manufacturer/exporter	Period of review	Margin (percent)
Hoogovens Staal B.V.	8/1/96–7/31/97	0.92

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. For assessment purposes, the duty assessment rate will be a specific amount per metric ton. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of review for all shipments of cold-rolled carbon steel flat products from the Netherlands entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) the cast deposit rate for the reviewed company will be the rate for that firm as stated above; (2) if the exporter is not a firm covered in this review, or the original less than fair value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (3) if neither the exporter nor the manufacturer is a firm covered in this review, the cast deposit rate will be 19.32 percent. This is the ''all others'' rate from the amended final determination in the LTFV investigation. See Amended Final Determination Pursuant to CIT Decision: Certain Cold-Rolled Carbon Steel Flat Products from the Netherlands, 61 Fed. Reg. 47871 (September 11, 1996). These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under section 353.26 of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and this notice are in accordance with sections 751(a)(1) and 771(i)(1) of the Act and sections 351.213 and 351.221 of the Department's regulations.

Dated: March 3, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–5945 Filed 3–9–99; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–852]

Initiation of Antidumping Duty Investigation: Creatine From the People's Republic of China

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

EFFECTIVE DATE: March 10, 1999.

FOR FURTHER INFORMATION CONTACT: Marian Wells, Blanche Ziv or Rosa Jeong, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–6309, (202) 482–4207, or (202) 482–3853, respectively.

Initiation of Investigation

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR Part 351 (1998).

The Petition

On February 12, 1999, the Department received a petition filed in proper form by Pfanstiehl Laboratories, Inc., referred to hereinafter as ''the petitioner.'' The petitioner filed supplemental information to the petition on March 1, 1999.

In accordance with section 732(b) of the Act, the petitioner alleges that imports of creatine from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring an industry in the United States.

The Department finds that the petitioner filed this petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it represents, at a minimum, the required proportion of the United States industry (*see* Determination of Industry Support for the Petition section below).

Scope of Investigation

For purposes of this investigation, the product covered is commonly referred to as creatine monohydrate or creatine. The chemical name for creatine covered under this investigation is N-(aminoiminomethyl)-N-methylglycine monohydrate. The Chemical Abstracts Service (CAS) registry numbers for this product are 57–00–1 and 6020–87–7. Pure creatine is a white, tasteless, odorless powder, that is a naturally occurring metabolite found in muscle tissue. The merchandise subject to this investigation is classifiable under subheading 2925.20.90 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

During our review of the petition, we discussed the scope with the petitioner to ensure the petition accurately reflects the product for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations (62 FR 27296, 27323), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments within 20 days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of our preliminary determination.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

Section 771(4)(A) of the Act defines the ''industry'' as the producers of a

domestic like product. Thus, to determine whether the petition has the requisite industry support, the Act directs the Department to look to producers and workers who account for production of the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to the law.[1] Section 771(10) of the Act defines the domestic like product as ''a product that is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation,'' *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

The domestic like product referred to in the petition is the single domestic like product defined in the ''Scope of Investigation'' section above. The Department has no basis on the record to find this definition of the domestic like product to be inaccurate. The Department, therefore, has adopted this domestic like product definition.

On February 19, 1999, the ITC presented us with information indicating that there are three additional producers of the domestic like product that were not included in the petition. Subsequently, our research also revealed one additional producer of the domestic like product not included in the petition. To determine whether the petitioner met the statutory requirement cited above, we contacted all companies identified by the ITC and the Department as well as the two companies included in the petition. Based on production data supplied by the petitioner and collected by the Department and now on the record, we determine that the petition has been filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. *See* Initiation Checklist dated March 4, 1999 (public version on file in the Central Records Unit of the Department of Commerce, Room B–099) (''Initiation Checklist'').

Export Price and Normal Value

The following is a description of the allegation of sales at less than fair value upon which our decision to initiate this investigation is based. Should the need arise to use any of this information in our preliminary or final determination for purposes of facts available under section 776 of the Act, we may re-examine the information and revise the margin calculations, if appropriate.

The petitioner identified five potential PRC exporters and producers of creatine. The petitioner based export price on offers for sale of the subject merchandise to U.S. purchasers by PRC exporters in November 1998 and January 1999. From these starting prices, the petitioner deducted international freight, marine insurance, and foreign brokerage and handling. The petitioner based international freight and marine insurance fees on current quotations from a U.S. freight forwarding company. In order to calculate foreign brokerage and handling, the petitioner used the value of Indian brokerage and handling charges, claiming that the petitioner does not have information on the costs associated with brokerage and handling incurred in the PRC prior to export to the United States. The foreign brokerage and handling charges, which were based on the Department's ''Index of Factor Values for Use in Antidumping Duty Investigations Involving Products From the PRC,'' dated June 1996 (''Index of Factor Values''), were adjusted for inflation using the Indian Wholesale Price Index (WPI).

Because the PRC is considered a nonmarket economy (NME) country under section 771(18) of the Act, the petitioner based normal value (NV) on the factors of production valued in a surrogate country, in accordance with section 773(c)(3) of the Act. The petitioner selected India as the most appropriate surrogate market economy. For the factors of production, the petitioner used its own factor inputs and consumption data for materials, labor and energy, based on the production process that the petitioner employed in 1993 and 1994. The petitioner did not include an amount for representative capital costs, including depreciation, as provided in subsection 773(c)(3)(D) of the Act. Thus, petitioner potentially understated costs, thereby providing a conservative calculation of the alleged dumping. According to information presented by the petitioner, the operation of the PRC producers of the subject merchandise has not reached the level of technology and efficiency represented by the petitioner's present manufacturing process. As such, the petitioner alleged that its production process of 1993 and 1994 most closely approximates that currently being utilized by the PRC producers of the subject merchandise. Where the 1993 and 1994 consumption data were unavailable (*i.e.*, electricity and water), the petitioner used its current data.

Materials were valued based on Indian prices obtained from the petitioner's market research of publicly available information and published price lists. Labor was valued using the regression-based wage rate for the PRC provided by the Department, in accordance with 19 CFR 351.408(c)(3). The values for water and electricity were obtained from international publications containing the prices applicable to India. The natural gas value was based on the Department's Index of Factor Values. The petitioner also valued the cost of disposing the waste generated in the production process using its own cost information. The petitioner used its own cost of waste disposal as facts available because it has no direct knowledge of the actual means of disposing of waste by the PRC producers. For factory overhead, selling, general and administrative expenses, and profit, the petitioner applied rates derived from information gathered from the Reserve Bank of India Bulletin. Packing factors were based on the Department's Index of Factor Values.

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of creatine from the PRC are being, or are likely to be, sold at less than fair value. Based on a comparison of EP to NV, the petitioner's calculated dumping margins range from 120.9 percent to 153.7 percent.

Allegations and Evidence of Material Injury and Causation

The petition alleges that the U.S. industry producing the domestic like product is being materially injured, and is threatened with material injury, by reason of the imports of the subject merchandise sold at less than NV. The allegations of injury and causation are supported by relevant evidence including U.S. Customs import data, lost sales, and pricing information. The

[1] *See Algoma Steel Corp. Ltd.*, v. *United States*, 688 F. Supp. 639, 642–44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass Therefore from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 FR 32376, 32380–81 (July 16, 1991).

Department assessed the allegations and supporting evidence regarding material injury and causation and determined that these allegations are supported by accurate and adequate evidence and meet the statutory requirements for initiation. *See* Initiation Checklist.

Allegation of Critical Circumstances

The petitioner has alleged that critical circumstances exist and has asked the Department to make an expedited finding. To support its allegation, the petitioner has provided evidence in the petition in the form of PIERS data showing, among other things, a trend of increased imports of the subject merchandise from the third to the fourth quarter of 1998. Specifically, petitioner contends that creatine imports from the PRC surged more than 150 percent from the third to the fourth quarter. The petitioner also provided evidence suggesting the person by whom, or for whose account, the merchandise is imported knew or should have known that the merchandise was being sold at less than fair value and that there was likely to be material injury as a result. Petitioner argues that its January 25, 1999 press release regarding alleged dumping of creatine in the United States provides the basis for this knowledge, and that the Department has accepted similar evidence of knowledge in other cases. *See Preliminary Determination of Critical Circumstances: Certain Flat-Rolled Carbon Quality Steel Products from Japan and the Russian Federation,* 63 FR 65750, 65751 (November 30, 1998). We find that the petitioner has alleged the elements of critical circumstances and supported them with reasonably available information. For these reasons, we will investigate this matter further and will make a preliminary determination based on available information at the appropriate time in accordance with 19 CFR 351.206. *See* Initiation Checklist.

Initiation of Antidumping Investigation

Based on our examination of the petition, we have found that the petition meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of creatine from the PRC are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is extended, we will make our preliminary determination by July 22, 1999.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representatives of the government of the PRC.

International Trade Commission Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will determine by March 29, 1999, whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury by reason of imports of creatine from the PRC. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is published in accordance with section 777(i) of the Act.

Dated: March 4, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–5943 Filed 3–9–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–412–803]

Industrial Nitrocellulose From the United Kingdom, Amended Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of amended final results of antidumping duty administrative review.

SUMMARY: On February 10, 1999, the Department of Commerce (the Department) published the final results of its administrative review of the antidumping duty order on industrial nitrocellulose (INC) from the United Kingdom. The review covers 1 manufacturer/exporter, and the period July 1, 1996, through June 30, 1997. Based on our analysis of a clerical error comment received, we determine the dumping margin for the reviewed manufacturer/exporter, Imperial Chemical Industries PLC (ICI), has changed.

EFFECTIVE DATE: March 10, 1999.

FOR FURTHER INFORMATION CONTACT: Todd Peterson or Thomas Futtner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–4195, or 482–3814, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 351 (62 FR 27296, May 19, 1997).

Background

On February 10, 1999, the Department published the final results (64 FR 6609) of its administrative review of the antidumping duty order on industrial nitrocellulose from the United Kingdom. The Department has now amended its final results in accordance with section 751 of the Act.

Scope of the Review

Imports covered by this review are shipments of INC from the United Kingdom. INC is a dry, white amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent, and is produced from the reaction of cellulose with nitric acid. INC is used as a film-former in coatings, lacquers, furniture finishes, and printing inks. The scope of this order does not include explosive grade nitrocellulose, which has a nitrogen content of greater than 12.2 percent.

INC is currently classified under Harmonized Tariff System (HTS) subheading 3912.20.00. While the HTS item number is provided for convenience and Customs purposes, the written description remains dispositive as to the scope of the product coverage.

Analysis of Comments Received

After publication of our final results, we received an allegation of ministerial error from the respondent that the Department agrees is a ministerial error and has corrected. According to the respondent, the Department's coding of a variable cost of manufacture in the SAS model match program did not function as intended which resulted in an improper calculation of adjustments for differences in merchandise. See memorandum to the file dated March 3, 1999, for a detailed description of the adjustment made.

Final Results of Review

As a result of the clerical error comment received, we have revised our final results and determine that the following margins exist for the period July 1, 1996, through June 30, 1997:

Manufacturer/exporter	Margin (percent)
Imperial Chemical PLC	13.00

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions concerning all respondents directly to the U.S. Customs Service. For assessment purposes, we have calculated an importer-specific duty assessment rate based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the same sales. The rate will be assessed uniformly on all entries of that particular company made during the POR.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed firms will be the rates indicated above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department or the LTFV investigation, the cash deposit rate will be 11.13 percent, the all others rate from the LFTV investigation.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of the APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) and 777(i)(1) of the Act.

Dated: March 3, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–5944 Filed 3–9–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–835]

Oil Country Tubular Goods, Other Than Drill Pipe From Japan: Notice of Extension of Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of extension of time limits for preliminary results of antidumping duty administrative review.

EFFECTIVE DATE: March 10, 1999.

FOR FURTHER INFORMATION CONTACT: Thomas Gilgunn, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0648.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (1998).

Extension of Time Limits for Preliminary Results

The Department of Commerce has received a request to conduct an administrative review of the antidumping duty order on oil country tubular goods from Japan. The Department initiated this antidumping administrative review for Sumitomo Metal Industries Ltd. on September 29, 1998 (63 FR 51893) and for Okura and Company on October 29, 1999 (63 FR 58009). The review covers the period August 1, 1997 through July 31, 1998.

Because of the complexity of certain issues, it is not practicable to complete these reviews within the time limits mandated by section 751(a)(3)(A) of the Act. Therefore, in accordance with that section, the Department is extending the time limits for the preliminary results to August 15, 1999. This extension of time limits is in accordance with section 751(a)(3)(A) of the Act.

Dated: March 1, 1999.

Joseph A. Spetrini,

Deputy Assistant Secretary for AD/CVD Enforcement III.

[FR Doc. 99–5942 Filed 3–9–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–028]

Notice of Amended Final Results of Antidumping Duty Administrative Review: Roller Chain, Other Than Bicycle, From Japan

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

ACTION: Notice of amended final results of antidumping duty administrative review.

EFFECTIVE DATE: March 10, 1999.

FOR FURTHER INFORMATION CONTACT: Jack K. Dulberger or Wendy Frankel, Office of AD/CVD Enforcement, Group II, Office IV, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W. Washington, D.C. 20230; telephone: (202) 482–5505 or (202) 482–5849, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise stated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, as amended

(the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are references to the provisions codified at 19 CFR part 351 (1998).

Amended Final Results

On November 10, 1997, the Department published the final results of its administrative review of the antidumping duty finding on roller chain, other than bicycle, from Japan (62 FR 60472). The review covers six manufacturers/exporters and the period of review (POR) is April 1, 1995, through March 31, 1996.

After publication of our final results, on November 17, 1997, we received timely allegations of ministerial errors with respect to the final results of administrative review for Daido Kogyo Co. Ltd., Daido Tsusho Co., Ltd., and Daido Corporation (collectively Daido) and Enuma Chain Manufacturing Co., Ltd. (Enuma). Based on the correction of certain ministerial errors made in the final results of review, we amended our final results with respect to these companies. *See* 62 FR 67345 (December 24, 1997).

Following the publication of the amended final results, Daido, Enuma, and Pulton Chain Co., Inc. (Pulton) (the parties) filed lawsuits with the United States Court of International Trade (CIT) challenging the Department's amended final results of administrative review. *See Daido Kogyo Co., et al. versus United States*, Consolidated Court No. 97–12–02115; and *Pulton Chain Co., Inc. versus United States*, Court No. 97–12–02116.

Following negotiations, the parties to these cases entered into settlement agreements. On February 11, 1999, the CIT approved the settlement agreements and dismissed the lawsuits. *See* Stipulation of Dismissal, *Pulton Chain Co., Inc. versus United States*, Court No. 97–12–02116; *Daido Kogyo Co., et al. versus United States*, Consolidated Court No. 97–12–02115.

As a result of the settlement agreements in these cases, we calculated the following amended margins for Daido, Enuma, and Pulton for the period April 1, 1995, through March 31, 1996, and are amending the final results of the antidumping administrative review of roller chain, other than bicycle, from Japan:

Manufacturer/exporter	Margin percent revised
Daido Kogyo Co., Ltd	0.84
Enuma Chain Mfg. Co., Ltd	0.98
Pulton Chain Co., Inc.	17.57

The Department shall determine, and the U.S. Customs Service (Customs) shall assess, antidumping duties on all appropriate entries. We will issue importer-specific appraisement instructions to Customs.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

We are issuing and publishing this determination in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1), 19 CFR 351.213, and 19 CFR 351.221(b)(5)).

Dated: March 3, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–5947 Filed 3–9–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

[Docket No. 9901 27034–9034–01]

RIN 0648–2A59

University of Virginia—Probabilistic Hydrometeorological Forecast System

AGENCY: National Weather Service (NWS), Commerce.

ACTION: Notice of intent to issue noncompetitive financial assistance award.

SUMMARY: NOAA issues this notice to announce its fiscal year 1999 plan to continue its financial support of research conducted by the University of Virginia (UVA) in collaboration with the NWS. NOAA and the UVA School of Engineering and Applied Science will continue to build upon a 9-year relationship to develop a prototype End-to-End (ETE) Probabilistic Hydrometeorological Forecast System. A series of unique pilot research projects between the UVA and NOAA serve as the framework and foundation for this ETE probabilistic system.

FOR FURTHER INFORMATION CONTACT: Sam Contorno, Science and Training Core, Office of Meteorology, NWS, Room 13316, 1325 East-West Highway, Silver Spring, Maryland 20910. Telephone: (301) 713–1970 x 193. E-mail: samuel.contorno@noaa.gov.

SUPPLEMENTARY INFORMATION: The probabilistic ETE hydrometeorological system is comprised of the following four components:

(1) The Probabilistic Quantitative Precipitation Forecasting (PQPF) System;

(2) The Probabilistic River Stage Forecasting (PRSF) System;

(3) The Flood Warning Decision System; and

(4) The User Response System.

Multiple collaborative activities will be completed within each of these components.

Subject to the availability of funds, NOAA intends to continue support of UVA during the fiscal year 1999 funding cycle. Given the unique scientific expertise and qualifications at UVA, and in light of the long-standing collaboration between UVA and NOAA which serves as the foundation for this project, the NWS believes the involvement of the UVA is essential to the successful completion, evaluation, and testing of the probabilistic ETE system.

NOAA does not intend to establish or fund new cooperative agreements at this time. This notice is not a solicitation for proposals. This research is not part of any competitive activity.

(Authority: 15 U.S.C. 313 and 49 U.S.C. 44720)

(Catalogue of Federal Domestic Assistance: Cooperative university partnerships in the areas of meteorology and hydrometeorology are listed in the Catalogue of Federal Domestic Assistance under number 11.467, Meteorologic and Hydrologic Modernization Development)

Dated: March 4, 1999.

John E. Jones, Jr.,

Deputy Assistant Administrator for Weather Services.

[FR Doc. 99–5869 Filed 3–9–99; 8:45 am]

BILLING CODE 3510–KE–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Science Foundation

[Docket No. 981211301–8301–01; I.D. No. 122398A]

RIN 0648–ZA53

Request for Proposals for the Global Ocean Ecosystems Dynamics Project

AGENCIES: Coastal Ocean Program, National Oceanic and Atmospheric Administration, Commerce and the National Science Foundation.

ACTION: Supplemental Notification for financial assistance for project grants.

SUMMARY: The purpose of this notice is to advise the public that the NOAA Coastal Ocean Program (COP) and the National Science Foundation (NSF) are soliciting 5-year proposals for the Global Ocean Ecosystems Dynamics (GLOBEC) Project. This program is a federal research partnership with NSF - Directorate for Geosciences, Division of Ocean Sciences.

DATES: The deadline for proposals is April 15, 1999 by 3:00 pm, local time.

ADDRESSES: Submit the original and two copies of your proposal to Coastal Ocean Program Office (GLOBEC 99), SSMC#3, 9th Floor, Station 9700, 1315 East-West Highway, Silver Spring, MD 20910. NOAA Standard Form Applications with instructions are accessible on the following COP Internet Site: http://www.cop.noaa.gov/cop-home.html.

Specific information about the NEP Study, including descriptions and points of contact of presently funded GLOBEC NEP projects, can be obtained from the following address or homepage: U.S. GLOBEC Northeast Pacific Coordinating Office, Department of Integrative Biology, University of California, Berkeley, CA 94720–3140; Phone: 510– 642–7452; Fax: 510–643–1142; Internet: halbatch@socrates.berkeley.edu or http://www.usglobec.berkeley.edu/nep/index.html

FOR FURTHER INFORMATION CONTACT: Technical Information:

Dr. Elizabeth Turner, GLOBEC Program Manager, COP Office, 301–713–3338/ext 135, Internet: Elizabeth.Turner@noaa.gov; or Dr. Phillip Taylor, NSF Division of Ocean Sciences, 703–306–1584, Internet: prtaylor@nsf.gov.

Business Management Information: contact Leslie McDonald, COP Grants Office, (301) 713–3338/ext 137, Internet: Leslie.McDonald@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

Research activities in the coastal Northeast Pacific (NEP) Ocean are supported by a number of organizations including the Division of Ocean Sciences (OCE), and the National Oceanic and Atmospheric Administration's (NOAA) Coastal Ocean Program (COP). NSF/OCE generally supports research projects focused on basic oceanographic and ecological processes and the study of natural systems. A component of NOAA's COP focus is directed toward developing tools and capabilities to improve ecosystem management. Environmental and resource management decisions are most appropriately based on knowledge gained from both basic and applied research.

Global Ocean Ecosystems Dynamics (U.S. GLOBEC) is a component of the U.S. Global Change Research Program, with the goals of understanding and ultimately predicting how populations of marine animal species (holozooplankton, fish and benthic invertebrates) respond to natural and anthropogenic changes in global climate. U.S. GLOBEC is also the U.S. component of the GLOBEC International program, a core project of the International Geosphere-Biosphere Program with co-sponsorship from the Scientific Committee on Oceanic Research and the Intergovernmental Oceanographic Commission.

This notice is under the auspices of the U.S. GLOBEC program within NSF/OCE and the regional ecosystem studies and U.S. GLOBEC initiatives of NOAA's COP. U.S. GLOBEC has identified ecosystem studies in the California Current System (CCS) and Coastal Gulf of Alaska (CGOA) as priorities for the next decade.

For complete Program Description and Other Requirements criteria, see COP's General Grant Administration Terms and Conditions initial notice in the Federal Register—63 FR 44237, August l8, 1998, and also at http://www.cop.noaa.gov/cop-home.html.

This notice requests proposals for:

(1) process-oriented field studies in the CCS;

(2) mesoscale surveys in the CCS;

(3) long-term observation projects in the CCS;

(4) modeling studies in the CCS and the CGOA; and

(5) retrospective studies in the CCS and the CGOA.

It is anticipated that a similar announcement will be issued approximately 1 year from now requesting research proposals for NEP studies in the CGOA, with field years in 2001 and 2003. In the event of a delay in the CCS program, the CGOA activities would be similarly delayed. Research Proposals For Field Work (Long-Term Observations, Mesoscale Surveys, Process-Studies) solely in the CGOA should not respond to this present notice.

To provide for long-term coordinated strategic planning of the NEP program in the CCS, proposals are being solicited now for all future U.S. GLOBEC research activities in the CCS. This includes process-study research in the two field phases of the CCS program. At this time, the major field process years are anticipated to occur in 2000 and 2002, contingent on the availability of funding. In the event that funding is insufficient to support a full field program in 2000, the field years will be delayed a year, occurring in 2001 and 2003, respectively.

In addition to soliciting research proposals for field work the U.S. GLOBEC CCS program in the NEP, this Notice is requesting proposals for modeling and retrospective analysis that augments or complements existing U.S. GLOBEC NEP efforts in these components. Modeling and retrospective proposals submitted in response to this Notice need not be CCS-specific, but those that are peripheral to the core activities in the CCS will have lower priority than those focusing on the CCS.

U.S. GLOBEC emphasizes studies on the biology/ecology of juvenile salmon, the euphausiids *Euphausia pacifica* and *Thysanoessa spinifera*, several large copepoda, and forage fishes (salmon prey) in coastal regions of the North Pacific and how these populations are controlled by climatically variable physical forcing, especially at large to meso-scales. Several other national and international programs will examine similar ecosystems and processes, and proposers should be aware of these ongoing and planned efforts.

The Pacific component of Canada GLOBEC is conducting similar ecosystem studies on La Perouse Bank off the western coast of Vancouver Island; the NOAA-sponsored Pacific Northwest Coastal Ecosystems Regional Study program is carrying out studies on near shore and estuarine processes related to the estuarine phase of salmon life history in the U.S. Pacific Northwest (1998–2001); the California Cooperative Oceanic Fisheries Investigations (CalCOFI) Program is in its fifth decade of study on fish and zooplankton populations off the coast of southern California. The North Pacific Marine Science Organization Climate Change

and Carrying Capacity (CCCC) Program emphasizes comparative studies of ecosystems along the continental margins of the north Pacific, examining all trophic levels, but with special emphasis on salmon. U.S. GLOBEC's studies in the Northeast Pacific region are an integral part of the pan-North Pacific CCCC effort.

In addition to these ongoing studies, the Coastal Ocean Processes (CoOP) program plans studies for 2000 and 2001 in a strongly, wind-driven region of the CCS, at a specific site still to be determined. These national and international investigations and others (such as the recently begun, salmon-sampling program in the Columbia River plume and adjacent waters, funded by the Bonneville Power Authority [BPA]) complement the studies being done and the research planned by U.S. GLOBEC in the NEP. They provide a unique opportunity for both regional and inter-regional comparisons and the evaluation of large-scale climatic influences (e.g., the El Nino and Southern Oscillation) on several pan-North Pacific species (e.g., salmon and *Euphausia pacifica*).

The U.S. GLOBEC Northeast Pacific Implementation Plan (U.S. GLOBEC, Report No. 17) was developed following several community-wide meetings at which U.S. scientists from the oceanographic and fisheries communities identified key scientific issues and research prospectuses for the NEP. The overall objectives of the U.S. GLOBEC program are described in the U.S. GLOBEC Initial Science Plan (Report No. 1). Background information pertinent to the Northeast Pacific is found in U.S. GLOBEC, Report Nos. 7, 11, 15 and 16. This GLOBEC report provides the most up-to-date guidance about the NEP program and supplements and, to a limited extent, supplants all earlier documents.

Investigators who plan to submit proposals in response to this announcement should refer first to this GLOBEC notice, and secondarily to the Northeast Pacific Implementation Plan (U.S. GLOBEC, Report No. 17). Copies of these documents are available from the following address or homepage:

U.S. GLOBEC Coordinating Office, Center for Environmental and Estuarine Studies, the University of Maryland System, Chesapeake Biological Laboratory, P.O. BOX 38, Solomons, MD 20688; Phone: 410–326–7289; Fax: 410–326–7318; Internet: fogarty@cbl.cees.edu, or http://cbl.umces.edu/fogarty/usglobec/

The recommendations contained in the U.S. GLOBEC, Report No. 17 present the rationale for a coordinated study in the Northeast Pacific in two regions: the CGOA and the CCS, ranging from Washington to Central California. Critical to that rationale is the observation that the salmon production domains, both in the CGOA and CCS co-vary, but are out of phase. Field programs will alternate between the CCS and CGOA in successive years.

U.S. GLOBEC proposes to investigate this coupling and the biophysical mechanisms through which zooplankton and salmon populations respond to physical forcing and biological interactions in the coastal regions of the two gyres. This will be accomplished through a combination of modeling, retrospective data analysis, long-term observations (LTOP), mesoscale surveys, and focused field programs. This document solicits proposals for all components of the NEP program, with the exception of LTOP's, mesoscale surveys and process oriented field studies focused exclusively on CGOA. A future notice will request applications to support research on the CGOA activities outlined in previous paragraphs.

Proposals are currently requested for mesoscale surveys and process oriented field studies, and

(1) to execute CCS field programs, including LTOPs, and

(2) for retrospective data analysis and modeling in the NEP (both CCS and CGOA). Contingent on the availability of funds, mesoscale surveys and process oriented field studies will occur in the CCS in 2000 and in 2002.

Process oriented field studies in 2000 will focus on the effects of upwelling and cross-shelf exchange on the population dynamics of the target organisms north and south of Cape Blanco, OR. When feasible (when timing and geography overlap), parts of the field program may be carried out in close coordination with nearshore interdisciplinary studies of the effects of wind-driven transport conducted by the NSF-funded CoOP program slated to take place in 2000 and 2001.

Process-oriented studies in 2002 will focus on the effects of upwelling and three-dimensional mesoscale circulation on the population dynamics of the target species north and south of Cape Blanco. Biotic processes and interactions, including factors affecting primary production and predation processes, will be studied in both 2000 and 2002.

In the event that funding levels cannot support simultaneous studies north and south of Cape Blanco, it may be necessary to conduct studies north of the cape in 2000 and south of the cape in 2002. Proposals should consider contingency plans to accommodate such changes.

The NEP CCS study is not restricted to the continental margin and shelf, but encompasses also the processes and phenomena of the larger oceanic boundary region that affect the CCS. U.S. GLOBEC began funding activities in the NEP in 1997. The initial phases of this inter-agency research program have supported integrated, multi-investigator, inter-disciplinary programs of modeling, retrospective analysis, and pilot-scale monitoring (henceforth referred to as LTOP. Proposers are advised to refer to the preliminary results from these programs (see http://www.usglobec.berkeley.edu/nep/index.html) prior to preparation of new proposals.

Ultimately, the U.S. GLOBEC effort in the NEP has an overall goal of improving predictability and management of living marine resources of the region through improved understanding of ecosystem interactions and the coupling between the physical environment and the living resources.

Program Goals

The overall goals of the GLOBEC Northeast Pacific program are: (1) To determine how biological processes and characteristics of zooplanktonic populations are affected by mesoscale features and dynamics in the Northeast Pacific; and

(2) To quantify the biological and physical processes that determine growth and survival of juvenile salmon in the coastal zone.

Within these overall goals, the NEP/CCS process-oriented field program has four general goals:

(l) To determine how changing climate, especially its impacts on local wind forcing and basin-scale currents, affect

spatial and temporal variability in mesoscale circulation and vertical stratification.

(2) To quantify how physical features in the CCS impact zooplankton biomass, production, distribution, and the retention and loss of zooplankton from coastal regions, with particular emphasis on the euphausiids *Euphausia pacifica* and *Thysanoessa spinifera* and *calanoid copepods*, and how these, in turn, influence the distributions of higher trophic levels.

(3) To quantify the impacts of, first, primary and secondary production, second, intensity and effectiveness of upwelling, third, cross-shelf transport associated with wind-driven upwelling, and fourth, variability in the timing of the spring transition, on controlling

juvenile salmon growth and survival in the coastal zone of the CCS.

(4) To determine the extent to which high and variable predation mortality on juvenile coho and chinook salmon in the coastal region of the California Current is responsible for large interannual variation in adult salmon populations, and the factors responsible for the variable predation intensity.

Toward these ends, the Northeast Pacific field program has been structured to 2 years of intensive study (2000 and 2002) in the CCS. The geographic domain of the study extends from approximately Newport, OR, to approximately Eureka, CA, and encompasses two different physically forced regimes as described in previous U.S. GLOBEC reports (Report Nos. 11 and 17).

Three dimensional mesoscale surveys (through ship, drifter, mooring and satellite observations) and process oriented field studies will be conducted over a 7-month period (around March through September) in each of the two intensive, process-study years. LTOP observations will continue during the ''off'' years 1999, 2001, and 2003.

During field years, the LTOP program will include mesoscale surveys of physical conditions and biological distributions in spring and fall. The surveys will provide the short-term spatial context for the process oriented field studies and will provide three-dimensional data to supplement the predominantly two-dimensional LTOP data.

U.S. GLOBEC process-oriented field research will focus on target species chosen to represent key elements of the marine ecosystem in the northern part of the CCS. These are the euphausiids *Euphausia pacifica* and *Thysanoessa spinifera,* calanoid copepods, and juvenile coho and chinook salmon. A broader suite of species may be the focus of modeling and retrospective studies as described in Table 4 of the U.S. GLOBEC, Report No.. 17, page 26.

The primary focus of process oriented field studies will be on:

(1) Physical (e.g., stratification intensity; timing of the spring transition; intensity of upwelling) and biological (e.g., prey and predator abundance and distributions) factors influencing the population dynamics and vital rates of juvenile salmon and other target taxa (euphausiids, copepods) in the coastal region;

(2) Retention and loss of populations of target species, as impacted by mesoscale circulation and cross-shelf transport into the coastal jet off Oregon/No. Calif. (loss) or maintenance in the coastal upwelling zone (retention); and

(3) Comparison of these processes (1,2) north and south of Cape Blanco, Oregon.

Structure of the CCS Research Program

The NEP Study will comprise of five major components:

(1) Long-term observation programs (LTOP),

(2) Mesoscale surveys,

(3) Process-oriented field studies,

(4) Modeling investigations, and

(5) Retrospective/comparative analysis.

The large range of spatial and temporal scales of important forcing processes and responses in the NEP requires a nested sampling approach (and some associated tradeoffs), which is reflected in the descriptions of the long-term observation programs, mesoscale surveys, and process-studies listed here.

Long-Term Observation Programs

LTOP have already been established by U.S. GLOBEC at two NEP sites: the first along the Gulf of Alaska (GAK) transect extending offshore from Seward, AK, and, the second, along several offshore extending transects off Newport and Coos Bay, OR. In both regions, the programs are sampling ocean physics, nutrients, and biology at approximately bimonthly intervals (both projects are described on the NEP web site).

GLOBEC is an ecosystem program that focuses on zooplankton and juvenile salmon in the NEP, but we encourage sampling of phytoplankton and nutrients as well. The LTOPs provide the fundamental seasonal description of the physical, chemical and biological environment that is required to complement the mesoscale surveys and process oriented field studies.

Moreover, U.S. GLOBEC LTOPs, in conjunction with observations at other sites by other programs (Canada GLOBEC, CalCOFI, Ocean Carrying Capacity) will document the low-frequency, large amplitude signals (e.g., regime shifts, El Ninos) that occur at the largest spatial scales in the Pacific. LTOPs are primarily two-dimensional (2–D) cross-shelf descriptions, which may miss important spatial features and processes of the marine ecosystem.

Mesoscale surveys (described here) conducted twice (spring and fall) during process-study years will provide the spatially resolved three-dimensional data required to evaluate how well local LTOP data generalize to a broader region. Data from the mesoscale surveys will be used to bridge the gap between the low spatial, but annual and long-term coverage of the LTOPs, and the intensive, but spatially limited process studies.

LTOP projects may make use of multi-disciplinary moorings, long-term drifter deployments, and analysis of satellite data, in addition to seasonal ship observations. There is a continuing need for long-term mooring-based and drifter-based observations and interpretation of regional satellite data, that provide the broadest temporal (moorings, drifters) and spatial (satellites) resolution and coverage. This notice solicits proposals to conduct core LTOP observations in regions both north and south of Cape Blanco. Projects proposing to conduct LTOP observations north of Cape Blanco should consider existing LTOP programs in place.

There is presently no LTOP program for the region between Cape Blanco and Eureka, CA. We seek proposals to undertake core LTOP studies at two or more transects between Cape Blanco and Eureka, CA.

Present and prospective U.S. GLOBEC LTOP programs should consider (1) how they meet future U.S. GLOBEC needs, particularly for process oriented field studies, and (2) how they mesh into the larger framework of a coastwide network of programs undertaking repeated observations of ocean physics and biology at all trophic levels.

Moreover, potential LTOP projects should contact the principals of existing LTOP projects to ensure that methodologies are comparable (see the NEP web site) among all of the LTOP sites.

Three-Dimensional Mesoscale Surveys

Ship surveys are needed to determine the distribution and abundance of the target species in relation to their physical environment during the period of euphausiid recruitment and juvenile salmon entry into the ocean (March to September). This period encompasses the spring-transition in the CCS, the initiation of upwelling and its ramifications for production, and the period of ocean entry by juvenile salmon and their first summer of growth.

Spatially, the ship-based mesoscale sampling should encompass both the nearshore upwelling region and the coastal jet that ultimately carries a large portion of the flow of the CCS. High priority will be given to proposals that would survey a region extending from approximately Newport, OR, to Eureka, CA, i.e., about 500 km along shore, and extending from nearshore to 100 km (perhaps more south of Cape Blanco,

where the jet meanders further from shore).

The fundamental objective of the mesoscale studies is to provide the basis for comparisons of population processes and their coupling to the physical structure and variability of the environment and to examine these processes in the two regimes separated by Cape Blanco, OR. The mesoscale studies will provide a regional context for the *in situ,* process oriented field studies (described here) and provide further data to evaluate the environment for juvenile salmon. Mesoscale studies will complement and be complemented by LTOP characterizations and descriptions of the physical and biological conditions of the nearshore and offshore ocean environment. Surveys will provide data required to evaluate coupled circulation-ecosystem models being developed for the NEP study sites and for assimilation of data into these models.

Presently, the Oregon LTOP effort samples Coos Bay and Newport lines 5 times per year. It is anticipated that the mesoscale surveys will be conducted at a given site only in years of process-studies and that only two mesoscale surveys per year focused on critical periods in the life history of the target species (spring and fall) will be done. Mesoscale surveys in spring and fall will augment, and must coordinate with, spring and fall LTOP observations.

Salmon Sampling

Sampling of juvenile salmon (trawling) in the region extending from Newport, OR, to Eureka, CA, is a critical addition to the CCS component of the NEP program since salmon are a target species of the program. Salmon sampling in this region will complement existing efforts to describe salmon abundance, distribution, and condition in the vicinity of the Columbia River plume by the Bonneville Power Authority (BPA), in British Columbia (Canadian GLOBEC) and by NMFS programs further south (Gulf of Farallones) and north (SE Alaska, Auke Bay, and off Prince William Sound).

Proposals are requested that will provide spatial descriptions of juvenile coho and chinook salmon and their forage prey in this region at the time of ocean entry (approximately April through May) and at the end of the first summer in the ocean (approx. September).

These collections would also be useful for examining:

(1) Trophic relationships in the nearshore ecosystem, and (2) Genetic structure/stock identity of the salmonids. Highest priority will be given to salmon sampling in the field during process-study years, but, contingent on the availability of funding and perceived program needs, salmon sampling in ''off'' years might be supported as well. Investigators proposing to sample juvenile salmon in Oregon and Northern California should coordinate sampling plans/gear with both the CGOA salmon sampling effort and other juvenile salmon trawling efforts on the west coast (e.g., NMFS research).

Process oriented field studies

Earlier U.S. GLOBEC reports (Reports Nos. 7, 11) provide the rationale for conducting ecosystem studies in coastal regions both north and south of Cape Blanco—primarily because of regional differences in seasonality and intensity of the physical forcing. For example, mesoscale activity is much more pronounced south of Cape Blanco than further north. Mesoscale features are important to biological processes in many regions (e.g., Arabian Sea from recent Joint Global Ocean Flux Study (JGOFS) results and are likely to be very important in the CCS. Detailed investigations of mechanisms linking biological response to physical forcing at the mesoscale and other scales will be accomplished in process-study cruises.

Specifically, the physical and biological processes that control the population dynamics of the target species will be examined in process oriented field studies. The northern CCS region has, as its main features, a nearshore zone of moderate coastal upwelling, which is strongest in spring and summer, and offshore, a relatively narrow jet that, south of Cape Blanco, represents a substantial proportion of the southward transport of the CCS. Biological populations entrained in this highly advective jet, with surface velocities exceeding 40 cm/sec, are transported rapidly southward. As wind-driven upwelling intensifies early in the year, the upwelling region expands and the jet tends to move further offshore.

The three-dimensional, time-dependent circulation is understood conceptually but not in detail. The exchange of physical and biological properties across the frontal zones associated with both the nearshore upwelling and offshore jet regions can influence the supply of nutrients for primary production, the retention (loss) of the target species and their prey in (from) the coastal zone, and interactions between the target species, their prey, and their predators.

Cross-frontal exchange is influenced by physical processes that determine the location, deformation, and movement of the front, including tides, winds, seasonal heating/cooling, and offshore forcing, and by biological characteristics and behavior that may enhance or minimize exchange. Fronts often are regions of aggregation for marine plankton, both because of such physical processes as divergence or convergence and of such biological responses as enhanced production or behavior (i.e., depth-keeping swimming).

Such aggregations of plankton may provide an enhanced food source for predators, including juvenile salmon. Fine-scale description of the physical and biological fields comprising fronts may reveal aggregations of phytoplankton and zooplankton associated with specific physical (e.g., density, temperature) structures. Determination of the population structure of target organisms within the study area is further identified as an area of critical research.

It is recognized that, because of the movement and migratory patterns of juvenile salmon and consideration of their current low abundance, process oriented field studies of chinook and coho salmon may require work outside the region from Newport, OR, to Eureka, CA, to ensure success. Proposals that focus in geographical locations outside the principal study area should closely consider the availability of complementary sampling programs (e.g. BPA funded monitoring in the Columbia River plume) to provide a broader geographical context for their studies. Proposers seeking additional contact information concerning related NEP programs should contact the U.S. GLOBEC Northeast Pacific Coordinating Office at the address earlier in this document.

Questions to be addressed by process oriented field studies in the CCS include:

(1) What is the time-dependent three-dimensional circulation associated with the nearshore upwelling zone, the offshore jet, and the fronts associated with these features in the CCS?

(2) How do mesoscale transport processes affect the recruitment, vital rates, and other measures of population dynamics of the target species?

(3) What are the exchange rates, due to frontal processes, of water properties and the target species between the upwelling zone and the offshore jet? What are the consequences for individual and population growth rates of these exchanges?

(4) How do biological and physical processes interact to control cross-shelf exchange of target organisms?

(5) Does frontal movement (e.g., seasonal expansion of the nearshore upwelling region) influence the exchange of water and organisms across fronts?

(6) How does distribution, growth and survival of juvenile coho and chinook salmon depend on the timing and intensity of coastal upwelling, availability and distribution of their prey, and alternative prey for juvenile salmon predators?

(7) How are salmon distributed in relation to mesoscale physical features, and what are the mechanisms responsible for the observed patterns?

(8) What are the dominant predators, and what are their feeding rates and impacts on juvenile salmon during the period they sit the coastal zone of the CCS?

Modeling

The research conducted during the CCS study will result in a significant archive of data concerning abundance and distribution of the target species, source regions, vital rates, and trophic interrelationships. Also expected are specific estimates of population dynamics parameters arrived at by inverse modeling. These archives and tools will provide significant opportunities for hypothesis testing concerning biophysical processes.

The program is expected to progress toward a data-assimilative capability, wherein LTOP and mesoscale survey data are incorporated into coupled biophysical models. In addition, process-oriented model studies are encouraged.

Finally, the forthcoming U.S. GLOBEC studies of euphausiids, copepods, and salmon in the CGOA, provide an opportunity for larger (basin) scale modeling of coupled biological/physical dynamics. Studies of *Calanus* across the North Atlantic and of *Euphausia superba* in the Southern Ocean provide opportunities for broader, global-scale comparisons of biophysical/population dynamics among congeners.

This document solicits additional modeling proposals that complement existing projects (described on the GLOBEC NEP web site), that provide additional breadth to the program by examining responses at additional trophic levels, and that explore processes in other targeted regions of the northeast Pacific.

Proposals responding to this request for additional modeling activities in the NEP may deal with the CGOA, the CCS, or both. Priority will be given to projects that complement or significantly augment ongoing modeling efforts—for example, evaluating the impact of other prey (e.g., forage fish) on salmon survival and distribution.

Retrospective/Comparative Analysis

The first notification for NEP studies in the U.S. GLOBEC program resulted in the funding of eight retrospective projects. Abstracts of these projects are available in U.S. GLOBEC News, No. 12 and on the NEP web site. Projects proposing retrospective analysis should document or address population variability of key species (see U.S. GLOBEC, Report No. 17) in NEP ecosystems on several different time and space scales. These studies should also examine linkages between physical and biological processes on these different scales. Previous U.S. GLOBEC reports (see especially U.S. GLOBEC Report, Nos. 11 and 15) review some of the kinds of data sets and research approaches suitable for examining links between climate variability, ocean physics and marine animal populations in the NEP.

Retrospective analysis may include:

(1) Examination of historical records (e.g., fish scales or other hard parts in marine sediments) of population abundances of fishes and other species to document effects of oceanic variability on population abundance,

(2) Documentation of decadal, interannual and perhaps geographical variability in individual growth of juvenile salmon and prey species as recorded in fish scale circuli and otoliths, and

(3) Molecular analysis of archival collections of key species to estimate historical patterns of spatial and temporal genetic variability.

NEP retrospective analysis should attempt to test the core GLOBEC NEP hypotheses relating to the linkage between climate and ocean variability and population variability. Other research approaches and examinations of other existing data sets may be appropriate for retrospective examination provided that they address the critical NEP GLOBEC mandates emphasized in this document.

U.S. GLOBEC's phase III research in the Northwest Atlantic (1999 process studies) also focuses on cross-frontal exchange and provides opportunities for comparative investigations of cross-frontal exchange between the two systems (CCS and Georges Bank). Moreover, the CCS ecosystem is one of many eastern boundary current ecosystems (Benguela, North Africa, Humboldt) with which comparisons could be made. Similarly, the predominantly downwelling, buoyancy-driven coastal ecosystem of the CGOA could be compared with similar ecosystems across the globe.

Part I: Schedule and Proposal Submission

The guidelines for proposal preparation provided here are mandatory. Proposals received after the published deadline or proposals that deviate from the prescribed format will be returned to the sender without further consideration. This announcement and additional background information will be made available on the COP home page on the World Wide Web at http://www.cop.noaa.gov/cop-home.html.

This opportunity is open to all interested, qualified, non-federal, and Federal researchers. Non-NOAA federal applicants will be required to submit certifications or documentation which clearly show that they can receive funds from the Department of Commerce (DOC) for this research. Foreign researchers must subcontract with U.S. proposers. Non-federal researchers should comply with their institutional requirements for proposal submission. DOC requirements will prevail if there is a conflict between DOC requirements and institutional requirements. Non-federal researchers affiliated with NOAA-University Joint Institutes should comply with joint institutional requirements. Proposals deemed acceptable from Federal researchers will be funded through NOAA via a mechanism other than a grant or cooperative agreement; non-federal awardees will be funded through their joint institutes, as appropriate, or through a grant from NOAA or NSF. Proposals selected for NSF funding will be required to submit additional forms and paperwork for grants processing directly to NSF.

Full Proposals

Proposals submitted to this announcement must include the original and two unbound copies of the proposal. Investigators are not required to submit more than three copies of the proposal; however, the normal review process requires twenty copies. Investigators are encouraged to submit sufficient proposal copies for the full review process if they wish all reviewers to receive color or high-resolution graphics, unusual- sized materials (not 8.5 x 11''), or otherwise unusual materials submitted as part of the proposal. Facsimile transmissions and electronic mail submission of full proposals will not be accepted.

Required Elements

All recipients are to closely follow the instructions and guidelines in the preparation of the standard NOAA Application Forms and Kit requirements listed in paragraph under Part II: Further Suppementary Information. Each proposal must also include the following eight elements:

(1) Signed Summary title page—The title page should be signed by the Principal Investigator (PI) and the institutional representative. The Summary Title page identifies the project's title starting with the acronym GLOBEC, a short title less than 50 characters), and the lead PI's name and affiliation, complete address, phone, FAX, and E-mail information.

(2) One-page abstract/project summary—An abstract must be included and should contain an introduction of the problem, rationale, scientific objectives and/or hypotheses to be tested, and a brief summary of work to be completed. The abstract should appear on a separate page, headed with the proposal title, institution(s), investigator(s), total proposed cost, and budget period.

(3) Statement of work/project description—The first section of the Project Description must be a Statement of Work for Year One, followed by a section of Relevant Results from Prior Support (not to exceed five pages). The remainder of the Project Description is as follows: The proposed project must be completely described, including identification of the problem, scientific objectives, proposed methodology, relevance to the overall goals of the GLOBEC NEP program, and its scientific priorities.

Project management should be clearly identified with a description of the functions of each principal investigator within a team. It is important to provide a full scientific justification for the research; do not simply reiterate justifications presented in this notice. The project description section (including Relevant Results from Prior Support,) should not exceed 15 pages.

Both page limits are inclusive of figures and other visual materials, but exclusive of references and milestone chart. This section should also include:

(a) the objective for the period of proposed work and its expected significance;

(b) the relation to the present state of knowledge in the field and relation to previous work and work in progress by the proposing principal investigator(s);

(c) a discussion of how the proposed project lends value to the overall GLOBEC NEP program goals, and

(d) potential coordination with other investigators.

(e) References cited—Reference information is required. Each reference must include the name(s) of all authors in the same sequence in which they appear in the publications, the article title, volume number, year of publications, and page numbers. While there is no established page limitation, this section should include bibliographic citations only and should not be used to provide further annotated information outside the 15–page project description.

(4) Milestone chart—Time lines of major tasks covering the duration of the proposed project up to 60 months.

(5) Budget—Applicants must submit the Facesheet, Standard Form 424 (Rev 7–97), ''Application for Federal Assistance'', to indicate the total amount of funding proposed for the whole project period. Proposals must also include annual budgets which correspond with the descriptions provided in the statement of work. Therefore, applicants are also required to submit the Standard Form 424A (Rev 7–97), ''Budget Information - Non-Construction Programs'' in order to provide a detailed budget for fiscal year increments (1999, 2000, . . . 2003).

Include a budget narrative/justification to support all proposed budget object class categories. Note that for multi-year project periods, the out-year budget estimates are to be included in Section E, page 2, on the Standard Form 424A. These forms are included on the COP website listed under Part II, section (10) Application Forms and Kit. The program office shall review the proposed budgets to determine the necessity and adequacy of proposed costs for accomplishing the objectives of the proposed grant.

NSF requires information on ship requirements in order to schedule time on University-National Oceanographic Laboratory System (UNOLS) vessels. Ship requirements and costs do not need to be included on the budget forms SF 424 or SF 424A, but must be separately identified to NSF by submitting a NSF-UNOLS Ship Time Request Form (available from UNOLS Office, University of Rhode

Island, P.O. Box 392, Saunderstown, RI 02874, Telephone:

(401) 874-6825, Fax: (401) 874-6486, and email address:

unols@gsosun1.gso.uri.edu.

The form is included as Appendix A of ''Instructions for Preparation of Proposals Requesting Support for Oceanographic

Facilities'', NSF 94–124. The form is also available via the UNOLS web site at http://www.gso.uri.edu/unols/ship/shiptime.html. Paper copies may be requested from UNOLS, but the electronic version is strongly preferred for ease of information exchange and processing. If no ship time is required, submit the UNOLS form and indicate that no shiptime is required.

(6) Biographical sketch—Abbreviated curriculum vitae, two pages per investigator, are sought with each proposal. Include a list of up to five publications most closely related to the proposed project and up to five other significant publications. A list of all persons (including their organizational affiliation), who have collaborated on a project, book, article, or paper within the last 48 months should be included in alphabetical order. If there are no collaborators, this should be so indicated. Students, post-doctoral associates, and graduate and postgraduate advisors of the PI should also be disclosed. This information is used to help identify potential conflicts of interest or bias in the selection of reviewers.

(7) Current and pending support—NSF requires information on current and pending support of all proposers. Describe all current and pending support for all PIs, including subsequent funding in the case of continuing grants. A model format is available on NSF Form 1239, available at http://www.nsf.gov/cgi-bin/getpub?99form1239. This form is part of the NSF Grant Proposal Guide and Proposal Forms Kit. Use of this form is optional; however, the categories of information included on the NSF Form 1239 must be provided.

All current support from whatever source (e.g., Federal, state or local government agencies, private foundations, industrial or other commercial organizations) must be listed. The proposed project and all other projects or activities requiring a portion of time of the PI and other senior personnel should be included, even if they receive no salary support from the project(s). The total award amount for the entire award period covered (including indirect costs) should be shown as well as the number of person-months per year to be devoted to the project, regardless of source of support.

(8) Proposal format and assembly—Clamp the proposal in the upper left-hand corner, but leave it unbound. Use one inch (2.5 cm) margins at the top, bottom, left and right of each page. Use a clear and easily legible type face in standard 12 points size. Print on one side of the page only.

Part II: Further Supplementary Information

(1) Program Authorities: 33 U.S.C. 1121; 33 U.S.C. 883a *et seq.* 33 U.S.C. 1442; l6 U.S.C. 1456c; and the National Science Foundation Act of l950, as amended (42 U.S.C. l86l–75)

(2) Catalog of Federal Domestic Assistance Numbers: 11.478 for the Coastal Ocean Program; and 47.050 for the National Science Foundation.

(3) Program Description: See initial COP General Notice—63 FR 44237, August 18, 1998.

(4) Funding Availability: Funding is contingent upon receipt of fiscal years 1999 - 2003 federal appropriations. The anticipated maximum annual funding for NEP GLOBEC activities is approximately $6 to $8 million, which may not occur until 2001; until then the program expects increments from its current level of approximately $2.5 million per year. Of the annual total, approximately half will be devoted to CCS activities, and half to CGOA research.

If an application is selected for funding, NSF and NOAA have no obligation to provide any additional prospective funding in connection with that award in subsequent years. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the funding agencies. Not all proposals selected will receive funding for the entire duration of the CCS program. Moreover, start dates for some proposals may be delayed, or proposals may be funded for the second of the two field years only. Proposals selected for funding by NSF must comply with NSF grants administration requirements for any additional budget forms required by that agency. Publication of this announcement does not obligate any agency to any specific award or to obligate any part of the entire amount of funds available.

(5) Matching Requirements: None.

(6) Type of Funding Instrument: Project grants

(7) Eligibility Criteria: Opportunity is extended to universities, colleges, junior colleges, technical schools, institutions, laboratories, and non-profit organizations. Non-federal researchers should comply with their institutional requirements for proposal submission. Federal researchers in successful multi-investigator proposals will be funded through NOAA as NSF does not normally support research or education activities by scientists, engineers, or educators employed by Federal agencies or Federally Funded Research and Development Centers (FFRDCs).

(8) Award Period: Full Proposals can cover a project period from 1 to 5 years, i.e. from date of award for up to 60 consecutive months. Multi-year project period funding may be funded incrementally on an annual basis. For NOAA awards, each annual award shall require a Statement of Work that can be easily separated into annual increments of meaningful work which represents solid accomplishments if prospective funding is not made available, or is discontinued.

(9) Indirect Costs: If indirect costs are proposed, the following statement applies: The total dollar amount of the indirect costs proposed in an application must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award.

(10) Application Forms and Kit: When applying for financial assistance under this announcement, applicants will be able to obtain a copy of the Federal Register announcement and a standard NOAA Application Kit from the COP home page at the following World Wide Web address: http://www.cop.noaa.gov/cop-home.html. If you are unable to access this information, you may also call COP at (301) 713–3338, extension 116 to leave a mail request.

The Standard Forms 424 (Rev July 1997) Application for Federal Assistance; 424A (Rev July 1997); Budget Information - Non-Construction Programs; and 424B (Rev July 1997) Assurances - Non Construction Programs, shall be used in applying for financial assistance. In addition, Forms CD–511, Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying; CD–512, Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying (this certification is to remain with the recipient and is not forwarded to the Grants Officer); and SF-LLL, Disclosure of Lobbying Activities, if applicable.

(11) Project Funding Priorities: Priority consideration will be given to a set of proposals that provide balanced coverage of the overall goals of the GLOBEC Northeast Pacific program and avoid substantial duplication of completed or ongoing work.

(12) Evaluation Criteria: Consideration for financial assistance will be given to those proposals that address one or more of the overall GLOBEC NEP program goals listed above and meet the following evaluation criteria:

(a) Scientific Merit (20 percent): Intrinsic scientific value of the subject and the study proposed.

(b) Relevance (20 percent): Importance and relevance to the overall goals of the GLOBEC NEP program and to the process oriented field program goals listed above.

(c) Methodology (20 percent): Focused scientific objective and strategy, including measurement strategies and data management considerations; project milestones; and final products.

(d) Readiness (20 percent): Nature of the problem; relevant history and status of existing work; level of planning, including existence of supporting documents; strength of proposed scientific and management team; past performance record of proposers.

(e) Linkages (10 percent): Connections to existing or planned national and international programs; and partnerships with other GLOBEC participants, when appropriate.

(f) Costs (10 percent): Adequacy of proposed resources; appropriate share of total available resources; prospects for joint funding; identification of long-term commitments.(Matching funding is encouraged, but is not required.)

(13) Selection Procedures: All proposals will be evaluated and ranked individually in accordance with the assigned weights of the above evaluation criteria by (a) independent peer mail review and by (b) independent peer panel review. Both NOAA and non-NOAA experts in the field may be used in this process. The peer mail reviewers will be several individuals with expertise in the subjects addressed by particular proposals. Each mail reviewer will see only certain individual proposals within their area of expertise, and rank them individually on a scale of one to five, where scores represent respectively; excellent, very good, good, fair, poor.

The peer panel will be comprised of 4 - 8 individuals, with each individual having expertise in a separate area, so that the panel as a whole covers a range of scientific expertise. The panel will have access to the mail reviews of all proposals, and will use the mail reviews in discussion and evaluation of theentire slate of proposals. Each panel member will rank proposals on the scale of one to five, as above.

The program officer(s) will not vote as part of the independent peer panel. Those proposals receiving an average panel rank of fair or poor will not be given further consideration and will be notified of non-selection. For the proposals rated by the panel as either Excellent, Very Good, or Good, the NOAA GLOBEC Program Manager and

the NSF Biological Oceanography Program Director will first apply the project funding priorities listed in section 11; second, select the proposals to be recommended for funding; third, determine the total duration of funding for each proposal; and fourth, determine the amount of funds available for each proposal. Awards may not necessarily be made to the proposals scored highest by individual panel and/or mail reviews.

The NOAA GLOBEC Program Manager or the NSF Biological Oceanography Program Director or staff will notify lead proposers for those projects recommended for support, and negotiate revisions in the proposed work and budget. Final awards will be issued by the agency responsible for a specific project after receipt and processing of any specific materials required by the agency.

When a decision has been made (whether an award or declination), verbatim copies of reviews, excluding the names of the reviewers, and summaries of review panel deliberations, if any, are available to the proposer. No information directly identifying reviewers or other pending or declined proposals will be released.

(14) Other Requirements: See initial COP Notice—63 FR 44237, August 18, 1998, at the COP Internet Site: http://www.cop.noaa.gov/cop-home.html.

(15) This notification involves collections of information subject to the requirements of the Paperwork Reduction Act. The standard NOAA forms have been approved by the Office of Management and Budget (OMB) under control numbers 0348–0043, 0348–0044, 0348–0040 and 0348–0046. The NSF-UNOLS Ship Time Request Form and the NSF Form for Current and Pending Support have been approved by OMB as follows:

Proposals to NSF must include a one-page NSF-UNOLS Ship Time Request Form. The investigator is responsible for sending copies to the UNOLS office and ship operators. The form is included in Appendix A of ''Instructions for Preparation of Proposals Requesting Support for Oceanographic Facilities'' NSF 94–124. The form, also titled NSF Form 831 (Rev July 1992) has OMB clearance through September l999 under control number OMB #3145–0058.

The form is also available via the UNOLS web site at http://www.gso.uri.edu/unols/ship/shiptime.html. Paper copies also may be requested from UNOLS, but the electronic version is strongly preferred for ease of information exchange and processing. The form has been available electronically since l994. The NSF guidelines and ship time form were included in the then-existing e-mail based Internet electronic dissemination system operated by NSF - Science and Technology Information System). The NSF Form l239 (Oct 1998) for Current and Pending Support is cleared as part of the NSF Grant Proposal Guide and Proposal Forms Kit under OMB# 3145–0058 with an expiration date of September l999.

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection displays a current valid OMB control number.

Dated: March 4, 1999.

Captain Ted I. Lillestolen,

Deputy Assistant Administrator for Ocean Service and Coastal Zone Management.

Dated: March 2, 1999.

G. Michael Purdy,

Director, Division of Ocean Sciences, National Science Foundation.

[FR Doc. 99–5956 Filed 3–9–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 030499A]

New England Fishery Management Council; Public Meetings

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its oversight committee in March, 1999 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will be held on March 24, 1999.

ADDRESSES: The meeting will be held at the King's Grant Inn, Trask Road, Route 128, Exit 21N, Danvers, MA 01923; telephone: (978) 774–6800.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (781) 231–0422.

Council address: New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1036; telephone: (781) 231–0422.

SUPPLEMENTARY INFORMATION:

Meeting Date and Agenda

Wednesday, March 24, 1999, 10:00 a.m.—Interspecies Committee Meeting

The committee will discuss the establishment of their priorities, preparation of draft Council comments on the Vessel Capacity Reduction Proposed Rule (vessel buyback regulations), initial committee discussion on managing fishing capacity and latent effort in New England fisheries, design of Council process to comply with the List of Fisheries Rule (64 FR 4030), initial discussion of possible changes to the fishing year for various fishery management plans.

Although other issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: March 4, 1999.

Gary C. Matlock,

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

[FR Doc. 99–5955 Filed 3–9–99; 8:45 am]

BILLING CODE 3510–22–F

COMMISSION OF FINE ARTS

Notice of Meeting

In a departure from our regular third-Thursday-of-the-month meetings, the next meeting of the Commission of Fine Arts is scheduled for Tuesday, 23 March 1999 at 10:00 AM in the Commission's offices at the National Building Museum (Pension Building), Suite 312, Judiciary Square, 441 F Street, N.W., Washington, D.C., 20001. Items of discussion will include designs for projects affecting the appearance of Washington, D.C., including buildings and parks.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call 202–504–2200. Copies of the meeting's draft agenda are usually

available one week before the meeting. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated in Washington, D.C., March 3, 1999.

Charles H. Atherton,

Secretary.

[FR Doc. 99–5937 Filed 3–9–99; 8:45 am]

BILLING CODE 6330–01–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0108]

Submission for OMB Review; Comment Request Entitled Bankruptcy

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Bankruptcy. A request for public comments was published at 63 FR 71624, December 29, 1998. No comments were received.

DATES: Comments may be submitted on or before April 9, 1999.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0108, Bankruptcy, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Linda Klein, Federal Acquisition Policy Division, GSA, (202) 501–3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

Under statute, contractors may enter into bankruptcy which may have a significant impact on the contractor's ability to perform its Government contract. The Government often does not receive adequate and timely notice of this event. The clause at 52.242–13 requires contractors to notify the contracting officer within five days after the contractor enters into bankruptcy.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *1* hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *1,000;* responses per respondent, *1;* total annual responses, *1,000;* preparation hours per response, *1;* and total response burden hours, *1,000.*

C. Annual Recordkeeping Burden

The annual recordkeeping burden is estimated as follows: Recordkeepers, *1,000;* hours per recordkeeper, *.25;* and total recordkeeping burden hours, *250.*

Obtaining Copies of Proposals

Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0108, Bankruptcy, in all correspondence.

Dated: March 5, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 99–5870 Filed 3–9–99; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0107]

Submission for OMB Review; Comment Request Entitled Notice of Radioactive Materials

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Notice of Radioactive Materials. A request for public comments was published at 63 FR 71102, December 23, 1998. No comments were received.

DATES: Comments may be submitted on or before April 9, 1999.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0107, Notice of Radioactive Materials, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Paul Linfield, Federal Acquisition Policy Division, GSA (202) 501–1757.

SUPPLEMENTARY INFORMATION:

A. Purpose

The clause at FAR 52.223–7, Notice of Radioactive Materials, requires contractors to notify the Government prior to delivery of items containing radioactive materials. The purpose of the notification is to alert receiving activities that appropriate safeguards may need to be instituted. The notice shall specify the part or parts of the items which contain radioactive materials, a description of the materials, the name and activity of the isotope, the manufacturer of the materials, and any other information known to the Contractor which will put users of the items on notice as to the hazards involved.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *1* hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *500*; responses per respondent, *5*; total annual responses, *2,500*; preparation hours per response, *1*; and total response burden hours, *2,500.*

Obtaining Copies of Proposals

Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0107, Notice of Radioactive Materials, in all correspondence.

Dated: March 5, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 99–5948 Filed 3–9–99; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.335]

Child Care Access Means Parents in School Program

Notice of final priority and invitation for applications for new awards for fiscal year (FY) 1999.

Purpose of Program: The Child Care Access Means Parents in School Program supports the participation of low-income parents in postsecondary education through the provision of campus-based child care services.

EFFECTIVE DATE: The priority in this notice takes effect April 9, 1999.

Eligible Applicants: Institutions of higher education that have a total amount of all Federal Pell Grant funds awarded to students enrolled at the institution of higher education for the preceding fiscal year that equals or exceeds $350,000.

Deadline for Transmittal of Applications: May 6, 1999.

Deadline for Intergovernmental Review: July 5, 1999.

Applications Available: March 15, 1999.

Available Funds: $5,000,000.

Estimated Range of Awards: $50,000–$200,000. An institution will be eligible for a maximum grant award equal to 1 percent of its Federal Pell Grant disbursement, with no grant being less than $10,000.

Estimated Average Size of Awards: $125,000.

Estimated Number of Awards: 40.

Project Period: 48 months.

Note: The Department is not bound by any estimates in this notice.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 85, and 86.

In preparing applications, applicants should pay particular attention to the requirements in section 427 of the General Education Provisions Act (GEPA), as detailed later in this notice. Applicants must address the requirements in section 427 in order to receive funding under this competition. Section 427 requires each applicant to describe the steps it proposes to take for addressing one or more barriers (i.e., gender, race, national origin, color, disability, or age) that can impede equitable access to, or participation in, the program. A restatement of compliance with civil rights requirements is not sufficient to meet the requirements in section 427 of GEPA. Because there are no program-specific regulations for the Child Care Access Means Parents in School Program, applicants are encouraged to read the authorizing statute in section 419N of the Higher Education Act of 1965, as amended (HEA).

Waiver of Rulemaking: It is generally the practice of the Secretary to offer interested parties the opportunity to comment on proposed priorities. However, in order to make awards on a timely basis, the Secretary has decided to publish this priority in final under the authority of section 437(d) of GEPA (20 U.S.C. 1232(d)). Further, the Secretary has determined that, to make grants under this competition before the funds expire, the use of negotiated rulemaking would be impracticable and contrary to the public interest under section 492(b)(2) of the HEA.

Priority: Under 34 CFR 75.105(c)(2)(i) and 20 U.S.C. 1070e(d) the Secretary gives preference to applications that meet the following competitive priority. The Secretary awards 10 points to an application that meets this competitive priority. These points are in addition to any points the application earns under the selection criteria:

Projects that leverage significant local or institutional resources, including in-kind contributions to support the activities, and use a sliding fee scale for child care services provided by a facility assisted under this grant in order to support a high number of low-income parents pursuing postsecondary education at the institution.

Selection Criteria: In evaluating an application for a new grant under this competition, the Secretary uses selection criteria under 34 CFR 75.209 and 75.210 of EDGAR. The Secretary informs applicants in the application package of the selection criteria and factors, if any, to be used for this competition and of the maximum weight assigned to each criterion.

Intergovernmental Review: This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

For Applications or Information Contact: Cynthia Brown, U.S. Department of Education, 400 Maryland Avenue, S.W., Suite 600A, Portals Building, Washington, DC 20202–5247. Telephone: (202) 260–8458. E-mail: Cindy__Brown@ed.gov Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph. Individuals with disabilities may obtain a copy of the application package in an alternate format, also, by contacting that person. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register,** in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office at (202) 512–1530 or, toll free, at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of a document is the document published in the **Federal Register**.

Program Authority: 20 U.S.C. 1070e.

Dated: March 4, 1999.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 99–5975 Filed 3–9–99; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–255–000]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

March 4, 1999.

Take notice that on March 1, 1999, ANR Pipeline Company (ANR) tendered for filing, as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to be effective April 1, 1999:

Third Revised Sheet No. 91
Eleventh Revised Sheet No. 19
Third Revised Sheet No. 87

ANR states that the purpose of this filing is to designate in its tariff the proposed ANR Lebanon Hub in Ohio as an additional point for the nomination of Rate Schedule IWS service on ANR. ANR also requests any necessary waivers of its tariff and the Commission's orders to be permitted to include the Crown Point interconnection with Northern Indiana Public Service Co. (NIPSCo) as an additional point in its ANR Joliet Hub.

ANR states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–5883 Filed 3–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–256–000]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

March 4, 1999.

Take notice that on March 1, 1999, ANR Pipeline Company (ANR) tendered for filing, as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to be effective April 1, 1999:

First Revised Sheet No. 45A
Original Sheet No. 45E.1

ANR states that the purpose of this filing is to designate in its tariff four new points eligible for service under its existing Rate Schedule IPLS.

ANR states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.uss/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–5884 Filed 3–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–2–48–000]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

March 4, 1999.

Take notice that on March 1, 1999, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets proposed to be effective April 1, 1999:

Tenth Revised Sheet No. 19
Sixth Revised Sheet No. 68H

ANR states that the purpose of this filing is to comply with the annual redetermination of the levels of ANR's Transporter's Use (%) as required by ANR's currently effective tariff, to become effective April 1, 1999. This redetermination reflects a decrease in the fuel use percentages for virtually all of the transportation rate routes on ANR's system, as well as for storage and gathering.

ANR states that all of its Volume No. 1 and Volume No. 2 customers and interested State Commissions have been mailed a copy of this filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 285.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–5887 Filed 3–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP96–213–009]

Columbia Gas Transmission Corporation; Notice of Amendment to Application

March 4, 1999.

Take notice that on February 24, 1999, Columbia Gas Transmission Corporation (Columbia), a Delaware corporation, having its principal place of business at 12801 Fair Lakes Parkway, Fairfax, Virginia 22030–1046, an abbreviated application pursuant to Sections 7(b) and Section 7(c) of the Natural Gas Act, as amended, to amend its certificates previously issued by the Commission in an Order Denying Rehearing and Issuing Certificates on May 14, 1997, Order Amending Certificate on November 25, 1997, and Order Amending Certificates on June 30, 1998 in Docket Nos. CP96–213–000, *et al.*, Columbia's Market Expansion Project (MEP).

In support of its application, Columbia states that it proposes to make the specific following facility modifications to the 1999 construction previously authorized:

1.8.1 Laurel Storage Field—Hocking County, Ohio Abandon Well No. 11483.

Well No. 11483 was approved for enhancement as part of Columbia's 1997 Market Expansion program. After the enhancement activities, salt water began flowing into the well bore. In Columbia's August 11, 1998 request for a variance. Columbia indicated that additional work would be required to stop the water flow. However, upon further consideration, the probability of successfully shutting off the flow water into the well bore, without adversely impacting gas deliverability, is low. In addition, Columbia's evaluation of the overall 1997–98 enhancement program for Laurel indicates that the success of the other enhancement work offsets the loss of this well. Therefore, Well 11483 is no longer needed and Columbia now proposes to plus and abandon the well. If well 11483 is not plugged, the salt water encroachment could possibly affect nearby wells in the storage zone.

7.27 Artemas A Storage Field—Bedford County, Pennsylvania Abandon 3.2 miles of 16-inch pipeline in association with the approved 6.1 miles of 24-inch Artemas pipeline construction (Project Item 1.1.2).

Continued evaluation of the project revealed that the section of existing 16-inch to the north of A Field is not needed for future operations, and that installation costs for the new 24-inch could be reduced by utilizing existing trench when the northern section of 16-inch is abandoned and removed. Columbia's proposal to remove the northern section of 16-inch and use the existing ditch to install the new 24-inch will minimize the difficulty of side hill construction by reducing the need for blasting. Design Day construction by reducing the need for blasting. Design Day flows for the Artemas Field are not affected by the abandonment.

The revised pipeline construction at Artemas results in an approximate decrease of $500,000 in the estimated Gross Investment for the MEP, from $256,067,400 to $255,567,400. The estimated cost of retirement for the proposed abandonments is $248,500, with salvage estimated to be approximately $87,800. The resulting net decrease in project costs after salvage is approximately $339,300.

Any person desiring to participate in the hearing process or to make any protest with reference to said application should on or before March 25, 1999, file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. The Commission's rules require that protesters provide copies of their protests to the party or parties directly involved. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Columbia to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 99–5891 Filed 3–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–2–127–000]

Cove Point LNG Limited Partnership; Notice of Proposed Changes in FERC Gas Tariff

March 4, 1999.

Take notice that on March 1, 1999, Cove Point LNG Limited Partnership (Cove Point) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1 the following tariff sheet to become effective April 1, 1999.

Sixth Revised Sheet No. 7

Cove Point states that the listed tariff sheet sets forth the restatement and

adjustment to its retainage percentages, pursuant to the Section 1.37 of the General Terms and Conditions or its FERC Gas Tariff, First Revised Volume No. 1.

Cove Point states that copies of the filing were served upon Cove Point's affected customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–5888 Filed 3–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–254–000]

Destin Pipeline Company, L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

March 4, 1999.

Take notice that on March 1, 1999, Destin Pipeline Company, L.L.C. (Destin) tendered for filing, as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets to become effective April 1, 1999:

First Revised Sheet No. 70
First Revised Sheet No. 71
Original Revised Sheet No. 71a
Second Revised Sheet No. 72
First Revised Sheet No. 76
Original Sheet No. 76a
Original Sheet No. 76b
First Revised Sheet No. 77
First Revised Sheet No. 136

Destin states that the purpose of this filing is to implement the revised intraday nomination cycles promulgated under the GISB Standards adopted by the Commission in Order No. 587–H. Destin has not been able to implement these standards until the final version of SoNet Premier was available. In addition, the tariff sheets incorporate other GISB Standards approved under Order No. 587–H addressing confirmation and scheduling practices.

Destin states that copies of the filing will be served upon its shippers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–5882 Filed 3–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–4–4–000]

Granite State Gas Transmission, Inc.; Notice of Proposed Changes in FERC Gas Tariff

March 4, 1999.

Take notice that on March 1, 1999, Granite State Gas Transmission, Inc. (Granite State) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the revised tariff sheets listed below for effectiveness on January 1, 1999:

Substitute Sixteenth Revised Sheet No. 21
Substitute Seventeenth Revised Sheet No. 22

According to Granite State, the foregoing tariff sheets propose a revised Power Cost Adjustment (PCA) surcharge applicable to its firm transportation services during the first quarter of 1999 to reimburse Granite State for certain electric power costs that it is obligated to pay Portland Pipe Line Corporation pursuant to the terms of a lease of a pipeline from Portland Pipe Line.

Granite State further states that the total surcharge of $0.5787 consists of the sum of two components: the Quarterly Forecast PCA factor of $0.7948 which is based on projected incremental electric power costs to be billed to Granite State during the first quarter of 1999 and the Reconcilable PCA factor of $<0.2161> which reconciles the accumulated over/under past surcharge collections in the Deferred Account on a quarterly basis. The method for developing the surcharge in the foregoing manner was approved by the Commission in orders issued in Docket Nos. RP98–155–003 and TM98–4–4–001, according to Granite State.

Granite State further states that copies of this filing have been served on its firm transportation customers and on the regulatory agencies of the states of Maine, Massachusetts and New Hampshire.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with §§ 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–5889 Filed 3–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–1–37–000]

Northwest Pipeline Corporation; Notice of Proposed Changes in FERC Gas Tariff

March 4, 1999

Take notice that on March 1, 1999, Northwest Pipeline Corporation (Northwest) tendered for filing as part of

its FERC Gas Tariff the following tariff sheets, to be effective April 1, 1999:

Third Revised Volume No. 1

Tenth Revised Sheet No. 14

Original Volume No. 2

Twenty-Fifth Revised Sheet No. 2.1

Northwest states that the purpose of this filing is to propose new fuel reimbursement factors (Factors) for Northwest's transportation and storage rate schedules. The Factors allow Northwest to be reimbursed in-kind for the fuel used during the transmission and storage of gas and for the volumes of gas lost and unaccounted-for that occur as a normal part of operating the transmission system.

Northwest states that it proposes a Factor of 1.00% for transportation service Rate Schedules TF–1, TF–2, TI–1 and for all transportation service rate schedules contained in Original Volume No. 2 of Northwest's FERC Gas Tariff. Northwest also states that it proposes a Factor of 0.91% for service at the Jackson Prairie Storage Project under Rate Schedule SGS–2F and SGS–2I and a Factor of 0.01% for service at the Plymouth LNG Facility under Rate Schedules SL–1, LS–2F and LS2I.

Northwest states that a copy of this filing has been served upon Northwest's customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. All person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–5886 Filed 3–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–232–000]

Northwest Pipeline Company; Notice of Application

March 4, 1999.

Take notice that on March 1, 1999, Northwest Pipeline Company (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108 filed in Docket No. CP99–232–000 and application pursuant to Section 7(c) and 7(b) of the Natural Gas Act for authorization to construct and operate certain replacement natural gas facilities on Northwest's Ignacio to Sumas mainline near the town of Mancos in Montezuma County, Colorado and permission to abandon the facilities being replaced, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Northwest proposes to replace approximately 6,800 feet of 26-inch pipeline and a mainline tap on its Ignacio to Sumas mainline near the town of Mancos in Montezuma County, Colorado by installing new equivalently-sized facilities in its existing permanent right-of-way parallel to its existing line and then abandoning the replaced pipeline segment and tap. Northwest states that the replacement of the subject pipeline segment is necessary in order to maintain the safety and reliability of Northwest's transmission system and comply with the U.S. Department of Transportation (DOT) safety classification requirements. Northwest claims that because of a DOT class change for this location, Northwest must complete the proposed pipeline replacement by no later than October 2, 1999.

Northwest further states that this replacement project involves temporary construction workspace that disqualifies this project for the Section 2.55(b) exemption. Northwest estimates the total cost to construct the proposed facilities and abandon the replaced facilities to be approximately $1,833,000.

Any person desiring to participate in the hearing process or to make any protest with reference to said application should on or before March 12, 1999, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the

certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northwest to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 99–5893 Filed 3–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–252–000]

Sea Robin Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

March 4, 1999.

Take notice that on March 1, 1999, Sea Robin Pipeline Company (Sea Robin) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective April 1, 1999:

Third Revised Sheet No. 30a
Fifth Revised Sheet No. 31
Third Revised Sheet No. 32
Third Revised Sheet No. 33
Original sheet No. 33a
Sixth Revised Sheet No. 95

Sea Robin states that the purpose of this filing is to implement the revised intraday nomination cycles promulgated under the GISB Standards adopted by the Commission in Order No. 587–H. Sea Robin has not been able to implement these standards until the final version of SoNet Premier was available. In addition, the tariff sheets incorporate other GISB Standards approved under Order No. 587–H addressing confirmation and scheduling practices.

Sea Robin states that copies of the filing will be served upon its shippers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–5880 Filed 3–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–208–000]

Sea Robin Pipeline Company; Notice of Filing Workpapers

March 4, 1999.

Take notice that on February 26, 1999, Sea Robin Pipeline Company (Sea Robin) filed with the Federal Energy Regulatory Commission (Commission) workpapers in response to the Commission's request for certain information with respect to Sea Robin's Annual Flowthrough Crediting Mechanism Filing in Docket No. RP99–208–000. Sea Robin's workpapers include an Explanatory Statement and a spreadsheet supporting the derivation of the $442,911.56 balance in the annual flowthrough account.

Any person desiring to file comments on the additional information should file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure. All such comments should be filed on or before March 11, 1999. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–5902 Filed 3–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR99–4–000]

Sinclair Oil Corporation v. Platte Pipe Line Company; Notice of Complaint

March 4, 1999.

Take notice that on February 26, 1999, Sinclair Oil Corporation (Sinclair) tendered for filing a complaint against Platte Pipe Line Company (Platte).

Sinclair states that it has tendered to Platte for shipment unadulterated crude oil and has received from Platte contaminated crude oil of considerably lesser value.

Sinclair also alleges that Platte has failed to specify in its tariff the terms and conditions of shipment and has instead reserved these matters for the exercise of its ''sole discretion''.

Any person desiring to be heard or to protest said complaint should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214, 385.211. All such motions or protests should be filed on or before March 29, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Answers to this complaint shall be due on or before March 29, 1999.

David P. Boergers,

Secretary.

[FR Doc. 99–5894 Filed 3–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–251–000]

South Georgia Natural Gas Company; Notice of Proposed Changes to FERC Gas Tariff

March 4, 1999.

Take notice that on March 1, 1999, South Georgia Natural Gas Company (South Georgia) tendered for filing as part of its FERC Gas Tariff, Second

Revised Volume No. 1, the following tariff sheets to become effective April 1, 1999:

Eighth Revised Sheet No. 14
Sixth Revised Sheet No. 15
Third Revised Sheet No. 15a
Sixth Revised Sheet No. 16
Second Revised Sheet No. 16a
First Revised Sheet No. 16b
Fourth Revised Sheet No. 17
Original Sheet No. 17a
Ninth Revised Sheet No. 32
Third Revised Sheet No. 32a
Seventh Revised Sheet No. 33
First Revised Sheet No. 33a
Fourth Revised Sheet No. 34
Fourth Revised Sheet No. 35
Original Sheet No. 35a
Fifth Revised Sheet No. 98

South Georgia states that the purpose of this filing is to revise the Tariff with respect to the standard nomination cycles.

South Georgia states that copies of the filing will be served upon its shippers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–5879 Filed 3–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–253–000]

South Georgia Natural Gas Company; Notice of Proposed Changes to FERC Gas Tariff

March 4, 1999.

Take notice that on March 1, 1999, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to become effective April 1, 1999:

Eighth Revised Sheet No. 124
First Revised Sheet No. 124a
Second Revised Sheet No. 126a
Second Revised Sheet No. 127a
Fifth Revised Sheet No. 128
Third Revised Sheet No. 129
Original Sheet No. 129a
Fourth Revised Sheet No. 212h

Southern states that the purpose of this filing is to revise the Tariff with respect to the standard nomination cycles.

Southern states that copies of the filing will be served upon its shippers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–5881 Filed 3–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–230–000]

Southwest Gas Storage Company; Notice of Application

March 4, 1999.

Take notice that on March 1, 1999, Southwest Gas Storage Company (Southwest), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP99–230–000 an application pursuant to Section 7 of the Natural Gas Act (NGA) requesting a blanket certificate of public convenience and necessity and permission and approval to abandon, authorizing Southwest to engage in any of the activities specified in Subpart F of Part 157 of the Commission's Regulations, as may be amended from time to time, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/htm (call 202–208–2222 for assistance).

It is stated that Southwest is a ''natural gas company'' withing the meaning of the NGA and as determined by the Commission in Docket No. CP79–490. Southwest asserts that it does not have any outstanding budget-type certificates or any ongoing storage field tests commenced under a budget-type certificate. Southwest states that it does have currently effective storage rate schedules, providing open access firm storage service under its Rate Schedule FSS and interruptible storage service under its Rate Scheduled ISS. Southwest further states that it has a storage blanket certificate issued in Docket Nos. CP90–1014–000.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 15, 1999, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, and if the commission on its own review of the matter finds that the abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Southwest to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 99–5892 Filed 3–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–6–29–000]

Transcontinental Gas Pipe Line Corporation; Notice of Filing

March 4, 1999.

Take notice that on March 1, 1999 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, certain revised tariff sheets enumerated in Appendix A attached to the filing, with an effective date of April 1, 1999.

Transco states that the instant filing is submitted pursuant to Section 38 of the General Terms and Conditions of Transco's FERC Gas Tariff which provides that Transco will file, to be effective each April 1, a redetermination of its fuel retention percentages applicable to transportation and storage rate schedules. The derivations of the revised fuel retention percentages included herein are based on Transco's estimate of gas required for operations (GRO) for the forthcoming annual period April 1999 through March 2000 plus the balance accumulated in the Deferred GRO Account at January 31, 1999.

Transco has included two adjustments in the estimated GRO for the forthcoming annual period. The first adjustment is an increase in the System Transportation estimated GRO to reflect a prior period adjustment for the period August 1991 through July 1998 that will be recorded in February 1999. This adjustment accounts for an error in Transco's accounting system (which was corrected in August 1998) that incorrectly generated offsetting entries for certain receipts during that period, which resulted in an inaccurate determination of Transco's actual GRO for that period. The second adjustment is an increase in the Rate Schedule GSS estimated GRO to reflect a gas measurement correction that will also be recorded in February 1999. Consistent with the Commission's October 2, 1998 Letter Order in Docket No. TM98–9–29–001, Transco has included these known adjustments to the estimated GRO to accurately reflect the estimated GRO quantity.

Transco states that included in Appendix B attached to the filing are the workpapers supporting the derivation of the revised fuel retention factors.

Transco states that copies of the filing have been served upon its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions of protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–5890 Filed 3–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–197–035]

Transcontinental Gas Pipe Line Corporation; Notice of Refund Report

March 4, 1999.

Take notice that on February 25, 1999, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing with the Federal Energy Regulatory Commission (Commission) recalculated rates and supporting workpapers pursuant to Ordering Paragraph (B) of the Commission's Opinion and Order On Rehearing (Opinion 414–B) issued on December 1, 1998, in Docket No. RP95–197–033.

Ordering Paragraph (B) of Opinion 414–B required Transco to file recalculated rates and to make refunds based on the directives in Opinion 414–A (84 FERC ¶ 61,084 (1998)) within 60 days. By order issued on January 28, 1999, Transco was granted an extension of time until March 31, 1999 to file recalculated rates and to make refunds. Transco states that refunds reflecting the rates in the instant filing will be made no later than March 31, 1999.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before March 11, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–5901 Filed 3–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP99–257–000 and RP89–183–085]

Williams Gas Pipelines Central; Notice of Proposed Changes in FERC Gas Tariff

March 4, 1999.

Take notice that on March 1, 1999, Williams Gas Pipelines Central, Inc. (Williams), tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with the proposed effective date of April 1, 1999:

Fifth Revised Sheet No. 6
Eighth Revised Sheet No. 6A

Williams states that this filing is being made pursuant to Article 14 of the General Terms and Conditions of its FERC Gas Tariff, Original Volume No. 1. Williams states that the instant filing is being made to recover (a) the cost of assigning a certain gas purchase contract to an unaffiliated third-party, and (b) the Reverse Auction Reserve Price assigned to two other gas purchase contracts.

Williams states that a copy of its filing was served on all participants listed on the service lists maintained by the Commission in the dockets referenced above and on all of Williams' jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the

Federal Energy Regulatory Commission, 888 First Street, NE, Washington DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–5885 Filed 3–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER95–1374–014, et al.]

National Fuel Resources, Inc. et al.; Electric Rate and Corporate Regulation Filings

March 1, 1999.

Take notice that the following filings have been made with the Commission:

1. National Fuel Resources, Inc.

[Docket No. ER95–1374–014]

Take notice that on February 22, 1999, National Fuel Resources, Inc. filed a change in status in compliance with the Commission's order issued on September 7, 1995, that reflects a departure from the facts relied upon by the Commission in the grant of market based rate authority.

Comment date: March 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. California Independent System Operation Corporation

[Docket No. ER99–896–001]

Take notice that on February 24, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a compliance filing in the above-referenced docket which included a number of revisions to the ISO Tariff. The ISO states that this filing was submitted to comply with the Commission's February 9, 1999 Order, 86 FERC ¶ 61,122 (1999), in the above-referenced docket.

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: March 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Central Power and Light Company, et. al.

[Docket No. ER99–897–001]

Take notice that on February 24, 1999, Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Electric Power Company (collectively, the CSW Operating Companies), tendered a filing supplemental information in compliance with the Commission's January 29, 1999, order in the above-captioned proceeding.

The CSW Operating Companies state that a copy of the compliance filing was served on all customers under the CSW OATT and on the Public Utility Commission of Texas, the Oklahoma Corporation Commission, the Louisiana Public Service Commission and the Arkansas Public Service Commission.

Comment date: March 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Central Vermont Public Service Corporation

[Docket No. ER99–1720–000]

Take notice that on February 24, 1999, Central Vermont Public Service Corporation (Central Vermont), tendered for filing an executed Service Agreement with Sithe Power Marketing, Inc., under its FERC Electric Tariff No. 8 (market-based rates). The executed Service Agreement should be substituted for the unexecuted Service Agreement filed in this docket on February 4, 1999.

Central Vermont respectfully requests that the Commission waive its 60-day notice requirement to permit the Service Agreement to become effective February 5, 1999, as requested in the February 4, 1999 submittal.

Comment date: March 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. CXY Energy Marketing (U.S.A.) Inc.

[Docket No. ER99–1858–000]

Take notice that on February 17, 1999, CXY Energy Marketing (U.S.A.) Inc. filed a notification of merger with Wascana Energy Marketing (U.S.).

Comment date: March 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. SCCL–2, L.L.C.

[Docket No. ER99–1915–000]

Take notice that on February 24, 1999, SCC–L2, L.L.C. (SCC–L2), applied to the Commission for acceptance of SCC–L2 Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations. SCC–L2's application also seeks Commission acceptance and approval of two power purchase agreements with Enron Power Marketing, Inc., and an Interconnection Agreement with the Tennessee Valley Authority.

SCC–L2 intends to engage in wholesale electric power and energy purchases and sales as a marketer.

Comment date: March 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Northeast Utilities Service Company

[Docket No. ER99–1917–000]

Take notice that on February 24, 1999, Northeast Utilities Service Company (NUSCO), tendered for filing a Service Agreement with Indeck Pepperell Power Associates, Inc. (Indeck), under the NU System Companies' System Power Sales/Exchange Tariff No. 6.

NUSCO requests that the Service Agreement become effective March 1, 1999.

NUSCO states that a copy of this filing has been mailed to Indeck.

Comment date: March 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Ameren Services Company

[Docket No. ER99–1919–000]

Take notice that on February 23, 1999, Ameren Services Company (ASC), tendered for filing a Service Agreement for Market Based Rate Power Sales between ASC and Entergy Power Marketing Corp. (EPM). ASC asserts that the purpose of the Agreement is to permit ASC to make sales of capacity and energy at market based rates to EPM pursuant to ASC's Market Based Rate Power Sales Tariff filed in Docket No. ER98–3285–000.

Comment date: March 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Ameren Services Company

[Docket No. ER99–1920–000]

Take notice that on February 23, 1999, Ameren Services Company (ASC) as Agent for Union Electric Company (UE), tendered for filing a Service Agreement for Market Based Rate Power Sales between UE and the City of Marceline (the City), Missouri. ASC asserts that the

purpose of the Agreement is to permit ASC to make sales of capacity and energy at market based rates to the City pursuant to ASC's Market Based Rate Power Sales Tariff filed in Docket No. ER98–3285–000.

ASC requests that the Service Agreement be allowed to become effective February 1, 1999.

Comment date: March 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. New England Power Company

[Docket No. ER99–1925–000]

Take notice that on February 24, 1999, New England Power Company (NEP), tendered for filing Notice of Cancellation for its FERC Rate Schedule No. 482, including Supplement No. 1 and Supplement No. 2, all effective on March 1, 1997 and filed with the Federal Energy Regulatory Commission by New England Power Company.

NEP requests an effective date for the cancellation of January 1, 1999.

Comment date: March 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. MidAmerican Energy Company

[Docket No. ER99–1926–000]

Take notice that on February 24, 1999, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Des Moines, Iowa 50309, tendered for filing with the Commission a Firm Transmission Service Agreement with British Columbia Power Exchange Corporation (British Columbia), dated February 15, 1999, and a Firm Transmission Service Agreement with PP&L, Inc. (PP&L), dated February 9, 1999, and a Non-Firm Transmission Service Agreement with British Columbia, dated February 15, 1999, and a Non-Firm Transmission Service Agreement with PP&L, dated February 9, 1999, entered into pursuant to MidAmerican's Open Access Transmission Tariff.

MidAmerican requests an effective date of February 15, 1999, for the Agreements with British Columbia, and an effective date of February 9, 1999, for the Agreements with PP&L, and accordingly seeks a waiver of the Commission's notice requirement.

MidAmerican has served a copy of the filing on British Columbia, PP&L, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: March 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Northeast Utilities Service Company

[Docket No. ER99–1927–000]

Take notice that on February 24, 1999, Northeast Utilities Service Company (NUSCO), tendered for filing a Service Agreement with Sithe Power Marketing, Inc. (Sithe), under the NU System Companies' System Power Sales/ Exchange Tariff No. 6.

NUSCO requests that the Service Agreement become effective February 9, 1999.

NUSCO states that a copy of this filing has been mailed to Sithe.

Comment date: March 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Northeast Utilities Service

[Docket No. ER99–1928–000]

Take notice that on February 24, 1999, Northeast Utilities Service Company (NUSCO), tendered for filing a Service Agreement with Sithe Power Marketing, Inc. (Sithe) under the NU System Companies' Sale for Resale Tariff No. 7.

NUSCO states that a copy of this filing has been mailed to Sithe.

NUSCO requests that the Service Agreement become effective March 1, 1999.

Comment date: March 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Niagara Mohawk Power Corporation

[Docket No. ER99–1929–000]

Take notice that on February 24, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing with the Federal Energy Regulatory Commission an executed, amended Transmission Service Agreement between Niagara Mohawk and the Power Authority of the State of New York (NYPA) to permit NYPA to deliver power and energy from NYPA's FitzPatrick Plant, Bid Process Suppliers and Substitute Suppliers to the points where Niagara Mohawk's transmission system connects to its retail distribution system East of Niagara Mohawk's constrained Central-East Interface. This Transmission Service Agreement specifies that NYPA has signed on to and has agreed to the terms and conditions of Niagara Mohawk's Open Access Transmission Tariff as filed in Docket No. OA96–194–000.

Niagara Mohawk requests an effective date of February 1, 1999. Niagara Mohawk has requested waiver of the notice requirements for good cause shown.

Niagara Mohawk has served copies of the filing upon New York Public Service Commission and NYPA.

Comment date: March 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Niagara Mohawk Power Corporation

[Docket No. ER99–1930–000]

Take notice that on February 24, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing with the Federal Energy Regulatory Commission an executed, amended Transmission Service Agreement between Niagara Mohawk and the Power Authority of the State of New York (NYPA) to permit NYPA to deliver power and energy from NYPA's FitzPatrick Plant, Bid Process Suppliers and Substitute Suppliers to the points where Niagara Mohawk's transmission system connects to its retail distribution system west of Niagara Mohawk's constrained Central-East Interface. This Transmission Service Agreement specifies that NYPA has signed on to and has agreed to the terms and conditions of Niagara Mohawk's Open Access Transmission Tariff as filed in Docket No. OA96–194–000.

Niagara Mohawk requests an effective date of February 1, 1999. Niagara Mohawk has requested waiver of the notice requirements for good cause shown.

Niagara Mohawk has served copies of the filing upon New York Public Service Commission and NYPA.

Comment date: March 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Ameren Services Company

[Docket No. ER99–1931–000]

Take notice that on February 24, 1999, Ameren Services Company (ASC) tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service between ASC and American Municipal Power—Ohio, Inc. (AMP). ASC asserts that the purpose of the Agreement is to permit ASC to provide transmission service to AMP pursuant to Ameren's Open Access Transmission Tariff filed in Docket No. ER96–677–004.

ASC requests that the Service Agreement become effective February 1, 1999.

Comment date: March 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Ameren Services Company

[Docket No. ER99–1932–000]

Take notice that on February 24, 1999, Ameren Services Company (ASC) tendered for filing a Service Agreement for Firm Point-to-Point Transmission

Services between ASC and American Municipal Power—Ohio, Inc. (AMP). ASC asserts that the purpose of the Agreement is to permit ASC to provide transmission service to AMP pursuant to Ameren's Open Access Transmission Tariff filed in Docket No. ER96–677–004.

ASC requests that the Service Agreement become effective February 1, 1999.

Comment date: March 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Wisconsin Public Service Corp.

[Docket No. ER99–1933–000]

Take notice that on February 24, 1999, Wisconsin Public Service Corporation (WPSC) tendered for filing executed Service Agreements for Firm Point-To-Point Transmission Service with Strategic Energy LTD., under FERC Electric Tariff, Volume No. 1.

WPSC requests that the agreements be made effective on February 1, 1999.

Comment date: March 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. The Dayton Power and Light Company

[Docket No. ER99–1934–000]

Take notice that on February 24, 1999, The Dayton Power and Light Company (Dayton) submitted a Service Agreement for Short-Term Firm Transmission Service establishing PP&L EnergyPlus Co., as customers under the terms of Dayton's Open Access Transmission Tariff.

Copies of this filing were served upon PP&L EnergyPlus Co., and the Public Utilities Commission of Ohio.

Comment date: March 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. The Dayton Power and Light Co.

[Docket No. ER99–1935–000]

Take notice that on February 24, 1999 The Dayton Power and Light Company (Dayton) submitted a Service Agreement for Non-firm Transmission Service establishing with PP&L EnergyPlus Co., as customers under the terms of Dayton's Open Access Transmission Tariff.

Copies of this filing were served upon PP&L EnergyPlus Co., and the Public Utilities Commission of Ohio.

Comment date: March 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. PDI New England, Inc. and PDI Canada, Inc.

[Docket No. ER99–1936–000]

Take notice that on February 24, 1999, PDI New England, Inc. (PDI–NE) and PDI Canada, Inc. (PDI–CAN) filed copies of their applications for market-based rate authority pursuant to Section 205 of the Federal Power Act. The applications included tariffs providing for sales of electric capacity and/or energy at market-based rates, codes of conduct and forms of service agreements.

PDI–NE and PDI–CAN requested that their tariffs and related materials become effective on April 25, 1999.

PDI–NE and PDI–CAN state that they have served their filing on the Maine Public Utilities Commission.

PDI–NE and PDI–CAN are acquiring generating facilities which in the past have been used to make power sales within the State of Maine.

Comment date: March 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. MidAmerican Energy Company

[Docket No. ES99–30–000]

Take notice that on February 19, 1999, MidAmerican Energy Company filed an application seeking authority pursuant to Section 204 of the Federal Power Act to issue promissory notes and other evidences of indebtedness, from time to time, in an aggregate principal amount of up to $400 million outstanding at any one time, on or before April 15, 2001, with a final maturity date no later than one year from the date of issuance.

Comment date: March 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–5851 Filed 3–9–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests; Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Preservations

March 4, 1999.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

a. *Type of Applications:* Major New Licenses.

b. *Project No.:* 2058–014 and 2075–014.

c. *Date filed:* February 17, 1999.

d. *Applicant:* Avista Corporation.

e. *Name of Projects:* Cabinet Gorge Hydroelectric Project and Noxon Rapids Hydroelectric Project.

f. *Location:* The Cabinet Gorge and Noxon Rapids projects are located on the Clark Fork River, in Bonner County, Idaho and Sanders County, Montana. Both projects are partially within the Idaho Panhandle National Forest and the Kanisku National Forest.

g. *Filed Pursuant to:* Federal Power Act, 16 USC §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Robert Anderson, Avista Corporation, E. 1411 Mission Avenue, Spokane, WA 99202, (509) 489–0500.

i. *FERC Contact:* Any questions on this notice should be addressed to Bob Easton, E-mail address robert.easton@ferc.fed.us, or telephone (202) 219–2782.

j. Deadline for filing interventions, protests, comments, recommendations, terms and conditions, and prescriptions: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project.

Further, it an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Status of environmental analysis:* This application has been accepted for filing and is ready for environmental analysis at this time.

l. *Description of the Projects:*

Cabinet Gorge: The project consists of the following existing facilities: (1) a 395-foot-long, 208-foot-high concrete gravity arch dam; (2) concrete arch spillway equipped with eight 35-foot-high and 40-foot-wide vertical-lift crest gates; (3) a 20-mile-long, 3,200-acre reservoir with an active storage volume of 42,780 acre-feet within the upper 15 feet of the reservoir; (4) four, 27-foot-diameter penstocks ranging from 447 to 464 feet in length; (5) a 355-foot-long, 106-foot-wide semi-outdoor powerhouse; (6) three fixed-blade propeller turbines and one Kaplan turbine runner with a combined hydraulic capacity of 35,700 cubic feet per second (cfs) and a generating capacity of 231,00 kilowatts (kW); and (7) other appurtenances.

Noxon Rapids: The project consists of the following existing facilities: (1) a 6,195-foot-long, 260-foot-high dam, consisting of a 5,326-foot-long earthen embankment section, a 384-foot-long concrete gravity dam spillway section, and a 485-foot-long, 190-foot-wide semi-outdoor powerhouse; (2) the spillway includes eight gravity ogee bays each equipped with a 35-foot-high, 40-foot-wide taintor gate; (3) a 38-mile-long, 7,940-acre reservoir with an active storage volume of 75,000 acre-feet within the upper 10 feet of the reservoir; (4) five, 26-foot-diameter steel penstocks, each approximately 170 feet in length and integral with the dam; (5) five Francis turbines with a combined hydraulic capacity of 51,000 cfs and a generating capacity of 466,000 kW; (6) a 900-foot-long, 230 kilovolt (kV) transmission line; and (7) other appurtenances.

m. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. This notice also consists of the following standard paragraphs: B and D6.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

D6. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title ''PROTEST,'' ''MOTION TO INTERVENE,'' ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS''; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydroelectric Licensing, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

David P. Boergers,

Secretary.

[FR Doc. 99–5895 Filed 3–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protest

March 4, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application.:* New Major License.

b. *Project No.:* 2651–006.

c. *Date filed:* May 19, 1998.

d. *Applicant:* Indiana Michigan Power Company.

e. *Name of Project:* Elkhart Hydroelectric Project.

f. *Location:* In the City of Elkhart, Concord Township, Elkhart County, Indiana, on the St. Joseph River 77 miles upstream from confluence with Lake Michigan. No part of the project is within federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* J.R. Jones, Senior Vice President, Fossil & Hydro Production, American Electric Power Service Corporation, 1 Riverside Plaza, Columbus, OH 43215, (614) 223–1801.

i. *FERC Contact:* Any questions on this notice should be addressed to Edward R. Meyer, E–mail address edward.meyer@ferc.fed.us, or telephone (202) 208–7998.

j. *Deadline for filing motions to intervene and protest:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P.

Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Status of environmental analysis:* This application was announced Ready for Environmental Analysis on February 9, 1999.

l. *Description of the Project:* The project consists of: (1) a 300-foot-long by 14-foot-high concrete spillway, the crest of which bears 11, 25-foot-wide by 10.5-foot-high Tainter gates separated by 2.5-foot-wide piers; (2) an approximately 100-foot-long by 80-foot-wide brick powerhouse attached to the spillway on the south bank of the St. Joseph River having 3 horizontal shaft 4-Francis turbines (2 camelback pairs) with a 3.44 megawatts installed capacity; (3) 6, 9-foot-6-inch diameter concrete draft tube tunnels transitioning to 10-foot-high 6-foot-wide openings; and (4) other appurtenances.

m. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. Protests or Motions to Intervene—Anyone may submit a protest or motion to intervene in accordance with the requirements of the Rules of Practice and Procedures, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

o. *All filings must:* (bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE''; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Secretary, Federal Energy Regulatory Commission, 888 First St. N.E., Washington, DC 20426. An additional copy must be sent to the Director, Division of Licensing and Compliance, Office of Hydropower Licensing, at the same address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

David P. Boergers,

Secretary.

[FR Doc. 99–5896 Filed 3–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Request for Motions to Intervene and Protests

March 4, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11670–000.

c. *Date filed:* February 1, 1999.

d. *Applicant:* Universal Electric Power Corp.

e. *Name of Project:* Monongahela L&D No. 4 Project.

f. *Location:* At the existing U.S. Army Corps of Engineers' Monongahela Lock and Dam No. 4 on the Monongahela River, near the Town of Monessen, Westmoreland County, Pennsylvania.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* Ed Lee (202) 219–2808 or E-mail address at Ed.Lee@FERC.fed.us

j. *Comment Date:* 60 days from the issuance date of this notice.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Monongahela Lock and Dam No. 4, and would consist of the following facilities: (1) a new powerhouse to be constructed on the downstream side of the dam having an installed capacity of 4,125 kilowatts; (2) a new 200-foot-long, 14.7-kilavolt transmission line; and (3) appurtenant facilities. The proposed average annual generation is estimated to be 25 gigawatthours. The cost of the studies under the permit will not exceed $1,000,000.

l. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

m. Available Locations of Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 North Capitol Street, NE, Room 2–A, Washington, DC 20426, or by calling (202) 219–1371. A copy is also available for inspection and reproduction at Universal Electric Power Corp., Mr. Ronald S. Feltenberger , 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115. A copy of the application may also be viewed or printed by accessing the Commission's website on the Internet at http://www.ferc.fed.us/online/rims.htm or call 202–208–2222 for assistance.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 99–5897 Filed 3–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Request for Motions to Intervene and Protests

March 4, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11672–000.

c. *Date filed:* February 1, 1999.

d. *Applicant:* Universal Electric Power Corp.

e. *Name of Project:* Maxwell Lock and Dam Project.

f. *Location:* At the existing U.S. Army Corps of Engineers' Maxwell Lock and Dam on the Monogahela River, near the Town of Brownsville, Fayette County, Pennsylvania.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* Ed Lee (202) 219–2808 or E-mail address at Ed.Lee@FERC.fed.us.

j. *Comment Date:* 60 days from the issuance date of this notice.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Maxwell Lock and Dam, and would consist of the following facilities: (1) A new powerhouse to be constructed on the downstream side of the dam having an installed capacity of 7.5 megawatts; (2) a new 500-foot-long, 14.7-kilovolt transmission line; and (3) appurtenant facilities. The proposed average annual generation is estimated to be 47 gigawatthours. The cost of the studies under the permit will not exceed $1,600,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

m. *Available Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 North Capitol Street, N.E., Room 2–A, Washington, D.C. 20426, or by calling (202) 219–1371. A copy is also available for inspection and reproduction at Universal Electric Power Corp., Mr. Ronald S. Feltenberger, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115. A copy of the application may also be viewed or printed by accessing the Commission's website on the Internet at http://www.ferc.fed.us/online/rims.htm or call (202) 208–2222 for assistance.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be

served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 99–5898 Filed 3–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Request for Motions to Intervene and Protests

March 4, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11671–000.

c. *Date filed:* February 1, 1999.

d. *Applicant:* Universal Electric Power Corp.

e. *Name of Project:* Dashields Lock and Dam Project.

f. *Location:* At the existing U.S. Army Corps of Engineers' Dashields Lock and Dam on the Ohio River, hear the Town of Ambride, Allegheny County, Pennsylvania.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* Ed Lee (202) 219–2808 or E-mail address at Ed.Lee@FERC.fed.us.

j. *Comment Date:* 60 days from the issuance date of this notice.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Dashields Lock and Dam, and would consist of the following facilities: (1) a new powerhouse to be constructed on the downstream side of the dam having an installed capacity of 22.5 megawatts; (2) a new 1.5-mile-long, 14.7-kilovolt transmission line; and (3) appurtenant facilities. The proposed average annual generation is estimated to be 142 gigawatthours. The cost of the studies under the permit will not exceed $2,600,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

m. *Available Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 North Capitol Street, N.E., Room 2–A, Washington, D.C. 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Universal Electric Power Corp., Mr. Ronald S. Feltenberger, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115. A copy of the application may also be viewed or printed by accessing the Commission's website on the Internet at http://www.ferc.fed.us/online/rims.htm or call (202) 208–2222 for assistance.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering

plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 99–5899 Filed 3–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

March 4, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11685–000.

c. *Date Filed:* February 22, 1999.

d. *Applicant:* The Stockport Mill Country Inn.

e. *Name of Project:* Stockport Mill Country Inn Hydroelectric Project.

f. *Location:* On the Muskingum River, near the town of Stockport, in Morgan County, Ohio.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Laura Smith, The Stockport Mill Country Inn, P.O. Box 478, 1995 Broadway Ave., Stockport, Ohio 43787–0478, (740) 559–2822.

i. *FERC Contact:* Any questions on this notice should be addressed to Tom Dean, E-mail address, thomas.dean@ferc.fed.us, or telephone 202–219–2778.

j. *Deadline for filing comments, motions to intervene, and protests:* 60 days from the issuance date of this notice.

k. *Competing Application:* Project No. 11648; Date Filed: December 10, 1998; Due Date: March 15, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedures require all intervenors filing documents with the Commission to serve a copy of the document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

l. *Description of the Project:* The project would consist of the following facilities: (1) the existing 20-foot-high, 482-foot-long Muskingum Lock and Dam No. 6; (2) an existing 476-acre reservoir at normal pool elevation of 640.01 feet msl; (3) an existing forebay; (4) an existing turbine pit housing two proposed turbine generating units with a total installed capacity of 250 kW; and (5) other appurtenances. The lock and dam is owned by the Ohio Department of Natural Resources, Division of Parks and Recreation.

Applicant estimates that the average annual generation would be 1,500 MWh and that the cost of the studies under the permit would be $10,000.

m. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. *This notice also consists of the following standard paragraphs:* A8, A10, B, C, and D2.

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit applications or notices of intent. Any competing preliminary permit or development application or notice of intent to file a competing preliminary permit or development application must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but

only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 99–5900 Filed 3–9–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6308–7]

Retrofit/Rebuild Requirements for 1993 and Earlier Model Year Urban Buses; Public Review of Cost Information Related to the Certification of Retrofit/Rebuild Equipment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of EPA receipt of cost information related to certification of equipment and initiation of 45-day public review and comment period.

SUMMARY: Johnson Matthey, Incorporated (JM) has submitted to EPA, life cycle cost information that applies to the existing certification of their CCT™ Upgrade kit.

A **Federal Register** notice dated December 3, 1998 (63 FR 66798) announced that EPA certified the JM CCTTM Upgrade Kit to comply with the 0.10 g/bhp-hr particulate matter (PM) standard of the Urban Bus Rebuild Program (40 CFR part 85, subpart O). The kit is applicable to 1985 through 1993 model year Detroit Diesel Corporation 6V92TA DDEC II urban bus engines having electronic fuel control. That certification is not based on the optional compliance with life cycle requirements of the program.

In documents dated January 26, 1999, JM provided life cycle cost information to EPA for the CCT kit, as it applies to engines of model years 1988 through 1993. Copies of the JM information is available for review in the public docket located at the address indicated below.

Pursuant to § 85.1407(a)(7), today's **Federal Register** notice announces that the information is available for public review and comment, and initiates a 45-day period during which comments can be submitted. EPA will review the information submitted by JM, as well as comments received during the public review period, to determine whether certification of the JM equipment should be expanded to include the basis of life cycle cost. If JM's certification is expanded to include the life cycle cost basis, then it may ''trigger'' the 0.10 g/bhp-hr standard for the applicable engines, to the extent a trigger is not already in existence. This is discussed below in additional detail.

Comments should be provided in writing to Public Docket A–93–42, Category XXI, at the address below. An identical copy should be submitted to William Rutledge, also at the address below.

Category XXI of Public Docket A–93–42, entitled ''Certification of Urban Bus Retrofit/Rebuild Equipment'' contains JM's notification of intent to certify, new cost information, and other materials specifically relevant to it. This docket is located at the address below.

DATES: Comments must be submitted on or before April 26, 1999.

ADDRESSES: Submit separate copies of comments to each of the two following addresses:

1. U.S. Environmental Protection Agency, Public Air Docket A–93–42 (Category XXI), Room M–1500, 401 M Street SW, Washington, DC 20460.

2. William Rutledge, Engine Programs and Compliance Division (mail code 6403J), 401 ''M'' Street SW, Washington, DC 20460.

The JM notification of intent to certify, as well as other materials specifically relevant to it, are contained in the public docket indicated above. Docket items may be inspected from 8:00 a.m. until 5:30 p.m., Monday through Friday. As provided in 40 CFR part 2, a reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: William Rutledge, Engine Programs and Compliance Division (6403J), U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460. Telephone: (202) 564–9297.

SUPPLEMENTARY INFORMATION:

I. Background

On April 21, 1993, EPA published final Retrofit/Rebuild Requirements for 1993 and Earlier Model Year Urban Buses (58 FR 21359). The retrofit/rebuild program is intended to reduce the ambient levels of particulate matter (PM) in urban areas and is limited to 1993 and earlier model year (MY) urban buses operating in metropolitan areas with 1980 populations of 750,000 or more, whose engines are rebuilt or replaced after January 1, 1995. Operators of the affected buses are required to choose between two compliance options: Program 1 sets particulate matter emissions requirements for each urban bus engine in an operator's fleet which is rebuilt or replaced; Program 2 is a fleet averaging program that establishes specific annual target levels for average PM emissions from urban buses in an operator's fleet. In general, to meet either of the two compliance options, operators of the affected buses must use equipment which has been certified by EPA.

A key aspect of the program is the certification of retrofit/rebuild equipment. Emissions requirements under either of the two compliance options depend on the availability of retrofit/rebuild equipment certified for each engine model. To be used for Program 1, equipment must be certified as meeting a 0.10 g/bhp-hr PM standard or, if equipment is not certified as meeting the 0.10 PM standard, as achieving a 25 percent reduction in PM. Equipment used for Program 2 must be certified as providing some level of PM reduction that would in turn be claimed by urban bus operators when calculating their average fleet PM levels attained under the program. For Program 1, information on life cycle costs must be submitted in the notification of intent to certify in order for certification of the equipment to initiate (or trigger)

program requirements. To trigger program requirements, the certifier must guarantee that the equipment will be available to all affected operators for a life cycle cost of $7,940 or less at the 0.10 g/bhp-hr PM level, or for a life cycle cost of $2,000 or less for the 25 percent or greater reduction in PM emissions. Both of these values are based on 1992 dollars and are increments above costs associated with a standard rebuild. If EPA determines that the life cycle cost limit is met, then certification would be based on ''life cycle cost'' in addition to reducing PM emissions.

Under program 2, operators calculate their average fleet emissions using specified engine PM emission levels (as well as other factors).

As described in a **Federal Register** notice on September 21, 1998 (63 FR 50225), EPA certified the ETX–2002™ Emissions Rebuild Kit supplied by the Engelhard Corporation. The ETX kit applies to 1988 through 1993 model year Detroit Diesel Corporation 6V92TA DDEC II engines having electronic fuel control and rated at either 253 or 277 horsepower (hp). That notice states that certification of the ETX kit means that transit operators using compliance program 1 must use rebuild kits certified to the 0.10 g/bhp-hr PM standard when rebuilding or replacing the applicable engines after March 22, 1999.

The September **Federal Register** notice states that certification of Engelhard's ETX kit, as it applies to engines of model years 1988 through 1990, is conditional pending demonstration by Engelhard that any replacement engine control module (ECM) or any replacement ECM program used in conjunction with the kit would not adversely impact the emissions of NOx. As a result of revisions necessitated by the demonstration, Engelhard has expressed concerns regarding the ability of the ETX kit, regardless of model year, to meet life cycle cost requirements of the regulation. In view of Engelhard's concerns, EPA is currently reviewing the status of the 0.10 g/bhp-hr standard for 1988—1993 6V92TA DDEC II engines. In general, certification lacking compliance with the cost requirements does not restrict use of a kit by operators. However, a program emissions standard can only be triggered when equipment is certified to life cycle cost requirements.

If the JM CCT kit is certified to comply with the life cycle cost requirements, then it may establish requirement on operators that choose to comply with compliance option 1, depending upon the ultimate status of the Engelhard certification. This is discussed further in Section III below.

II. Information Concerning Cost and Availability

EPA announced certification of the JM CCT Upgrade Kit in the **Federal Register** on December 3, 1998 (63 FR 66798). That certification is based on compliance with the 0.10 g/bhp-hr PM standard, without determination of compliance with the life cycle cost requirements of the urban bus program. In view of the uncertain nature of the current 0.10 g/bhp-hr standard that applies to the 6V92TA DDEC II engines, JM has submitted cost information to EPA for evaluation.

In documents signed January 26, 1999, JM presents life cycle cost information in a revised section 6 of their notification of intent to certify the CCT Upgrade Kit. JM also guarantees to make the equipment available to all operators for less than the applicable life cycle cost ceiling. JM presents data in support of their claim that the life cycle cost of the CCT kit is less than $7,940 (in 1992 dollars) incremental to the cost for a standard rebuild.

The life cycle cost analysis is based on JM's first supply option. In the first supply option, as described in the December 3, 1998 **Federal Register** notice, JM is to provide the following parts: CEM II catalytic muffler, patented engine camshafts, CCT cylinder kits, 0.015 offset key, fuel injectors, 40T blower gear, turbocharger, blower assembly, blower bypass valve, and if necessary, the ECM program (also known as the ''certification word code''). The cylinder heads and gasket kit are not included with the CCT kit.

III. Potential Impact on Transit Operator

Today's **Federal Register** notice announces that life cycle cost information for the JM CCT Upgrade Kit is available for public review. If certified to comply with the life cycle cost requirements of the Urban Bus Rebuild Program, then affected urban bus operators who choose to comply with compliance program 1 would be required to use this or other equipment certified to meet the 0.10 g/bhp-hr PM standard. If this certification triggers compliance with the 0.10 g/bhp-hr standard for these engines, then this requirement would be effective for any applicable engine that is rebuilt or replaced six months from the date such certification is announced in the **Federal Register**. However, to the extent the requirement has already been triggered, then the previous trigger date would apply. See 63 FR 50225 (September 21, 1998) concerning the certification of the Engelhard equipment.

The Johnson Matthey CCT kit is currently certified to comply with the 0.10 g/bhp-hr standard and can be used by all operators towards compliance with the urban bus program requirements. Operators who use this equipment and choose to comply with compliance program 2, would claim the PM certification level for the CCT kit (0.10 /bhp-hr) when calculating their Fleet Level Attained (FLA).

Today's **Federal Register** notice initiates a 45-day period during which EPA will accept written comments relevant to whether or not the information in the JM notification of intent to certify complies with the life cycle cost requirements of the urban bus rebuild regulations. To determine whether the JM notification complies with the requirements of the urban bus rebuild regulations, EPA will review the information provided by JM and the comments received on life cycle costs during the 45-day period, and attempt to resolve or clarify issues as necessary. EPA will review the available information to determine whether there is adequate demonstration of compliance with the life cycle cost requirements of 40 CFR 85.1403(b) and 85.1407(a), including whether the data provided by JM complies with the life cycle cost requirements.

EPA requests that those commenting also consider the regulatory requirements, plus provide comments on experience and/or knowledge related to the JM CCT Upgrade Kit, and rebuilding Detroit Diesel 6V92TA DDEC II engines, including the specific emissions-related parts, respective frequency of usage in rebuild, and costs.

If EPA certifies JM's CCT Upgrade Kit on the basis of life cycle cost, then it may trigger program requirements for bus operators that have chosen to comply with program 1 to use equipment certified to the 0.10 g/bhp-hr standard when applicable engines are rebuilt or replaced.

Interested parties are encouraged to review the notification of intent to certify and provide comment during the 45-day period. Please send separate copies of your comments to each of the above two addresses.

Copies of the JM notification, and other related material, are available for review in the public docket located at the address indicated above. During the review process, EPA may add additional documents to the docket as a result of the review process. These documents

will also be available for public review and comment within the 45-day period.

Dated: February 26, 1999.

Robert Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 99–5959 Filed 3–9–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FR–L6308–9]

Announcement of Public Meetings of Stakeholders on Resource Needs and Shortfall for Administering Programs Under the Clean Water Act and the Safe Drinking Water Act and Resource Needs and Shortfall at the Local Level for Costs Eligible for Public Financial Support (Including Water Quality, and Drinking Water)

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is conducting a series of stakeholder dialogue meetings on the resource needs and shortfall for administering and implementing State and local level programs under the Clean Water and Safe Drinking Water Acts. The purpose of the meetings is to solicit input from interested parties on the scope of the study, the approach, priorities and strategies for comprehensive stakeholder approaches to address the problem, and to discuss preliminary results. There will be two meetings. The first on April 7th will focus on State water quality programs under the Clean Water Act. The second on April 8th will be a general meeting which will address all aspects of the project. It will include a summary of the April 7th meeting, a discussion of state needs for managing drinking water and ground water/underground injection control programs and a discussion of local infrastructure needs for drinking water and clean water. The meetings are open to all interested parties on a space available basis.

DATES: There are two separate meetings:

(1) The State Water Quality Programs (under the Clean Water Act) meeting is scheduled for Wednesday, April 7, 1999 from 8:30 a.m to 5 p.m.

(2) The Water Program (including State Water quality, State drinking water and Local level implementation needs) meeting is scheduled for Thursday, April 8, 1999 and will be held from 8:30 a.m. to 5 p.m.

ADDRESSES: The meetings will be held at: Hilton Washington Dulles Airport, 13869 Park Center Road, Herndon, VA 20171, Phone: (703) 478–2900.

Persons interested in attending either of the meetings are requested to register electronically through the Internet at the following address:

http://161.80.11.87/Water/Formula.nsf/State+Water+Quality?OpenNavigator.

On the lefthand side the screen that appears, click on the red oval button under State Water Quality labeled ''STATUS.'' At the SWQStatus screen, select ''FINAL'' and search for the entry entitled ''April Meeting Registration.'' Interested parties who are unable to attend the meeting but would like to participate in the discussion, may provide comments via this website. Interested parties who do not have access to the Internet may contact Shadonna Price at (202) 260–7880 . All registration is requested by March 29, 1999.

FOR FURTHER INFORMATION CONTACT: For general information and background materials (agenda, discussion papers, etc) for this meeting, please visit the website at http://161.80.11.87/Water/Formula.nsf/State+Water+Quality?OpenNavigator Should you have technical problems accessing the website, please contact the technical hotline at (202) 260–1013.

Dated: March 1, 1999.

Alfred Lindsey,

Deputy Director, Office of Wastewater Management, Designated Federal Official.

[FR Doc. 99–5957 Filed 3–9–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00588; FRL–6065–4]

Science Advisory Board/Scientific Advisory Panel Notification of Public Advisory Committee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: Notice is hereby given that a Joint Committee of the Science Advisory Board (SAB) and the Scientific Advisory Panel (SAP) will meet on the dates and times described below. All times noted are eastern standard time. The meeting is open to the public; however, due to limited space, seating at the meeting will be on a first-come basis.

DATES: The Joint SAB/SAP Endocrine Disruptor Screening Program Subcommittee (EDSPS) will meet on Tuesday, March 30; Wednesday, March 31; and Thursday, April 1, 1999. The meeting will begin at 8:30 a.m. and end no later than 5 p.m. each day.

ADDRESSES: The meeting will be held at: The Sheraton Crystal Hotel, 1800 Jefferson Davis Highway, Arlington VA. The hotel telephone number is 703–486–1111.

By mail, submit written comments to: The Public Information and Records Integrity Branch (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person or by delivery service, bring comments to: Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data also may be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. No Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: For general information contact: Samuel Rondberg (1400), Co-Designated Federal Officer, EDSPS, Science Advisory Board, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460; telephone/voice mail at (301) 812–2560; fax at (202) 260–7118; or e-mail at samuelr717@aol.com.

For substantive issues contact: Larry C. Dorsey (7101C), Co-Designated Federal Officer, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone/voice mail at (703) 305–5369, or by e-mail dorsey.larry@.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Purpose of the Meeting

This is the first meeting of this Subcommittee, but is a follow-on of Joint SAB/SAP Endocrine Disruptor Screening and Testing Committee (EDSTAC), which met on May 5-7, 1998.

The Joint Subcommittee was established to provide advice and comment to EPA on the scientific questions associated with implementing its endocrine disruptor screening program. The Agency thus seeks advice from the EDSPS on a wide range of issues, including: (1) The scope of the initial screening program (e.g., hormone systems in addition to estrogen-related; inclusion of substances in addition to pesticides and certain drinking water source contaminants); (2) the priority setting process (e.g.; a compartment-based approach and the development of a relational data base; (3) the use of high throughput assays as a priority-setting measure; and (4) a proposed screening and testing scheme.

At the public meeting, Agency staff will brief the EDSPS on current

activities and plans for implementing its endocrine disruptor screening program, and the scientific/technical issues/problems raised by this activity. In concert with these presentations, EPA will present background materials for the Committee's information and consideration.

The Agency encourages that written statements be submitted before the meeting to provide Panel Members time to consider and review the comments.

Individuals requiring special accomodations at this meeting, including wheelchair access, should contact Samuel Rondberg at the address listed under ''FOR FURTHER INFORMATION CONTACT'' at least 5 business days prior to the meeting so that appropriate arrangements can be made.

II. Availability of Review Materials

A copy of the formal Charge to the Joint Subcommittee will be posted on the SAB Website (http://www.epa.gov/sab) by February 28, 1999.

A copy of the draft agenda will be available on the SAB Website (http://www.epa.gov/sab) or the SAP Website (http://www.epa.gov/pesticides/SAP/), or upon request from Ms. Priscilla Tillery-Gadson at (202) 260–4126, by fax at (202) 260–7118, or via e-mail at Fields.Wanda@epa.gov.

Hard copies of EPA primary background documents for the meeting may be obtained by contacting by mail: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; In person: Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA; telephone: (703) 305–5805.

III. Oral Presentations

Members of the public who wish to make a brief oral presentation to the Joint Subcommittee must contact Mr. Rondberg in writing (by letter, or by e-mail) no later than noon eastern standard time, Friday, March 12, 1999, in order to be included on the Agenda. These oral comments will be limited to 5 minutes per speaker or organization. The request should identify the name of the individual making the presentation, the organization (if any) the individual will represent, any requirements for audio visual equipment (e.g., overhead projector, 35 mm projector, chalkboard, etc.), and include at least 35 copies of an outline of the issues to be addressed or of the presentation itself.

IV. Public Docket and Submission of Electronic Comments

A public record has been established for this notice under docket control number OPP–00588 (including comments and data submitted electronically). A public version of this record, including printed versions of electronic comments, which does not include information claimed as CBI, will be available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 119 of the Public Information and Records Integrity Branch at the address listed in ADDRESSES at the beginning of this document.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data also will be accepted on disks in WordPerfect in 6/7/8.0 or ASCII file format. All comments and data in electronic form must be identified by docket control number OPP–00588. Electronic comments may be filed online at many Federal Depository Libraries.

Information submitted as a comment in response to this notice may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). Information marked CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. An edited copy of the comment that does not contain the CBI material must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket. All comments and materials received will be made part of the public record and will be considered by the Panel.

List of Subjects

Environmental protection.

Dated: February 26, 1999.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 99–5815 Filed 3–9–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30472; FRL–6067–1]

BASF Corporation; Application to Register a Pesticide Product

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register the pesticide product Sovran Fungicide, containing an active ingredient involving a changed pattern of the product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by April 9, 1999.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP–30472] File Symbol (7969–RLU) to: Public Information and Records Intregrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under ''SUPPLEMENTARY INFORMATION.'' No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this notice 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 comment 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. The public docket is available for public inspection in Rm. 119 at the Virginia address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Mary Waller,Product Manager (PM-21), Registration Division (7505C), 401 M St., SW., Washington, DC 20460. Office location/telephone number and e-mail address: Rm. 249, CM #2, 1921 Jefferson Davis Hwy, Arlington, VA, 703–308–9354; e-mail: waller.mary@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA received an application from BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709–3528, to register the pesticide product Sovran Fungicide (EPA File Symbol 7969–RLU), containing the active ingredient kresoxim-methyl (methyl (*E*)-2-methoxyimino-2-[2-(o-tolyloxymethyl) phenyl] acetate) at 50.0%. This application involves a changed use pattern for the active

ingredient pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. In addition to the currently registered uses, Sovran Fungicide will be used on apples, grapes, pears, and other pome fruits and pecans. Notice of receipt of this application does not imply a decision by the Agency on the application.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Public Record and Electronic Submissions

The official record for this notice, as well as the public version, has been established for this notice under docket number [OPP–30472] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official notice record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:
opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–30472] Electronic comments on this notice may be filed online at many Federal Depository Libraries.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pest, Product registration.

Dated: March 1, 1999.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 99–5964 Filed 3–9–99; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30473; FRL–6068–9]

Biotechnologies for Horticulture, Inc.; Application to Register a Pesticide Product

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register the pesticide product Ethylbloc, containing a new active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by April 9, 1999.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP–30473] File Symbol (71297–R) to: Public Information and Records Intregrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under ''SUPPLEMENTARY INFORMATION.'' No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this notice 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 comment 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. The public docket is available for public inspection in Rm. 119 at the Virginia address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Driss Benmhend, Biopesticides and Pollution Prevention Division (7511C), 401 M St., SW., Washington, DC 20460. Office location/telephone number and e-mail address: Rm. 902W37, CM #2, 1921 Jefferson Davis Hwy, Arlington, VA, 703–308–9525; e-mail: benmhend.driss@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA received an application from Biotechnologies for Horticulture, Inc., 751 Thunderbolt Road, Walterboro, SC 29488, to register the pesticide product EthylBloc (EPA file symbol 71297–R), containing the active ingredient 1-methylcyclopropene at 0.43%, an active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. Ethylbloc is intended for use only on ornamental, non-food crops. Notice of receipt of this application does not imply a decision by the Agency on the application.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Public Record and Electronic Submissions

The official record for this notice, as well as the public version, has been established for this notice under docket number [OPP–30473] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official notice record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:
opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in

Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–30473] Electronic comments on this notice may be filed online at many Federal Depository Libraries.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pest, Product registration.

Dated: March 2, 1999.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 99–5965 Filed 3–9–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34180; FRL–6068–2]

Chlorine gas; Availability of Reregistration Eligibility Decision Document for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces availability of and starts a 60–day public comment period for the Reregistration Eligibility Decision document (RED) for the active ingredient Chlorine gas. The RED for this chemical is the Agency's formal regulatory assessment of the health and environmental database of the subject chemical and presents the Agency's determination regarding which pesticidal uses are eligible for reregistration.

DATES: Written comments on these decisions must be submitted by May 10, 1999.

ADDRESSES: Three copies of comments, identified with the docket control number [OPP–34180] and the case number (listed in this document), should be submitted to: by mail: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, Virginia.

Comments may also be submitted electronically by following the instructions under Unit III. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment in response to this notice may be claimed confidential by marking any part or all of that information as confidential business information (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket without prior notice (including comments and data submitted electronically). The public docket and docket index, including printed paper versions of electronic comments, which does not include any information claimed as CBI will be available for public inspection in room 119 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

To request a copy of the RED, or RED Fact Sheet, contact the Public Information and Records Integrity Branch, Rm. 119 at the address given above, or call (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: For technical questions on the RED listed, contact Patrick Dobak at (703) 308–8180 or, e-mail: dobak.pat@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Electronic Availability

Electronic copies of this document and various support documents are availble from the Epa home page at the Federal Register--Environmental Documents entry for this document under ''Laws and Regulations'' (http://www.epa.gov.fedrgstr/).

Electronic copies of the REDs and RED Fact Sheets can be downloaded from EPA's World wide web site at http://www.epa.gov/oppsrrd1/REDs/.

II. Reregistration Eligibility Decisions

The Agency has issued a Reregistration Eligibility Decision (RED) document for Chlorine gas. Under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1988, EPA is conducting a reregistration program to reevaluate existing pesticides to ensure they meet current scientific and regulatory standards. The data base to support the reregistration of this chemical is substantially complete.

Please note that the Chlorine Gas RED was finalized and signed prior to August 3, 1996. On that date, the Food Quality Protection Act of 1996 (FQPA) became effective, amending portions of both the pesticide law (FIFRA) and the food and drug law (FFDCA). Therefore, this RED does not address any issues raised by FQPA. Since chlorine gas is exempt from tolerances, the tolerance assessment procedures required under FQPA are not applicable.

The Agency is not formally performing an FQPA review as part of this RED. However, registrants whose products are registered for use for drinking water treatment are required to perform two 2-generation reproduction studies and three developmental studies on three particular halogenated water disinfection byproducts. These studies will better characterize the reproductive and developmental risks that may be associated with exposure to these particular compounds. These compounds are bromodichloromethane, dichloroacetic acid, and dibromoacetic acid.

Chlorine products registered for use in non-residential swimming pools, pulp and paper mill processes, and industrial food processing plants and cooling towers are being reclassified as Restricted Use Pesticides due to chlorine's extreme acute toxicity plus many associated human poisoning incidents. These products must bear Restricted Use Pesticide labeling no sooner than October 1, 2000, and no later than April 1, 2001.

Chlorine products registered for drinking water, sewage and wastewater treatment uses and residential pool use will be considered unclassified. The Agency does not support classifying commercial applications of residential pools as a Restricted Use because few related accidents or incidents have been reported. Additionally for water treatment, applicators already are trained and certified by the states to perform these uses.

The Chlorine Gas RED also is requiring extensive label revisions for all products. This is intended to address the potential for exposure to chlorine gas and to facilitate enforcement actions in cases of misuse and improper distribution. The specific labeling requirements included in the RED are also available as an attachment to the RED Fact Sheet.

All registrants of products containing the active ingredient listed in this document, have been sent this RED and must respond to labeling requirements and product specific data requirements (if applicable) within 8 months of receipt. Products containing other active ingredients will not be reregistered until those other active ingredients are determined to be eligible for reregistration.

The reregistration program is being conducted under Congressionally-

mandated time frames, and EPA recognizes both the need to make timely reregistration decisions and to involve the public. Therefore, EPA is issuing this RED as a final document with a 60–day comment period. Although the 60–day public comment period does not affect the registrant's response due date, it is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the REDs. All comments will be carefully considered by the Agency. If any comment significantly affects a RED, EPA will amend the RED by publishing the amendment in the **Federal Register**.

III. Public Record and Electronic Submissions

The official record for this notice, as well as the public version, has been established for this notice under docket control number [OPP–34180] (including comments submitted electronically as described in this unit). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All comments in electronic form must be identified by the docket control number [OPP–34180]. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection.

Dated: March 1, 1999.

Jack E. Housenger,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 99–5822 Filed 3–9–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34179; FRL–6068–1]

Availability of Reregistration Eligibility Decision Documents for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces availability of and starts a 60–day public comment period for the Reregistration Eligibility Decision documents (REDs) for the active ingredients Dacthal (DCPA), Alachlor, Methomyl, Thiodicarb, and Hydramethylnon. The REDs for the chemicals listed are the Agency's formal regulatory assessments of the health and environmental database of the subject chemicals and present the Agency's determination regarding which pesticidal uses are eligible for reregistration.

DATES: Written comments on these decisions must be submitted by May 10, 1999.

ADDRESSES: Three copies of comments, identified with the docket control number [OPP–34179] and the case number (listed in the table in this document), should be submitted to: by mail: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments may also be submitted electronically by following the instructions under Unit III. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment in response to this notice 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 comment that does not contain CBI must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket without prior notice (including comments and data submitted electronically). The public docket and docket index, including printed paper versions of electronic comments, which does not include any information claimed as CBI will be available for public inspection in Rm. 119 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

To request a copy of any of the listed REDs, or RED Fact Sheets, contact the Public Information and Records Integrity Branch, room 119 at the address given above, or call (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: For technical questions on a RED listed, contact the appropriate Chemical Review Manager:

Chemical Name	Case No	Chemical Review Manager	Telephone No.	e-mail Address
DCPA	0270	Jill Bloom	308–8019	bloom.jill@epa.gov
Alachlor	0063	Kathyrn Boyle	305–6304	boyle.kathryn@epa.gov
Methomyl	0028	Tom Myers	308–8589	myers.tom@epa.gov
Thiodicarb	2675	Tom Myers	308–8589	myers.tom@epa.gov
Hydramethylnon	2585	Dean Monos	308–8074	monos.dean@epa.gov

SUPPLEMENTARY INFORMATION:

I. Electronic Availability

Electronic copies of this document and various support documents are available from the EPA home page at the **Federal Register**-Environmental Documents entry for this document under ''Laws and Regulations'' (http://www.epa.gov/fedrgstr/).

Electronic copies of the REDs and RED Fact Sheets can be downloaded from EPA's World wide web site at ''http://www.epa.gov/oppsrrd1/REDs/.''

II. Reregistration Eligibility Decisions

The Agency has issued Reregistration Eligibility Decision (RED) documents for the pesticidal active ingredients listed above. Under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1988, EPA is conducting an accelerated reregistration program to reevaluate existing pesticides to make sure they meet current scientific and regulatory standards. The data base to support the reregistration of each of the chemicals listed above is substantially complete.

Please note that the DCPA RED was finalized and signed prior to August 3, 1996. On that date, the Food Quality Protection Act of 1996 (FQPA) became effective, amending portions of both the pesticide law (FIFRA) and the food and drug law (FFDCA). Therefore, the DCPA RED does not address any issues raised by FQPA, and any tolerance assessment procedures required under FQPA. To the extent that this RED indicates that a change in any tolerance is necessary, that determination will be reassessed by the Agency under the standards set forth in FQPA before a proposed tolerance is issued.

All registrants of products containing one or more of the active ingredients, listed in this document, have been sent the appropriate REDs and must respond to labeling requirements and product specific data requirements (if applicable) within 8 months of receipt. Products containing other active ingredients will not be reregistered until those other active ingredients are determined to be eligible for reregistration.

The reregistration program is being conducted under Congressionally mandated time frames, and EPA recognizes both the need to make timely reregistration decisions and to involve the public. Therefore, EPA is issuing these REDs as final documents with a 60–day comment period. Although the 60–day public comment period does not affect the registrant's response due date, it is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the REDs. All comments will be carefully considered by the Agency. If any comment significantly affects a RED, EPA will amend the RED by publishing the amendment in the **Federal Register**.

III. Public Record and Electronic Submissions

The official record for this notice, as well as the public version, has been established for this notice under docket control number [OPP–34179] (including comments submitted electronically as described in this unit). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All comments in electronic form must be identified by the docket control number [OPP–34179]. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection.

Dated: March 1, 1999.

Jack E. Housenger,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 99–5818 Filed 3–9–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34178; FRL 6063–6]

Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on September 7, 1999.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery, telephone number and e-mail address: Rm. 216, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5761; e-mail: hollins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of FIFRA, provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

II. Intent to Delete Uses

This notice announces receipt by the Agency of applications from registrants to delete uses in the seven pesticide registrations listed in the following Table 1. These registrations are listed by registration number, product names, active ingredients and the specific uses deleted. Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before September 7, 1999 to discuss withdrawal of the applications for amendment. This 180–day period will also permit interested members of the public to intercede with registrants prior to the Agency approval of the deletion. (*Note: Registration number(s) preceded by ** indicate a 30–day comment period.*)

TABLE 1— REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Reg No.	Product Name	Active Ingredient	Delete From Label
001021–01439	D-TRANS Concentrate 2249	*d-trans*-Allethrin; *N*-Octyl bicycloheptene dicarboximide; Chlorpyrifos	Food/feed areas of commercial food handling establishments
001021–01457	ESBIOL Concentrate 2243	*S*-Bioallaethrin; *N*-octyl bicycloheptene dicarboximide; Chlorpyrifos; Piper onyl butoxide	Food/feed areas of commercial food handling establishments
004581–00255	Maneb 80	Maneb	Grass uses
004581–00371	Maneb 75DF	Maneb	Grass uses

TABLE 1— REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS—Continued

EPA Reg No.	Product Name	Active Ingredient	Delete From Label
045639–00214	Finale VM Herbicide	Glufosinate-ammonium	Applications in rights of-way, industrial sites, ornamental and Christmas tree plantings
**51036–00217	Chlorpyrifos 61.5% MUP	Chlorpyrifos	Pest control indoors: indoor broadcast use; total release foggers or indoor residential and non-residential (except greenhouse) use; coating products intended for large areas. Pets and domestic animals (Indoor): Animal dips, sprays, shampoos, dusts. Aquatic uses (Aquatic Food Crop) (Aquatic non food): Any aquatic use. Pest control indoors or outdoors (Domestic in door or outdoor): Paint additives
056228–00006	Zinc Phosphide Concentrate for Rodent and Lagamorph Control	Zinc phosphide	Home uses

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2 — REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Company No.	Company Name and Address
001021	McLaughlin Gormley King Co., 8810 Tenth Avenue North, Minneapolis, MN 55427.
004581	Elf Atochem North America, Inc., 2000 Market Street, Philadelphia, PA 19103.
045639	AgrEvo USA Company, Little Falls Centre One, 2711 Centerville Road, Wilmington, DE 19808.
051036	Micro Flo Company, P.O. Box 5948, Lakeland, FL 33807.
056228	U.S. Dept. of Agriculture, Animal Plant Health Inspection Service, 4700 River Road, Unit 152, Riverdale, MD 20737.

III. Existing Stocks Provisions

The Agency has authorized registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: February 19, 1999

Faye M. Howell,

Acting Director, Information Resources Services Division, Office of Pesticide Programs.

[FR Doc. 99–5816 Filed 3-9-99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–866; FRL–6067–5]

Notice of Filing of Pesticide Petition

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 the docket control number PF–866, must be received on or before April 9, 1999.

ADDRESSES: By mail submit written comments to: Information and Records Integrity Branch, Public Information and Services Divison (7502C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under ''SUPPLEMENTARY INFORMATION.'' No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment 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. All written comments will be available for public inspection in Rm. 119 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Denise Greenway, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 902W43, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 308–8263; e-mail:greenway.denise@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic 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 supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–866] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket control number (PF–866) and appropriate petition number. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 2, 1999.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention 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 views of the petitioner. EPA is publishing the petition summaries verbatim without editing them 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.

Abbott Laboratories

PP 9G5048

EPA has received a pesticide petition [PP 9G5048] from Abbott Laboratories, Chemical and Agricultural Products Division, 1401 Sheridan Road, North Chicago, IL 60064, proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a temporary tolerance for residues of the biochemical pesticide aminoethoxyvinylglycine (AVG) in or on food commodities of the stone fruit crop group 12, including apricot, cherry (sweet and tart), nectarine, peach, plum, chickasaw plum, damson plum, Japanese plum, plumcot, and prune (fresh).

Pursuant to section 408(d)(2)(A)(i) of the FFDCA, as amended, Abbott Laboratories has submitted the following summary of information, data, and arguments in support of their pesticide petition. This summary was prepared by Abbott Laboratories and EPA has not fully evaluated the merits of the pesticide petition. The summary may have been edited by EPA if the terminology used was unclear, the summary contained extraneous material, or the summary unintentionally made the reader conclude that the findings reflected EPA's position and not the position of the petitioner.

A. Product name and Proposed Use Practices

*Recommended application method and rate(s), frequency of application, and timing of application for ReTain*R. The proposed experimental use program will be conducted in Alabama, California, Georgia, Illinois, Maryland, Massachusetts, Michigan, Montana, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Texas, Utah, Virginia, and Washington. The purpose is to evaluate AVG on stone fruit crops. The proposed experimental program would utilize 47 pounds of active ingredient on 427 acres. AVG will be applied as a single application by airblast sprayer at a maximum rate of 50 grams active ingredient per acre during the season at 7-14 days prior to anticipated harvest.

B. Product Identity/Chemistry

1. *Identity of the pesticide and corresponding residues.* Aminoethoxyvinylglycine (AVG) is a fermentation product derived from a naturally occurring soil microbe. AVG inhibits endogenous production of ethylene in plants, which impacts ripening and senescence. AVG was registered as a plant growth regulator in 1997, and a time-limited tolerance to expire on April 1, 2001, has been established at 0.080 ppm of AVG on food commodities of apples, and pears (40 CFR 180.502). AVG is formulated into a soluble powder and dissolved in water for application. Product chemistry data including specifications and physical/chemical properties are well-characterized and previously provided to the Agency.

2. *Magnitude of residue at the time of harvest and method used to determine the residue.* The magnitude of residues was evaluated in/on peaches at proposed and exaggerated label rates. After application of proposed label rates, residue levels were below the level of quantitation, if detectable at all, within 5 days of application. Exaggerated rates demonstrated rapid decline of residues to below quantifiable levels by 14 days after application. Abbott Laboratories has developed an analytical method for detection of AVG in/on peaches. A high performance liquid chromotography (HPLC) method has been validated by an outside laboratory. The limit of quantitation (LOQ) is 0.170 part per million (ppm) and the limit of detection (LOD) is 0.050 ppm.

C. Mammalian Toxicological Profile

1. *Acute toxicity.* The following acute toxicity studies with AVG have been conducted and reviewed: an acute oral toxicity study in rats, an acute dermal toxicity study in rabbits, an acute inhalation toxicity study in rats, a primary eye irritation study in rabbits, a dermal irritation study in rabbits, and a dermal sensitization study in guinea pigs. Results of the acute toxicity studies indicate that both AVG and its end product are Toxicity Category III or IV and pose no significant human health risks. Acute oral study with AVG indicated the LD_{50} = 6,400 milligrams active ingredient per kilogram of body weight (mg a.i./kg bwt) in rats. Acute dermal toxicity in rabbit indicated an LD_{50} > 2,000 mg/kg. The 4-hour LC_{50} = 1.13 g/m^3 for AVG in an acute inhalation study with rats. AVG produced slight irritation in eye and dermal irritation studies with rabbits. A dermal sensitization study with guinea pigs indicated that AVG is not a sensitizer.

2. *Genotoxicity.* AVG did not demonstrate mutagenic potential in an Ames *Salmonella* gene mutation assay with or without activation. No

mutagenic activity was associated with AVG in cultures of mouse lymphoma cells with or without metabolic activation. In an *in vivo* rat bone marrow cell micronucleus test, there was no indication that AVG was genotoxic.

3. *Developmental toxicity*. In a developmental toxicity study in rats by oral gavage, a no observable adverse effect level (NOAEL) of 1.77 mg a.i./kg bwt day was determined for both developmental and maternal toxicity. Two-generation reproduction study (rat) data are pending, as a condition of the section 3 registration. Interim data on the first generation have been submitted to the Agency.

4. *Subchronic toxicity*. A reference dose (RfD) of 0.002 mg a.i./kg bwt/day was derived from a 90 day feeding study in rats in which there was decreased food consumption, body weight and food efficiency (body weight gain/food consumption), and fatty changes in kidney and liver at dosage levels of 9 mg a.i./kg bwt/day or higher. The NOAEL in this study was assigned as 2.2 mg a.i./kg bwt/day. In a 21 day dermal toxicity study in rats, the NOAEL was greater than 1,000 mg a.i./kg/day. In a 28 day dietary immunotoxicity study in rats with a NOAEL of 5 mg a.i./kg/day, decreases in several immune response parameters are considered secondary to the decreased food consumption, body weight, and food efficiency in the treated rats.

D. Aggregate Exposure

1. *Dietary exposure*—i. *Food*. Expected dietary exposure from residues of AVG may occur through the current uses on apple and pear, and the proposed uses on stone fruit. Residue studies conducted with peaches indicate that at proposed label rates, AVG residue levels, if detectable, are below the level of quantitation at harvest. Because of the low rate of application and rapid decline rate, residues in or on treated stone fruit commodities are considered negligible, if detectable at all. However, for risk assessment purposes, maximum anticipated residues were assigned as the limit of quantitation.

ii. *Drinking water*. Residues of AVG are unlikely to occur in drinking water based on its use pattern, low application rates, and expected microbial degradation. There are no registered applications of AVG to water. However, for risk assessment purposes, worst-case assumptions of drift and persistence were incorporated to account for exposure through water consumption.

2. *Non-dietary exposure*. The only non-dietary exposure expected is to applicators. Exposure to AVG resulting from its application according to label directions is not expected to present risks of adverse health or environmental effects, based on its toxicology profile and occupational risk assessment. Non-occupational exposures (home/garden uses) are not applicable to this experimental use permit (EUP).

E. Cumulative Exposure

AVG is a structurally unique biochemical compound and is a naturally-occurring L-amino acid. It does not exhibit a toxic mode of action in its target crops. It is used to regulate the growth and development of the crop. It is used at low application rates and is derived from a naturally-occurring soil microbe. No risks from cumulative exposure have been identified for AVG.

F. Safety Determination

1. *U.S. population*. Based on a NOAEL of 2.2 mg/kg bwt/day from the subchronic toxicity study and an uncertainty factor of 1,000, the U.S. EPA established an RfD of 0.002 mg/kg/day to assess the current time-limited tolerance. For the proposed temporary tolerance on stone fruit, theoretical dietary exposure analyses were conducted using the current RfD and conservative assumptions, such as peach residue values at the LOQ, and 100% of all stone fruit treated. In addition, conservative assumptions of drift and exposure through potable water were included to address water consumption. Results indicated a reasonable certainty of no harm from the use of AVG on stone fruit. The addition of stone fruit to the existing uses on apple and pear totals 5.7% of the RfD for the general U.S. population. The addition of potable water brings the aggregate RfD for the general U.S. population to 7.7%.

2. *Infants and children*. The risks to infants and children have been evaluated based on a developmental study in rats as well as the use of a 10-fold uncertainty factor. Results indicate that there is a reasonable certainty of no harm to infants and children from the use of AVG on stone fruit. Stone fruit plus the existing uses on apple and pear totals 43.8% of the RfD for the most highly exposed sub-population, non-nursing infants less than 1-year old.

G. Effects on the Immune and Endocrine Systems

Abbott Laboratories has no information to suggest that AVG will adversely affect the immune or endocrine systems.

H. Existing Tolerances

U.S. EPA has established a time-limited tolerance to expire April 1, 2001, for the residues of aminoethoxyvinylglycine at a level of 0.08 ppm in apple, and pear commodities, as noted in 40 CFR 180.502.

I. International Tolerances

No international or CODEX MRLs or exemptions have been established for aminoethoxyvinylglycine.

[FR Doc. 99–5817 Filed 3–9–99; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–862; FRL–6063–3]

Notice of Filing of Pesticide Petitions

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 certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by the docket control number PF–862, must be received on or before April 9, 1999.

ADDRESSES: By mail submit written comments to: Information and Records Integrity Branch, Public Information and Services Divison (7502C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under ''SUPPLEMENTARY INFORMATION.'' No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment 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. All written comments will be available for public inspection in Rm. 119 at the address

given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Mary L. Waller, Fungicide Branch, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 249, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–6117; e-mail:waller.mary@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic 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 supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–862] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket control number [PF–862] and appropriate petition number. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 22, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summary of each petition was prepared by the petitioner and represents the views of the petitioner. EPA is publishing the petition summaries verbatim without editing them 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.

1. American Cyanamid Company

PP 7F4816

EPA has received a pesticide petition (PP 7F4816) from American Cyanamid Company, P.O. Box 400 Princeton, NJ 08543-0400 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of dimethomorph, (E,Z)4-[3-(4-chlorophenyl)-3-(3,4-dimethoxyphenyl)-1-oxo-2-propenyl]morpholine in or on the raw agricultural commodity cereal grains (Crop Group 15) and forage of cereal grain crops (Crop Group 16) at 0.05 parts per million (ppm) and fodder and straw of cereal grain crops (Crop Group 16) at 0.10 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 supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of dimethomorph in plants is adequately understood for the purposes of these tolerances. A rotational crop study showed the potential for indirect or inadvertent residues of dimethomorph in or on commodities of cereal crops.

2. *Analytical method*. There is a practical method for measuring 0.050 ppm of dimethomorph in or on commodities of cereal crops. This gas chromatography method with nitrogen-phosphorus detection (M3112) is appropriate for enforcement purposes. Confirmation of residues is provided by liquid chromatography/mass spectroscopy of the final extract of this method.

3. *Magnitude of residues*. The magnitude of residue studies were conducted for wheat as a rotational crop to potatoes treated at 1.4 x the maximum labeled rate. Residues found in these studies were below the level of quantitation (LOQ) in the forage and grain samples from all six trials and in the hay, and straw samples from four of the trials. The maximum observed residue (sample means) was 0.057 ppm for hay, and 0.086 ppm for straw for the other two trials. Therefore, at the maximum labeled rate, residues of dimethomorph in or on hay are expected to be below the LOQ (< 0.05 ppm) and residues in or on straw are expected to be less than 0.10 ppm.

B. Toxicological Profile

1. *Acute toxicity*. An acute oral toxicity study in the Sprague-Dawley rat for dimethomorph technical with a LD_{50} of 4,300 milligram per kilogram bodyweight (mg/kg bwt) for males and 3,500 mg/kg bwt for females. Based upon EPA toxicity criteria, the acute oral toxicity category for dimethomorph technical is Category III or slightly toxic. Oral LD_{50} studies were conducted on the two isomers (E and Z) alone: An acute oral toxicity study in the Wistar rat for the E-isomer with a LD_{50} greater than 5,000 mg/kg bwt for males and approximately 5,000 mg/kg bwt for females. An acute oral toxicity study in the Wistar rat for the Z-isomer with a LD_{50} greater than 5,000 mg/kg bwt for both males and females. An acute dermal toxicity study in the Wistar rat for dimethomorph technical with a dermal LD_{50} greater than 5,000 mg/kg bwt for both males and females. Based on the EPA toxicity category criteria, the Acute dermal toxicity category for dimethomorph is Category IV or relatively non-toxic. A 4-hour inhalation study in Wistar rats for dimethomorph technical with a LC_{50} greater than 4.2 milligram per liter (mg/L) for both males and females. Based on the EPA toxicity category criteria, the acute inhalation toxicity category for dimethomorph technical is Category IV or relatively non-toxic.

2. *Genotoxicty*. *Salmonella* reverse gene mutation assays (2 studies) were negative up to a limit dose of 5,000 μg/plate. Chinese hamster lung cells were negative in V79 cells up to toxic doses in 2 studies. Two Chinese hamster lung structural chromosomal studies were

reportedly positive for chromosomal aberrations at the highest dose tested (HDT) (160 µg/ml/-S9; 170 µg/ml/+S9). Dimethomorph induced only a weak response in increasing chromosome aberrations in this test system. These results were not confirmed in two micronucleus tests under *in vivo* conditions. Structural Chromosomal Aberration studies were weakly positive, in human lymphocyte cultures, but only in S9 activated cultures treated at the HDT (422 µg/ml) which was strongly cytotoxic. Dimethomorph was negative in the absence of activation at all doses and the positive in human lymphocyte cultures was only in S9 activated cultures treated at the HDT (422 µg/ml) which was strongly cytotoxic. Dimethomorph was negative in the absence of activation at all doses and the positive clastogenic response observed under the *in vitro* conditions was not confirmed in two *in vivo* micronucleus assays. Micronucleus assay (2 studies) indicated that dimethomorph was negative for inducing micronuclei in bone marrow cells of mice following i.p. administration of doses up to 200 mg/kg or oral doses up to the limit dose of 5,000 mg/kg. Thus, dimethomorph was found to be negative in these studies for causing cytogenic damage *in vivo*. Dimethomorph was negative for inducing unscheduled DNA synthesis in cultured rat liver cells at doses up to 250 µ/ml, a weak cytotoxic level. Dimethomorph was negative for transformation in Syrian hamster embryo cells treated in the presence and absence of activation up to cytotoxic concentrations (265 µg/ml/+S9; 50 µg/ml-S9).

3. *Reproductive and developmental toxicity*. A rat developmental toxicity study with a maternal toxicity lowest-observed-adverse-effect Level (LOAEL) of 160 mg/kg/day and a maternal toxicity no-observed adverse-effect level (NOAEL) of 60 mg/kg/day. The NOAEL for developmental toxicity is 60 mg/kg/day. Dimethomorph is not teratogenic in the Sprague-Dawley rat. A rabbit development toxicity study with parental LOAEL for systemic toxicity of 80 mg/kg/day, and a NOAEL of 24 mg/kg/day. The NOAEL for fertility and reproductive function was 80 mg/kg/day, the HDT.

4. *Subchronic toxicity* A 90-day dog dietary study in Sprague-Dawley rats with a NOAEL of greater than or equal to 73 mg/kg/day in males and 82 mg/kg/day in females, the HDT. A 90-day dog dietary study with a NOAEL 15 mg/kg/day, and a LOAEL of 43 mg/kg/day.

5. *Chronic toxicity*. A 2-year oncogenicity study in Sprague-Dawley rats with a NOAEL for systemic toxicity of 9 mg/kg/day for males and 12 mg/kg/day for females. The LOAEL for systemic toxicity is 36 mg/kg/day for males and 58 mg/kg/day for females. A 1-year chronic toxicity study in dogs with a NOAEL of 14.7 mg/kg/day and a LOAEL of 44.6 mg/kg/day. A 2-year oncogenicity study in Sprague-Dawley rats with a NOAEL for systemic toxicity of 9 mg/kg/day for males and 11 mg/kg/day for females. The LOAEL for system toxicity was 34 mg/kg/day for males and 46 mg/kg/ day for females. There was no evidence of increased incidence of neoplastic lesions in treated animals. The NOAEL for oncogenicity is 95 mg/kg/day for males and 132 mg/kg/day for females, the HDT. A 2-year oncogenicity study in mice with a NOAEL for systemic toxicity of 100 mg/kg/day, and LOAEL of 1,000 mg/kg/day. There was no evidence of increased incidence of neoplastic lesions in treated animals. The NOAEL for oncogenicity is 1,000 mg/kg/day, the HDT.

6. *Animal metabolism*. Results from livestock and rat metabolism studies show that orally administered dimethomorph was rapidly excreted by the animals. The principal route of elimination is the feces.

7. *Metabolite toxicology*. There were no metabolites identified in plant or animal commodities which require regulation.

8. *Endocrine disruption*. There is no evidence of effects of dimethomorph on the endocrine system. There were no changes noted in organ weights for the pituitary, thyroid, ovaries or testes. There was no increased incidence of mammary tumors observed. No effects on fertility or reproduction were noted and there was no evidence of related histopathological changes in reproductive or endocrine system organs.

C. Aggregate Exposure

1. *Dietary exposure*. Dietary exposure should be based upon the Theoretical Maximum Residue Concentration (TMRC) from the established tolerances for residues of dimethomorph at 0.05 ppm in or on potato; for the proposed tolerances for residues of dimethomorph at 2.0 ppm in or on grapes; and 0.15 ppm on potatoes wet peel; for the proposed tolerances for indirect and inadvertent residues of dimethomorph at 0.05 ppm in or on cereal grains, and in or on fodder and straw of cereal grain crops, and from the time-limited tolerances (i.e. at 1.0 ppm for cantaloupes, cucumbers, squash, and watermelons) which were established under Section 18 emergency exempt ions and which are not due to expire at or near completion of this regulatory action.

i. *Food*. The goat and poultry metabolism studies demonstrate that there is no reasonable expectation of transfer of residues to meat, milk, poultry, or eggs from potato, grape, and cereal crop commodities. Therefore, no consumption data associated with meat, milk, poultry or eggs should be included in the calculation of the TMRC. Except for the permanent tolerances on potato tubers, there are no other permanent U.S. tolerances for dimethomorph.

ii. *Drinking water*. The predicted dimethomorph surface and ground water concentrations are well below the drinking water level of concern. Using the SCI-GROW model to generate the Estimated Environmental Concentration (EEC) of dimethomorph residues in ground water, the projected EEC is 0.26 parts per billion (ppb). Using the Generic Estimated Environmental Concentration (GENEEC) model to estimate acute and chronic EECs of dimethomorph residues in surface water, the projected EEC ranged from a peak of 28 ppb to a 56 day concentration of 24 ppb. The level of concern for chronic exposure to residues of dimethomorph range from 960 ppb for children 1-6 years old to 3,400 ppb for the U.S. population and males 13 years and older. Therefore, American Cyanamid believes that exposure from water is below the level of concern for all of the populations examined. In addition, American Cyanamid believes that the aggregate (food, and water) chronic exposure for infants, children, and adults does not exceed the level of concern and adverse health effects from chronic exposure to dimethomorph in food, and water are not expected in these populations.

2. *Non-dietary exposure*. In the United States, dimethomorph is registered only for use on potatoes. Thus, there is no potential for non-dietary exposure.

D. Cumulative Effects

There is no information to indicate that any toxic effects produced by dimethomorph would be cumulative with those of any other chemical. The fungicidal mode of action of dimethomorph is unique; dimethomorph inhibits cell wall formation only in Oomycete fungi. The result is lysis of the cell wall which kills growing cells and inhibits spore formation in mature hyphae. This unique mode of action and limited pest spectrum suggest that there is little or no potential for cumulative toxic effects in mammals. In addition, the toxicity studies submitted to support this

petition do not indicate that dimethomorph is a particularly toxic compound.

E. Safety Determination

1. *U.S. population*. The established reference dose (RfD) is 0.1 mg/kg bwt/day, based on a NOAEL of 10 mg/kg bwt/day from a 2-year dietary toxicity study in rats that demonstrated decreased bwt, and liver foci in females. The established RfD is also based on an uncertainty factor of 100. The TMRC from the established tolerances for residues in or on potato along with the current Section 18 time-limited tolerances (cantaloupes, watermelons, cucumbers, and squash, as well as expiring tolerances for tomato commodities) utilizes less than 4% of the RfD for all population subgroups. The TMRC for grapes and cereal grains is not expected to cause the RfD to be exceeded.

2. *Infants and children*. American Cyanamid believes that the results of the studies submitted to support this package provide no evidence that dimethomorph caused reproductive, developmental or fetotoxic effects. No such effects were noted at dose levels which were not maternally toxic. The NOAELs observed in the developmental and reproductive studies were 6 to 65 times higher than the NOAEL (10 mg/kg bwt/day) used to establish the RfD. There is no evidence to indicate that children or infants would be more sensitive than adults to toxic effects caused by exposure to dimethomorph.

F. International Tolerances

No Codex maximum residue levels (MRLs) have been established for dimethomorph to date.

2. BASF Corporation

PP 7F4880

EPA has received a pesticide petition (7F4880) from BASF Corporation, 26 Davis Drive, Post Office Box 13528, Research Triangle Park, North Carolina 27709-3528, proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for combined residues of kresoxim-methyl (methyl (E)-2-methoxyimino-2-[2-(o-tolyloxymethyl) phenyl] acetate) and the glycoside conjugates of its metabolites 2-[o-(o-hydroxymethylphenoxymethyl) phenyl]-2-(methoxyimino) acetic acid and 2-[o-(p-hydroxy-o-methylphenoxymethyl) phenyl]-2-(methoxyimino) acetic acid in or on the raw agricultural commodities pome fruit, grapes and pecans at 0.30 parts per million (ppm) for pome fruit, 1.0 ppm for grapes, 0.15 ppm for pecans and 0.70 ppm for apple pomace. 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 supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. BASF Corporation notes that metabolism in plants is understood.

2. *Analytical method*. The proposed analytical method involves extraction, enzyme hydrolysis, partition, clean-up and detection of residues by high performance liquid chromotography using ultra-violet (HPLC/UV) detection.

3. *Magnitude of residues*. Twelve grape residue trials were conducted in six States. Residues of kresoxim-methyl and its two metabolites were measured by HPLC/UV. The analytical method had a limit of detection (LOD) of 0.05 ppm for each of the three analytes. Residues ranged from < 0.15 ppm to 0.79 ppm.

Nineteen apple residue trials were conducted in 12 States. Residues of kresoxim-methyl and its two metabolites were measured by HPLC/UV. The analytical method had a LOD of 0.05 ppm for each of the three analytes. Residue of parent and metabolites ranged from < 0.15 to 0.23 ppm.

Eight pear residue trials were conducted in five States. Residues of kresoxim-methyl and its two metabolites were measured by HPLC/UV. The analytical method had a LOD of 0.05 ppm for each of the three analytes. Residues of parent plus metabolites ranged from < 0.15 to 0.26 ppm.

Six pecan residue trials were conducted in five States. Residues of kresoxim-methyl and its two metabolites were measured by HPLC/UV. The analytical method had a LOD of 0.05 ppm for each of the three analytes. No residue of parent or metabolites was found in any sample above the LOD.

B. Toxicological Profile

1. *Acute toxicity*—Acute/subchronic toxicology. Based on available acute toxicity data, kresoxim-methyl does not pose any acute toxicity risks. Acute toxicology studies place technical-grade kresoxim-methyl in Toxicity Category IV for acute oral and Category III for acute dermal and acute inhalation toxicity. The material is not an eye irritant, a primary dermal irritant or a skin sensitizer. Additionally, in acute and subchronic neurotoxicity studies, kresoxim-methyl did not show any signs of neurotoxicity at dose levels up to and including 2,000, and 1,267 milligram/kilogram/day (mg/kg/day), respectively.

2. *Genotoxicty*. With regard to the liver tumors, kresoxim-methyl is not a genotoxic agent and is not an initiator of the carcinogenic process. The increased incidence of liver tumors in rats is the result of liver tumor promoting properties of the test substance.

3. *Reproductive and developmental toxicity*—i. *Reproductive toxicity*. The 2-generation reproduction study with rats resulted in a reproductive no-observed adverse effect level (NOAEL) of 1,625 mg/kg/day, and a maternal NOAEL of 100 mg/kg/day. These NOAEL values are significantly higher than the NOAEL from the 2 year feeding study in rats used to establish the reference dose (RfD).

ii. *Developmental toxicity*. The teratogenicity study in rats resulted in a developmental toxicity NOAEL of 1,000 mg/kg/day, and a maternal toxicity NOAEL of 1,000 mg/kg/day. These NOAEL values are significantly higher than the NOAEL from the 2 year feeding study in rats used to establish the RfD.

4. *Subchronic toxicity*—i. *Acute/subchronic toxicology*. Based on available acute toxicity data, kresoxim-methyl does not pose any acute toxicity risks. Acute toxicology studies place technical-grade kresoxim-methyl in Toxicity Category IV for acute oral and Category III for acute dermal and acute inhalation toxicity. The material is not an eye irritant, a primary dermal irritant or a skin sensitizer. Additionally, in acute and subchronic neurotoxicity studies, kresoxim-methyl did not show any signs of neurotoxicity at dose levels up to and including 2,000 and 1,267 mg/kg/day, respectively.

ii. *Subchronic toxicology*—a. *Teratology - Rat*. A teratogenicity study in the rat with doses at 100, 400, and 1,000 mg/kg/day by gavage was performed with a maternal NOAEL of 1,000 mg/kg/day and fetal NOAEL of 1,000 mg/kg/day.

b. *Teratology - Rabbits*. A teratogenicity study in the rabbit with doses at 100, 400, and 1,000 mg/kg/day by gavage was performed with a maternal NOAEL of 1,000 mg/kg/day and fetal NOAEL of 1,000 mg/kg/day.

c. *Mutagenicity*. Modified Ames Test (2 studies; point mutation): Negative; *In Vitro* chinese hamster ovary hypoxanthine guanine phophoribosyl transferase (CHO/HGPRT) (point

mutation): Negative; *In Vitro* Cytogenetics Chromosome Damage Human Lymphocytes: Negative; *In Vivo* Chromosome Mouse Micronucleus: Negative; *In Vitro* DNA Damage & Repair Rat Hepatocytes: Negative; UDS *ex Vivo* DNA Damage & Repair Wistar Rats (Single Oral Dose): Negative; UDS *ex Vivo* DNA Damage & Repair Wistar Rats (3 Week Feeding): Negative.

5. *Chronic toxicity*—i. *Threshold effects*. Based on review of the available data, BASF believes the RfD for kresoxim-methyl will be based on the 2 year feeding study in rats with a threshold NOAEL of 36 mg/kg/day in males, and 47 mg/kg/day in females. Using an uncertainty factor of 100, the RfD is calculated to be 0.36 mg/kg/day.

ii. *Non-threshold effects - carcinogenicity*. Kresoxim-methyl was shown to be non-carcinogenic in mice. In the rat carcinogenicity study, a statistically significant increase in liver tumors was observed in both male and female animals at 370 and 746 mg/kg/day, and 503 and 985 mg/kg/day dose levels, respectively. Kresoxim-methyl is not a genotoxic agent and mechanistic studies have shown that the increased incidence of liver tumors in rats is the result of liver tumor promoting properties of the test substance. Kresoxim-methyl is not an initiator of the carcinogenic process. Based on the available data, the mechanism of promotion is the induction of liver cell proliferation of the test substance. The data available also indicate that dose levels which do not induce liver toxicity neither induce cell proliferation nor enhance the carcinogenic process. Therefore, a threshold for liver carcinogenicity in rats can be defined to be approximately 40 mg/kg/day.

Based on the results of the carcinogenicity study in mice, the results of genotoxicity testing, the results of the 24 month chronic feeding/oncogenicity study in rats; and auxiliary mechanistic data showing that kresoxim-methyl is not an initiator of the carcinogenic process, BASF believes that the threshold approach to regulating kresoxim-methyl is appropriate.

C. Toxicity Data Supporting Kresoxim-methyl Tolerances

1. *Chronic feeding*—i. *Nonrodent*. A 12 month feeding study in the dog with doses of 29, 142, and 738 mg/kg/day was performed with a NOAEL of 138 mg/kg/day for males, and 761 mg/kg/day for females. The only effect observed was reduced body weights (bwt) in male dogs at the highest dose tested (HDT).

ii. *Chronic feeding/oncogenicity - Rats*. A 24 month chronic feeding/oncogenicity study in the rat with doses at 9, 36, 370, and 746 mg/kg/day for males and 12, 48, 503, and 985 mg/kg/day for females was performed with a NOAEL of 36 mg/kg/day in males, and 47 mg/kg/day in females. Reduced bwt changes were observed in male, and female rats in the highest two dose groups. Histopathologically, changes in the liver were observed in either or both of the highest two dose groups for male, and female rats. These changes consisted of increased liver weight, increased hepatocellular hypertrophy, increased incidence and severity of eosinophilic foci of hepatocellular alterations, and increased incidence and degree of severity of bile duct proliferation. Associated with the liver, an increase of serum-gamma-glutamyltransferase values was observed. A statistically significant increase in liver tumors was observed in both male, and female animals at 370 mg/kg/day and 985 mg/kg/day, respectively. With regard to the liver tumors, kresoxim-methyl is not a genotoxic agent and is not an initiator of the carcinogenic process. The increased incidence of liver tumors in rats is the result of liver tumor promoting properties of the test substance. Based on the available data, the mechanism of promotion is the induction of liver cell proliferation of the test substance. The data available also indicate that dose levels which do not induce liver toxicity neither induce cell proliferation nor enhance the carcinogenic process. Therefore, a threshold for liver carcinogenicity in rats can be defined to be approximately 40 mg/kg/day.

iii. *Oncogenicity - Mice*. A mouse oncogenicity study using dosage levels at 60, 304, and 1,305 mg/kg/day for males, and 81, 410, and 1,662 mg/kg/day for females was performed with a NOAEL of 304 mg/kg/day for males, and 81 mg/kg/day for females, with no evidence of oncogenicity. Bwt changes were observed in both male, and female mice in the highest dose group and only in the females in the 410 mg/kg/day group. Histopathology was limited only to the highest dose group and consisted of increased incidence of renal papillary necrosis for both male, and female mice and increased incidence and higher degree of severity of liver amyloidosis in females only.

iv. *2-Generation reproduction - Rats*. A 2-generation reproductive study in the rat with doses at 5, 100, 407, and 1,625 mg/kg/day was performed with a NOAEL of 100 mg/kg/day for parental and developmental toxicity, and a NOAEL of 1,625 mg/kg/day for reproduction toxicity. Decreased body weight was seen in both the pups and parents. Reduced serum-gamma-glutamyltransferase was seen in F0 males and both sexes of the F1 generation, and reduced kidney weights were seen in the F1 generation at the 407 and 1,625 mg/kg/day dose levels. Decreased fat storage was observed in F0 and F1 male livers at the 407 and 1,625 mg/kg/day dose levels.

6. *Animal metabolism*. BASF Corporation notes that metabolism in animals is understood.

D. Aggregate Exposure

1. *Dietary exposure*. For purposes of assessing the potential chronic dietary exposure, BASF has estimated aggregate exposure based on the Theoretical Maximum Residue Contribution (TMRC) from the proposed tolerance for kresoxim-methyl on pome fruit at 0.30 ppm, grapes at 1.0 ppm, and pecans at 0.15 ppm. The TMRC is a ''worse case'' estimate of dietary exposure since it is assumed that 100% of all crops for which tolerances are established are treated and that pesticide residues are always found at the tolerance levels.

i. *Food*. Dietary exposure to residues of kresoxim-methyl in or on food will be limited to residues on pome fruit, grapes, and pecans. Apple pomace is fed to animals; thus exposure of humans to residues in apple pomace might result if such residues carry through to meat, milk, poultry, or eggs. However, BASF has concluded that there is no reasonable expectation that measurable residues of kresoxim-methyl will occur in meat, milk, poultry, or eggs from this use. There are no other established U.S. tolerances for kresoxim-methyl, and there are no currently registered uses for kresoxim-methyl on food or feed crops in the U.S.

Dietary exposure to residues of kresoxim-methyl from the proposed tolerances on pome fruit, grapes, and pecans would account for less than 0.15% of the RfD (.36 mg/kg/day) for the general population of the U.S. The most highly exposed group in the subpopulation groups would be non-nursing infants < 1 year old, which uses 0.88% of the RfD.

ii. *Drinking water*. Other potential sources of exposure for the general population to residues of kresoxim-methyl are residues in drinking water and exposure from non-occupational sources. Based on the available studies, BASF does not anticipate exposure to residues of kresoxim-methyl in drinking water. There is no established Maximum Concentration Level (MCL) for residues of kresoxim-methyl in

drinking water under the Safe Drinking Water Act (SDWA).

2. *Non-dietary exposure*. Kresoxim-methyl is currently registered for use in greenhouses on ornamental plants. The potential for non-occupational exposure to the general population is not significant.

E. Cumulative Effects

BASF has considered the potential for cumulative effects of kresoxim-methyl and other substances that have a common mechanism of toxicity. No evidence or information exists to suggest that toxic effects produced by kresoxim-methyl would be cumulative with those of any other chemical compound.

F. Safety Determination

1. *U.S. population*. Using the conservative exposure assumptions described above and based on the completeness and the reliability of the toxicity data, BASF has estimated that aggregate exposure to kresoxim-methyl will utilize less than 0.15% of the RfD for the total U.S. population. BASF concludes that there is a reasonable certainty that no harm will result from the aggregate exposure to residues of kresoxim-methyl, including anticipated dietary exposure and non-occupational exposures.

2. *Infants and children*—i. *Developmental toxicity*. The teratogenicity study in rats resulted in a developmental toxicity NOAEL of 1,000 mg/kg/day, and a maternal toxicity NOAEL of 1,000 mg/kg/day. These NOAEL values are significantly higher than the NOAEL from the 2 year feeding study in rats used to establish the RfD.

The teratogenicity study in rabbits resulted in a developmental toxicity NOAEL of 1,000 mg/kg/day, and a maternal toxicity NOAEL of 1,000 mg/kg/day. These NOAEL values are significantly higher than the NOAEL from the 2 year feeding study in rats used to establish the RfD.

ii. *Reproductive toxicity*. The 2-generation reproduction study with rats resulted in a reproductive NOAEL of 1,625 mg/kg/day, and a maternal NOAEL of 100 mg/kg/day. These NOAEL values are significantly higher than the NOAEL from the 2 year feeding study in rats used to establish the RfD.

iii. *Reference Dose*. Since developmental and reproductive toxicity occurs at levels at or above the levels shown to exhibit parental toxicity and since these levels are significantly higher than those used to calculate the RfD, BASF believes the RfD of 0.36 mg/kg/day is an appropriate measure of safety for infants and children.

Using the conservative exposure assumptions described above, BASF has concluded that the portion of the RfD that will be utilized by aggregate exposure to residues of kresoxim-methyl resulting from the proposed tolerances will be less than 1% for all populations of infants and children. The most highly exposed group in the subpopulation groups would be non-nursing infant < 1-year old, which uses 0.88% of the RfD. Therefore, based on the completeness and reliability of the toxicity data and the conservative exposure assessment, BASF concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the residues of kresoxim-methyl, including all anticipated dietary exposure and all other non-occupational exposures.

G. International Tolerances

A maximum residue level has not been established for kresoxim-methyl by the Codex Alimentarius Commission.

[FR Doc. 99–5823 Filed 3–9–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–181067; FRL 6066–3]

Bifenthrin; Receipt of Application for Emergency Exemption, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Washington Department of Agriculture (hereafter referred to as the ''Applicant'') to use the pesticide bifenthrin (CAS 8657–04–3 *cis* and 83322–02–5 *trans*), formulated as Brigade WSB, to treat up to 8,500 acres of raspberries to control weevils. This is the seventh year this use has been requested, and it has been allowed under section 18 for the past 6 years. Since this request proposes a use which has been requested or granted in any 3 previous years, and a complete application for registration and petition for tolerance has not yet been submitted to the Agency, EPA is soliciting public comment before making the decision whether or not to grant the exemption, in accordance with 40 CFR 166.24(a)(6).

DATES: Comments must be received on or before March 25, 1999.

ADDRESSES: Three copies of written comments, bearing the identification notation (OPP–181067), should be submitted by mail to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Follow the instructions under SUPPLEMENTARY INFORMATION. No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted in any comment concerning this notice 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 comment that does not contain CBI must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. The docket is available for public inspection at the Virginia address given above, 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Andrea Beard, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number and e-mail address: Rm. 271, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703–308–9356); e-mail: beard.andrea@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a state agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue a specific exemption for the use of bifenthrin on raspberries to control weevils. Information in accordance with 40 CFR part 166 was submitted as part of this request.

According to the Applicant, this emergency exists because of the loss of the chlorinated hydrocarbon insecticides. Initially, raspberry growers obtained some relief through use of carbofuran under an exemption; however, that use was later disallowed due to groundwater concerns.

Exemptions were then issued for several years for use of permethrin, but discontinued as the Applicant opted to request bifenthrin instead, due to claims that use of permethrin disrupted natural controls of other raspberry pests, leading to population flare-ups of these pests (primarily mites). This use of bifenthrin has been allowed under section 18 for the past 5 years, and the Applicant states that alternative controls are not adequate to prevent significant economic losses due to damage and contamination problems from weevils.

Under the proposed exemption, bifenthrin would be applied using ground equipment only, at a rate of 0.1 lb., active ingredient (a.i.) per acre, with no more than 2 applications during the growing season, not to exceed the total rate of 0.2 lb., a.i. per acre. If all 8,500 acres are treated at this maximum rate, this could potentially result in a total use of 1,700 lb., a.i.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require publication of a notice of receipt of an application for a specific exemption proposing a use which has been requested or granted in any 3 previous years, and a complete application for registration and/or tolerance petition has not been submitted to the Agency [40 CFR 166.24 (a)(6). Such notice provides for opportunity for public comment on the application.

The official record for this notice, as well as the public version, has been established under docket number (OPP–181067) (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at: opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket number (OPP–181067). Electronic comments on this notice may be filed online at many Federal Depository Libraries.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the Washington Department of Agriculture.

List of Subjects

Environmental protection, Pesticides and pests, Emergency exemptions.

Dated: February 26, 1999

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 99–5819 Filed 3–9–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–181068; FRL 6066–5]

Buprofezin; Receipt of Application for Emergency Exemption, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the California Department of Pesticide Regulation (hereafter referred to as the ''Applicant'') to use the insect growth regulator buprofezin (CAS 69327–76–0) to treat up to 100,000 acres of citrus to control California Red Scale. Buprofezin is an unregistered material, and its proposed use is thus use of a ''new'' chemical. Therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before March 25, 1999.

ADDRESSES: Three copies of written comments, bearing the identification notation ''OPP–181068,'' should be submitted by mail to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Follow the instructions under SUPPLEMENTARY INFORMATION. No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted in any comment concerning this notice 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 comment that does not contain CBI must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. The docket is available for public inspection at the Virginia address given above, 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Andrea Beard, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number and e-mail address: Rm. 271, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 308–9356; e-mail: beard.andrea@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a state agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue a specific exemption for the use of buprofezin on citrus to control California Red Scale. Information in accordance with 40 CFR part 166 was submitted as part of this request.

The Applicant states that California Red Scale is a key pest of citrus, and the single most costly pest to control. The Applicant states that in the past, treatments were not required every year for this pest, but in recent years resistance to the registered materials has built up and growers have had to treat up to three times in a single year. Alternative methods of control (parasite releases and packing house washers) are applied where feasible; however, the Applicant asserts that a different chemistry with a different mode of action is necessary to control the scale. The Applicant asserts that with continued frequent use of currrently registered materials, increased resistance is likely, and these materials will quickly become wholy ineffective, leaving growers with no tools to control these damaging pests. The Applicant states that without adequate control of scale in citrus, significant economic losses are expected.

The Applicant proposes to apply buprofezin at a maximum rate of 2.0 lbs. active ingredient (a.i.) per acre with a maximum of one application per crop season on up to 100,000 acres of citrus. Therefore, use under this exemption could potentially amount to a maximum total of 200,000 lbs. of a.i., buprofezin.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require publication of a notice of receipt in the **Federal Register** for an application for a specific exemption proposing the use of a new (unregistered) chemical. Such notice provides for opportunity for public comment on the application.

The official record for this notice, as well as the public version, has been established under docket number (OPP–181068) (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at: opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket number (OPP–181068). Electronic comments on this notice may be filed online at many Federal Depository Libraries.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the California Department of Pesticide Regulation.

List of Subjects

Environmental protection, Pesticides and pests, Emergency exemptions.

Dated: February 26, 1999

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 99–5820 Filed 3–9–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6304–6]

Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–1997

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of document availability and request for comments.

SUMMARY: The Draft Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–1997 is available for public review. Annual U.S. emissions for the period of time from 1990–1997 are summarized and presented by source category and sector. The inventory contains estimates of CO_2, CH_4, N_2O, HFCs, PFCs, and SF_6 emissions, as well as estimated emissions of VOCs, NO_X, CO, and HFCs. The approach used to estimate emissions for the greenhouse gases was adapted from the methodologies recommended by the Intergovernmental Panel on Climate Change. The U.S. Greenhouse Gas Inventory is being prepared to provide a basis for the ongoing development of a comprehensive and accurate system to identify and quantify emissions and sinks of greenhouse gases in the U.S. It will serve as part of the U.S. submission to the Secretariat of the Framework Convention on Climate Change and to contribute to the updates to the U.S. Climate Action Report. To ensure your comments are considered for the final version of this document, please submit your comments prior to April 9, 1999. However, comments received after that date will still be welcomed and will be considered for the next edition of this report.

DATES: Comments are requested by April 9, 1999.

ADDRESSES: You may electronically download the document referenced above on the US EPA's homepage at http://www.epa.gov/globalwarming/inventory. For those without access to EPA's homepage, please send requests for a copy of the document to: Environmental Protection Agency, Climate Policy and Programs Division (2175), 401 M Street, SW, Washington, DC 20460, Fax: (202) 260–6405.

FOR FURTHER INFORMATION CONTACT: Mr. Wiley Barbour, Environmental Protection Agency, Office of Policy, Climate Policy and Programs Division, (202) 260–6972.

SUPPLEMENTARY INFORMATION: You may view and download the document referenced above on the US EPA's homepage at *www.epa.gov/globalwarming/inventory*. If you wish to send an email with your comments you may sent the email to *barbour.wiley@epamail.epa.gov*.

Dated: February 16, 1999.

David Gardiner,

Assistant Administrator, Office of Policy.

[FR Doc. 99–5826 Filed 3–9–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6308–8]

Notice of Availability: Y2K Enforcement Policy

AGENCY: Environmental Protection Agency.

ACTION: Notice of Availability: Y2K Enforcement Policy.

SUMMARY: On November 30, 1998, EPA issued an enforcement policy designed to encourage prompt testing of computer-related equipment to ensure that environmental compliance is not impaired by the Y2K computer bug. Under the policy (published on the Internet at www.epa.gov/year2000), EPA stated its intent to waive 100% of the civil penalties that might otherwise apply, and to recommend against criminal prosecution, for environmental violations caused during specific tests that are designed to identify and eliminate Y2K-related malfunctions. The policy also stated that the civil penalty waiver and recommendation against criminal prosecution are limited to testing-related violations disclosed to EPA by February 1, 2000, and are subject to certain conditions, such as the need to design and conduct the tests well in advance of the dates in question, the need to conduct the tests for the shortest possible period of time necessary, the need to correct any testing-related violations immediately, and other conditions to ensure that protection of human health and the environment is not compromised. Today's notice publishes the entire policy for the first time in the **Federal Register**, to increase public awareness of this incentive to test computer-related systems and to incorporate several minor revisions aimed at clarifying the policy in response to public comment. The policy published today contains no major changes to the eligibility criteria announced on November 30, 1998.

ADDRESSES: Additional copies of the policy can be obtained on the Internet at www.epa.gov/year2000, and through EPA's Enforcement and Compliance Docket Information Center (ECDIC), 1200 Pennsylvania Ave., N.W., Room

4033, Washington, D.C. 20004. Copies of any case settlements resolved pursuant to the policy and a summary of responses to public comments may be obtained from the ECDIC, by calling 202–564–2614 or 202–564–2119, or by sending a request via FAX to 202–501–1011 or an e-mail message to docket.oeca@epamail.epa.gov.

FOR FURTHER INFORMATION CONTACT: Any general comments on this policy may be directed to Gary A. Jonesi, Office of Regulatory Enforcement, at 202–564–4002 (202–564–0011 FAX) (jonesi.gary@epa.gov). Individual facility-specific concerns also may be directed to the EPA regional offices listed at the end of this notice.

SUPPLEMENTARY INFORMATION:

Background

The Y2K issue arises because a number of computerized functions require recognition of a specific year, day, and time, but many computers and computerized equipment recognize only the last two digits of a year's date (i.e., 1998 is 98; 2000 is 00). Therefore, when the calendar changes to the year 2000, computers and equipment with embedded computer chips may have difficulty interpreting the correct date. They may interpret the year to be 1900 or some other year. As a result, some computers and equipment containing embedded computer chips could become permanently unable to function properly. Others may continue to operate, but erroneously, while others simply may stop and need to be restarted. Some may create data that look correct, but in reality contain errors, and some may continue to operate correctly. In addition, some technical experts warn that certain computer-related systems may have trouble functioning properly on more than a dozen other dates arising over the next two years (see www.epa.gov/year2000/append1.htm for a listing of such dates). For example, as to September 9, 1999, the digital representation of that date, 9/9/99 (''four 9s''), may be interpreted as the end of a file or infinity, and, thus, may have unintended consequences. This policy encompasses concerns over computer-related testing problems that may arise as a result of any of the dozen or more dates. Together, these dates are referred to as Y2K for purposes of this enforcement policy.

Emphasis on Testing

The public expects compliance with the nation's environmental laws, and the regulated community must take all steps necessary to anticipate and resolve potential environmental compliance problems that may result from Y2K-related equipment problems by the dates in question (*e.g.,* 9/9/99 and 1/1/00). In an effort to ensure timely compliance, EPA has adopted this enforcement policy to encourage any necessary testing of computer systems and their related environmental components (*e.g,* monitoring and pollution control devices) well in advance of these dates. Under this policy, EPA reiterates its commitment to firm yet fair enforcement of environmental requirements regardless of any potential Y2K-related problems. At the same time, this policy recognizes that regulated facilities can benefit from having an additional measure of predictability concerning how EPA intends to react if such testing results in environmental violations under any of the regulatory enforcement statutes that EPA implements.

Relationship to Y2K Dates

Although the focus of this policy is on testing-related violations that may occur prior to January 1, 2000, EPA notes that with respect to violations occurring after January 1, 2000, the Agency's longstanding enforcement response and penalty policies will continue to recognize a facility's good faith efforts and other potentially mitigating factors in determining an appropriate enforcement response. In that regard, facilities that test in accordance with the terms of this policy are likely to be in a more favorable position than facilities that do not, in the event that, despite a facility's best efforts at testing, the facility cannot correct all Y2K-related deficiencies in a timely manner.

Use of Existing Testing Procedures

Under EPA's Y2K enforcement policy, regulated facilities who wish to test in advance of the Y2K dates are encouraged first to utilize any existing regulatory or permit procedures that are applicable and that can provide a timely and effective process for testing. For example, the Resource Conservation and Recovery Act (RCRA) regulations provide for trial burn testing of hazardous waste (40 CFR 266.102), research, development, and demonstration permits (§ 270.65), and land treatment demonstrations (§ 270.63). To the extent that existing procedures under any statutory program are appropriate, their use will help to ensure that the federal, state, and/or local agencies and programs that already are best situated to oversee facility testing can remain involved in that process. This enforcement policy does not modify, revoke, or otherwise affect any existing federal, state, or local permit, regulatory, or other (*e.g.,* consent agreement) obligations, including but not limited to any public notice and comment requirements.

Criteria Justifying Application of This Policy

If no existing procedures are applicable, or if none are appropriate given the need to expedite testing, this Y2K enforcement policy states that EPA expects to exercise its discretion to waive 100% of the civil penalties that might otherwise apply and to recommend against criminal prosecution for violations resulting from specific tests, where the facility can meet its burden of demonstrating to EPA that it has satisfied all of the nine criteria below. (Because this policy anticipates immediate correction of violations (see # 5 below), any test-period noncompliance that qualifies for a 100% civil penalty waiver or recommendation against criminal prosecution will not create a significant economic benefit, since compliance costs will not have been avoided or delayed.)

(1) *Systematic Design of Testing Protocols.* Written testing protocols were designed in advance of the testing period, approved by the facility's responsible official, reflect a conscientious effort to evaluate the facility's Y2K-related environmental compliance status and not to circumvent environmental compliance, and were designed to prevent or limit violations that may result from such testing (e.g., through adoption or revision of appropriate contingency plans.)

(2) *Violations Caused By Testing.* The specific Y2K-related testing was the direct and proximate cause of the potential violations.

(3) *Testing Need, Timing and Length.* The specific testing that caused the potential violations was:

(a) Necessary to determine the effectiveness of specific Y2K-related modifications in ensuring environmental compliance;

(b) Part of a comprehensive testing program designed to correct all Y2K deficiencies at the facility;

(c) Conducted well in advance of the Y2K dates in question (i.e., normally at least 30 days in advance of the dates in question); and

(d) Conducted for the shortest possible period of time in order to determine the effectiveness of such modifications, ordinarily not to exceed a testing period of 24 hours in duration.

Where a facility, without making any modifications, tests existing equipment

in order to determine whether Y2K-related problems may affect its environmental compliance status, the specific testing was:

(e) Necessary to determine the effectiveness of its existing operations in ensuring environmental compliance;

(f) Part of a comprehensive testing program designed to correct all Y2K-related deficiencies at the facility;

(g) Conducted well in advance of the Y2K dates in question (i.e., normally at least 30 days in advance of the dates in question); and

(h) Conducted for the shortest possible period of time in order to ascertain the effectiveness of its existing operations in ensuring environmental compliance, ordinarily not to exceed a testing period of 24 hours in duration.

(4) *Absence of Harm.* The violations that may have occurred during testing did not result in creation of a potentially imminent and substantial endangerment (as EPA defines such threats under its RCRA section 7003 policies), or serious actual harm. Notwithstanding any civil penalty waivers or recommendations against criminal prosecution that may be appropriate under this policy, EPA retains its authority to seek any injunctive relief that it deems necessary, regardless of the level of harm, potential harm, or lack thereof.

(5) *Immediate Correction.* All violations ceased as soon as possible, not later than at the end of the test or immediately thereafter (within 24 hours).

(6) *Expeditious Remediation.* The facility expeditiously remediated any releases or other adverse health or environmental consequences as soon as possible, in accordance with any timing or other considerations that EPA may have specified (in the event that the Agency is involved in the remedial process).

(7) *Reporting.* The facility has met in a timely fashion all legal requirements for reporting the violations (e.g., CERCLA section 103). Where the violations are not legally required to be reported, the facility nevertheless reported the violations to EPA as expeditiously as practicable under the circumstances (ordinarily no more than 30 days after when the violations occurred absent unusual circumstances justifying a longer period), but in all cases no later than February 1, 2000.

(8) *Retesting.* Any retesting conducted prior to the Y2K dates in question met all the criteria outlined in this policy and included modifications to earlier testing and/or operating conditions that are reasonably designed to achieve full compliance.

(9) *Cooperation.* The facility provides any information requested by EPA as necessary to determine whether a 100% penalty waiver or recommendation against criminal prosecution is appropriate, consistent with the facility's legitimate legal rights and privileges.

Other Potentially Relevant Enforcement Policies

Other existing EPA self-policing and compliance assistance policies may continue to be utilized where they are not inconsistent with this policy. For example, EPA's Audit Policy (formally entitled, ''Incentives for Self-Policing: Discovery, Correction and Prevention of Violations,'' 60 FR 66706 (Dec. 22, 1995)) and Small Business Policy (formally entitled, ''Policy on Compliance Incentives for Small Business,'' 61 FR 27984 (June 3, 1996)) potentially could be applied to any violations that result from Y2K-related equipment problems that occur during and/or after the testing period described in this policy. In addition, EPA's criminal enforcement policies guiding both the exercise of investigative discretion (formally entitled, ''The Exercise of Investigative Discretion,'' Jan. 12, 1994) and implementation of EPA's Audit Policy (formally entitled, ''Implementation of the Environmental Protection Agency's Self-Policing Policy for Disclosures Involving Potential Criminal Violations,'' Oct. 1, 1997) may be relevant in certain cases during and/or after the testing period described in this policy.

Public Disclosure of Y2K-Related Testing Violations

Similar to EPA's January 1997 memorandum concerning Confidentiality of Information Received Under Agency's Self-Disclosure Policy, EPA will make publicly available any disclosures under this Y2K enforcement policy, consistent with EPA's confidential business information (CBI) provisions found at 40 CFR part 2, but only after these matters are formally resolved.

Cooperation With States, Territories, and Tribal Governments

EPA encourages States, territories, and tribal governments to adopt this or a similar approach for addressing violations of environmental programs that they implement and enforce. EPA will coordinate closely with such governments concerning Y2K-related testing violations.

Disclaimer

This enforcement policy does not constitute final Agency action. It does not create any rights, duties, obligations, or defenses, implied or otherwise, in any persons or entities. It sets forth factors that EPA intends to use in the exercise of its enforcement discretion, and it is not intended for use in pleading, at hearing, at trial, or in any adjudicatory context.

Specific Compliance Concerns

Individual facility-specific concerns may be directed to the EPA regional offices listed below:

Region	States	Contact & phone No.	FAX No.
Region I	CT, ME, MA, NH, RI, VT	Director, Office of Environmental Stewardship 617–565–3800.	617–565–1141
Region II	NJ, NY, PR, VI	Director, Division of Enforcement and Compliance Assistance 212–637–4000.	212–637–4035
Region III	DE, DC, MD, PA, VA, WV	Director, Office of Enforcement, Compliance & Environmental Justice 215–814–2627.	215–814–2905
Region IV	AL, FL, GA, KY, NC, MS, SC, TN	Regional Counsel, 404–562–9655.	404–562–9663
Region V	IL, IN, MI, MN, OH, WI	Regional Counsel, 312–886–2944	312–886–0747
Region VI	AR, LA, NM, OK, TX	Regional Counsel, 214–665–2125	214–665–2182
Region VII	IA, KS, MO, NE	Regional Counsel, 913–551–7010	913–551–7925
Region VIII	CO, MT, ND, SD, UT, WY	Director, Legal Enforcement Program, Office of Enforcement, Compliance, and Environmental Justice, 303–312–6890.	303–312–6953
Region IX	AZ, CA, HI, NV, AS, GU	Regional Counsel, 415–744–1365	415–744–1041
Region X	AK, ID, OR, WA	Regional Counsel, 206–553–1073	206–553–0163

Dated: February 27, 1999.

Sylvia Lowrance,

Acting Assistant Administrator for Enforcement and Compliance Assurance.

[FR Doc. 99–5958 Filed 3–9–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[PB–402404–VA; FRL–6063–5]

Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; Authorization of the Commonwealth of Virginia's Lead-Based Paint Activities Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; final approval.

SUMMARY: On December 19, 1997, the Commonwealth of Virginia submitted an application for EPA approval to administer and enforce training and certification requirements, training program accreditation requirements, and work practice standards for lead-based paint activities in target housing and child-occupied facilities under section 404 of the Toxic Substances Control Act (TSCA). Today's notice announces the approval of the Commonwealth of Virginia's application, and the authorization of the Department of Professional and Occupation Regulation's lead-based paint program to apply in the Commonwealth of Virginia effective March 10, 1999, in lieu of the corresponding Federal program under section 402 of TSCA.

DATES: Lead-based paint activities program authorization was granted to the Commonwealth of Virginia effective on March 10, 1999.

FOR FURTHER INFORMATION CONTACT: Enid A. Gerena (3WC33), Waste and Chemicals Management Division, Environmental Protection Agency, Region III, 1650 Arch St., Philadelphia, PA 19103–2029, telephone: (215) 814–2067, e-mail address: gerena.enid@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to Title IV of TSCA, Lead Exposure Reduction, 15 U.S.C. 2681-2692, and regulations promulgated thereunder, States and Tribes that choose to apply for lead-based paint activities program authorization must submit a complete application to the appropriate Regional EPA office for review. Complete, final applications are subject to a public comment period, and must be approved or disapproved by EPA within 180 days of receipt. To receive EPA approval, a State or Tribe must demonstrate that its program is at least as protective of human health and the environment as the Federal program and provides adequate enforcement (section 404(b) of TSCA). Included in Virginia's application is a program certification signed by Governor James S. Gilmore, III certifying that the Commonwealth of Virginia lead-based paint activities program: (1) Is at least as protective of human health and the environment as the corresponding Federal program; and (2) provides adequate enforcement. The inclusion of this certification requires that the program be authorized by EPA until such a time as the Administrator disapproves the program application or withdraws the program authorization.

Notice of Virginia's application, a solicitation for public comment regarding the application, and background information supporting the application was published in the **Federal Register** of April 29, 1998 (63 FR 23464) (FRL–5781–6).

As determined by EPA's review and assessment, Virginia's application successfully demonstrated that the State's lead-based paint activities program achieves the protectiveness and enforcement criteria, as required for Federal authorization. Furthermore, no public comments were received regarding any aspect of Virginia's application.

II. Federal Overfiling

TSCA section 404(b), makes it unlawful for any person to violate, or fail or refuse to comply with, any requirement of an approved State or Tribal program. Therefore, EPA reserves the right to exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of an authorized State or Tribal program.

III. Withdrawal of Authorization

Pursuant to TSCA section 404(c), the Administrator may withdraw a State or Tribal lead-based paint activities program authorization, after notice and opportunity for corrective action, if the program is not being administered or enforced in compliance with standards, regulations, and other requirements established under the authorization. The procedures EPA will follow for the withdrawal of an authorization are found at 40 CFR 745.324(i).

IV. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

EPA's actions on State or Tribal lead-based paint activities program applications are informal adjudications, not rules. Therefore, the requirements of the Regulatory Flexibility Act (RFA, 5 U.S.C. 601 *et seq.*), the Congressional Review Act (5 U.S.C. 801 *et seq.*), Executive Order 12866 (''Regulatory Planning and Review,'' 58 FR 51735, October 4, 1993), and Executive Order 13045 (''Protection of Children from Environmental Health Risks and Safety Risks,'' 62 FR 1985, April 23, 1997), do not apply to this action. This action does not contain any Federal mandates, and therefore is not subject to the requirements of the Unfunded Mandates Reform Act (2 U.S.C. 1531-1538). In addition, this action does not contain any information collection requirements and therefore does not require review or approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

B. Executive Order 12875

Under Executive Order 12875, entitled ''Enhancing Intergovernmental Partnerships'' (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or Tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and Tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and Tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's action does not create an unfunded Federal mandate on State, local, or Tribal governments. This action does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this action.

C. Executive Order 13084

Under Executive Order 13084, entitled ''Consultation and Coordination

with Indian Tribal Governments'' (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the Tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected Tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected 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 action 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 action.

Authority: 15 U.S.C. 2682, 2684.

List of Subjects

Environmental protection, Hazardous substances, Lead, Reporting and recordkeeping requirements.

Dated: February 19, 1999.

W. Michael McCabe

Regional Administrator, Region III.

[FR Doc. 99–5821 Filed 3–9–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6307–4]

Final NPDES General Permit for Oil and Gas Exploration, Development and Production Facilities in Cook Inlet, AL (AKG285000)

AGENCY: Environmental Protection Agency (EPA), Region 10.

ACTION: Notice of final NPDES general permit.

SUMMARY: The Director, Office of Water, EPA Region 10, is issuing the National Pollutant Discharge Elimination System (NPDES) General Permit for Cook Inlet, Alaska, pursuant to the provisions of the Clean Water Act, 33 U.S.C. 1251 *et seq.* The permit authorizes discharges from existing oil and gas exploration, development and production platforms and shore-based facilities in Upper Cook Inlet (north of the Forelands). The permit also authorizes future exploratory operations in Cook Inlet north of the line between Cape Douglas on the west, and Port Chatham on the east. All dischargers covered by this permit fall within the Coastal and Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR part 435, subparts A and D).

Discharges authorized by this permit include drilling muds and cuttings; produced water; deck drainage; sanitary and domestic wastes; completion, workover, well treatment and test fluids; and miscellaneous discharges. Discharges from facilities in the Onshore Subcategory (40 CFR Part 435, Subpart C), or to wetlands adjacent to the territorial seas and inland coastal waters of Alaska are not authorized by this permit. The permit does not authorize discharges from ''new sources,'' as defined in 40 CFR 122.2.

The existing permit was published in the **Federal Register** at 51 FR 35460 on October 3, 1986, and authorized discharges from oil and gas facilities in Upper Cook Inlet, and from oil and gas exploration wells in federal waters offered for lease by the U.S. Department of the Interior's Minerals Management Service (MMS) in Federal Lease Sales 55 (Gulf of Alaska) and 60 (Cook Inlet) in state waters offered for lease by the State of Alaska in Lease Sales 32, 33, 35, 40, 46A, and 49. The permit issued in 1986 also covered areas offered under state lease sales held during the effective period of the permit. The area of coverage for the permit issued today is not linked to lease sale areas, and covers all state and federal waters in Cook Inlet north of the line between Cape Douglas on the west and Port Chatham on the east.

A total of 23 facilities were covered under the 1986 general permit. Of those 23 facilities, 18 are currently active. All of those permittees have complied with the reissuance application procedures and indicated preference to be covered under this general permit.

FOR FURTHER INFORMATION CONTACT: Ms. Laurie Mann, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone: (206) 553–1583, or via e-mail to the following address: mann.laurie@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Public Comment

Pursuant to section 402 of the Clean Water Act (CWA), 33 U.S.C. 1342, EPA proposed and solicited comments on NPDES general permit AKG285000 at 60 FR 48796 (September 20, 1995). The public comment period was scheduled to close November 30, 1995, but was extended to January 29, 1996 at 60 FR 6155 (November 30, 1995). Public hearings were held in Anchorage on November 28, 1995, Soldotna on November 29, 1995, and Homer on January 25, 1996.

EPA Region 10 received over 350 letters, petitions and verbal comments from tribal, federal and state governments, companies, non-profit organizations, and individuals. All comments specifically addressing the draft Cook Inlet permit which were submitted during the public comment period were considered during finalization of the permit. Changes have been made from draft permit to the final permit in response to public and governmental comment. All comments, along with the EPA's responses, are summarized in the Response to Comments, which may be obtained from Laurie Mann at the above address, or may be obtained from the EPA Region 10 web site at www.epa.gov/r10earth/offices/water/ow.htm.

Other Legal Requirements

Ocean Discharge Criteria Evaluation

EPA Region 10 has determined that discharges occurring under the proposed permit are in compliance with section 403 of the Clean Water Act. These discharges will not cause unreasonable degradation as long as the depth-related conditions, discharge restrictions, and environmental monitoring requirements in the permit are met. For example, all discharges are prohibited within the boundaries, or within 1,000 meters of a coastal marsh, river delta, river mouth, and designated Critical Habitat Areas, Areas of Special Attention, National Park, State Game Refuges, and State Game Sanctuaries. The permit also prohibits discharges in Kamishak Bay, Chinitna Bay, and Tuxedni Bay.

Coastal Zone Management Act

The State of Alaska, Office of Management and Budget, Division of Governmental Coordination found this action to be consistent with the approved Alaska Coastal Zone Management Program.

Endangered Species Act

EPA has determined that issuance of the Cook Inlet General Permit will not

adversely affect any listed, threatened, or endangered species or designated habitat, and National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife provided written concurrence with EPA's determination on the proposed NPDES General Permit.

State Water Quality Standards and State Certification

The State of Alaska, Department of Environmental Conservation, has issued a Certificate of Reasonable Assurance that the subject discharges comply with the Alaska State Water Quality Standards. The EPA has considered Alaska's antidegradation policy (18 Alaska Administrative Code (AAC 70.101(c)). The reissuance of this permit will not result in additional pollutant loading to the receiving water; therefore this action complies with the State's antidegradation policy.

Executive Order 12866

EPA has determined that this general permit is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

Paperwork Reduction Act

The information collection requirements of this permit were previously approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and assigned OMB control numbers 2040–0086 (NPDES permit application) and 2040–0004 (discharge monitoring reports).

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires that EPA prepare a regulatory flexibility analysis for rules subject to the requirements of 5 U.S.C. 553(b) that have a significant impact on a substantial number of small entities. The permit issued today, however, is not a ''rule'' subject to the requirements of 5 U.S.C. 553(b) and is therefore not subject to the Regulatory Flexibility Act.

Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act (UMRA), Public Law 104–4, generally requires Federal agencies to assess the effects of their ''regulatory actions'' (defined to be the same as ''rules'' subject to the RFA) on tribal, state, and local governments and the private sector. The permit issued today, however, is not a ''rule'' subject to the RFA and is therefore not subject to the requirements of UMRA.

Appeal of Permit

Any interested person may appeal the Cook Inlet General NPDES in the Federal Court of Appeals in accordance with Section 509(b)(1) of the Clean Water Act. This appeal must be filed within 120 days of permit issuance. The date of permit issuance is defined at 40 CFR 23.2 to be at 1:00 PM eastern time, two weeks after the date of publication in the **Federal Register**.

Authorization To Discharge Under the National Pollutant Discharge Elimination System for Oil and Gas Exploration, Development and Production

In compliance with the provisions of the Clean Water Act, 33 U.S.C. 1251 *et seq.*, the ''Act'', the following discharges are authorized in accordance with this National Pollutant Discharge Elimination System (''NPDES'').

Discharge	Discharge No.
Drilling Mud & Cuttings	01
Deck Drainage	02
Sanitary Wastes	03
Domestic Wastes	04
Desalination Unit Wastes	05
Blowout Preventer Fluid	06
Boiler Blowdown	007
Fire Control System Test Water	008
Non-Contact Cooling Water	009
Uncontaminated Ballast Water	010
Bilge Water	011
Excess Cement Slurry	012
Mud, Cuttings, Cement at Seafloor	013
Waterflooding Discharges	014
Produced Water	015
Completion Fluids	016
Workover Fluids	017
Well Treatment Fluids	018
Test Fluids	019

from oil and gas development and production facilities to state waters north of the Forelands in Upper Cook Inlet, and from exploratory facilities to all state and federal waters in Cook Inlet north of the line between Cape Douglas (at 58°51′ North, 153° 15′ West) on the west and Port Chatham (at 59°13′ North, 151° 47′ West) on the east (Figure 1). These development and production facilities are classified in the Coastal Subcategory of the Oil and Gas Extraction Point Source Category, as defined in 40 CFR Part 435, Subpart D. Exploratory facilities are classified in the Offshore and Coastal Subcategories as defined in 40 CFR Part 435, Subparts A and D. Discharges must be in accordance with effluent limitations, monitoring and reporting requirements, and other conditions set forth in Parts I through VII herein.

Permittees who are not granted coverage under this general permit as described in Part I are not authorized to discharge to the specified waters unless an individual permit has been issued to the Permittee by EPA, Region 10. Discharges from facilities in the Onshore Subcategory (40 CFR Part 435, Subpart C), or to wetlands adjacent to the territorial seas and inland coastal waters of the State of Alaska, are not authorized under this permit.

During the effective period of this permit, operators authorized to discharge under the general permit are authorized to discharge the enumerated pollutants subject to the restrictions set forth herein. This permit does not authorize the discharge of any waste streams, including spills and other unintentional or non-routine discharges of pollutants, that are not part of the normal operation of the facility, or any pollutants that are not ordinarily present in such waste streams.

The facilities listed below are authorized to discharge under this permit. The conditions of the previous permit become null and void upon the effective date of this permit.

Operator	Facility	NPDES Permit No.
Unocal	Granite Point Production Facility	AKG285001.
Unocal	Trading Bay Treatment Facility	AKG285002.
Cross Timbers	East Foreland Treatment Facility	AKG285003.
Unocal	Platform Anna	AKG285004.
Unocal	Platform Baker	AKG285005.
Unocal	Platform Bruce	AKG285006.
Unocal	Platform Dillon	AKG285007.
Unocal	King Salmon Platform	AKG285008,
Unocal	Dolly Varden Platform	AKG285009.

Operator	Facility	NPDES Permit No.
Marathon	Spark Platform	AKG285010.
Phillips	Platform A (Tyonek Platform)	AKG285011.
Cross Timbers	Platform A	AKG285012.
Cross Timbers	Platform C	AKG285013.
Marathon	Spurr Platform	AKG285014.
Unocal	Granite Point Platform	AKG285015.
Unocal	Grayling Platform	AKG285016.
Unocal	Monopod Platform	AKG285017.
ARCO	Fire Island (Exploratory Well)	AKG285018–INACTIVE.
Unocal	Steelhead Platform	AKG285019.
Marathon	Steelhead (Blowout Relief Well)	AKG285020–INACTIVE.
ARCO	Sturgeon (Exploratory Well)	AKG285021–INACTIVE.
ARCO	Sunfish (Exploratory Well)	AKG285022–INACTIVE.
ARCO	North Forelands (Exploratory Well)	AKG285023–INACTIVE.

This permit may be modified or revoked at any time if, on the basis of any new data, the Director determines that this information would have justified the application of different permit conditions at the time of issuance. Permit modification or revocation will be conducted in accordance with 40 CFR, §§ 122.62, 122.63, and 122.64. In addition to any other grounds specified herein, this permit shall be modified or revoked at any time if, on the basis of any new data, the Director determines that continued discharges may cause unreasonable degradation of the marine environment.

This permit does not authorize discharges from ''new sources'' as defined in 40 CFR 122.2.

This permit shall become effective on April 1, 1999.

This permit and the authorization to discharge shall expire at midnight on April 1, 2004.

Signed this 25th day of February, 1999.

Randall F. Smith,

Director, Office of Water, U.S. Environmental Protection Agency, Region 10.

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I. Notification Requirements

A. New Exploration Facilities

1. Requests To be Covered by General Permit

Written request to be covered by this permit must be provided to EPA at least 60 days prior to initiation of discharges. The request must include the following information:

a. Name and address of the Permittee.

b. General location (lease and block numbers) of operations and discharges.

c. Any discharge or operating conditions subject to special monitoring requirements (Part III.B.3.).

2. Authorization To Discharge

The Permittee is not authorized to discharge without written notification from EPA that operations at the discharge site have been assigned an NPDES permit number under this general permit. A permit number cannot be assigned until the following information is received. This information must be provided to EPA at least 30 days prior to initiation of discharges.

a. Name and location of discharge site, including lease block number and latitude and longitude.

b. Range of water depths (below mean lower low water) in the lease block(s), and the depth(s) of discharge(s).

c. Initial date(s) and expected duration of operations.

3. Commencement of Discharges

The Permittee must notify EPA during the 7-day period prior to initiation of discharges from the platform. The notification must include the exact, final latitude and longitude and water depth of the discharge site, as well as written certification that a Best Management Practices Plan (*Part III.I.1*) is complete, on site and available to the Agency upon request. This notification may be oral or in writing; if notification is given orally, written confirmation must follow within 7 days.

B. New Discharges of Produced Water

1. Eligibility

Existing facilities are eligible to obtain authorization to discharge produced water subject to the interim produced water limitations specified at *Part III.F.1.* of the permit when produced water discharge is planned, but has not been authorized at *Part I.C.2.* of this permit.

2. Requests To Be Covered by General Permit

Written request to obtain authorization to discharge produced water subject to the interim limitations specified in *Part III.F.* must be provided to EPA at least 60 days prior to initiation of discharge. Facilities wishing to obtain such authorization within 60 days of the final effective date of this permit need not comply with the 60-day requirement, but must provide the request as soon as possible prior to initiation of discharge. The request must include the following information:

a. Description of eligibility (*Part I.B.1.*)

b. Name and address of the Permittee.

c. Name of facility.

d. Specific location (including latitude and longitude, and section, range, and township) of operations and discharges.

e. Water depth at site and depth of discharge(s) with respect to MLLW.

f. Daily produced water flow rate.

g. Date of commencing discharge and expected duration of operations.

3. Authorization

The Permittee is not authorized to discharge produced water subject to the interim produced water limitations without written notification from EPA.

4. Commencement of Discharges

The Permittee must notify EPA within the 7-day period prior to initiation of produced water discharges subject to the interim limitations.

C. Existing Facilities

1. Discharges 001–014 and 016–019

Facilities authorized to discharge under the 1986 Cook Inlet General NPDES permit are automatically authorized to discharge by this general permit as of its effective date. These facilities are listed above. These Permittees need not submit a formal request for authorization to discharge prior to commencement of discharges under this permit.

2. Discharge 015

The following facilities are automatically authorized to discharge produced water by this general permit as of its effective date: Granite Point Production Facility, Trading Bay Treatment Facility, East Foreland Treatment Facility, Anna, Baker, Bruce, Dillon, and Platform A (Tyonek). These Permittees need not submit a formal request for authorization to discharge prior to commencement of discharges under this permit.

D. All Facilities Covered by the Permit

1. Duty To Reapply and/or Notice of Intent To Continue Activity

If the Permittee wishes to discharge under the authority of this permit after its expiration date, the Permittee must submit a notice of intent to EPA to do so. The Notice of Intent must be submitted at least 180 days before the expiration date of this permit. An NPDES permit application (EPA Form 3510–2C, Wastewater Discharge Information, Consolidated Permits Program (revised February 1985)) constitutes a complete Notice of Intent. Timely receipt by EPA of a complete Notice of Intent will qualify the Permittee for an administrative extension of its authorization to discharge under this permit pursuant to 5 USC Section 558(c).

2. Termination of Discharges

The Permittee must notify EPA within 30 days following cessation of discharges from the discharge site. The notification may be provided in a Discharge Monitoring Report (DMR) or under separate cover.

3. Submission of Requests To Be Covered and Other Reports

Reports and notifications required herein must be submitted to the following addresses.

All requests for coverage: Director, Water Division, US EPA, Region 10, Attn: NPDES Permits Unit, OW–130, 1200 6th Avenue, Seattle, Washington 98101, Phone: (206) 553–1583.

All monitoring reports and notifications of non-compliance: Director, Water Division, US EPA, Region 10, NPDES Compliance Unit, OW–133, 1200 6th Avenue, Seattle, Washington 98101, Phone: (206) 553–1846.

For discharges to state waters only: Alaska Department of Environmental Conservation, Attn: Watershed Management Section, 555 Cordova Street, Anchorage, AK 99501.

E. Changes From Coverage Under General Permit To Coverage Under Individual Permit

1. The Director may require any permittee discharging under the authority of this permit to apply for and obtain an individual NPDES permit when any one of the following conditions exist:

a. The discharge(s), including stormwater, is a significant contributor of pollution.

b. The Permittee is not in compliance with the conditions of this general permit.

c. A change has occurred in the availability of the demonstrated technology or practices for the control or abatement of pollutants applicable to the point source.

d. Effluent limitation guidelines are promulgated for point sources covered by this permit.

e. The point sources covered by this permit no longer:

(1) Involve the same or substantially similar types of operations,

(2) Discharge the same types of wastewaters,

(3) Require the same effluent limitations or operating conditions, or

(4) Require the same or similar monitoring.

f. In the opinion of the Director, the discharges are more appropriately controlled under an individual permit than under a general NPDES permit.

2. The Director may require any permittee authorized by this permit to apply for an individual NPDES permit only if the Permittee has been notified in writing that an individual permit application is required.

3. Any permittee authorized by this permit may request to be excluded from the coverage of this general permit by applying for an individual permit. The owner or operator must submit an application together with the reasons supporting the request to the Director no later than 90 days after the effective date of the permit.

4. When an individual NPDES permit is issued to a permittee otherwise subject to this general permit, the applicability of this general permit to that owner or operator is automatically terminated on the effective date of the individual permit.

II. Prohibited Areas of Discharge and Depth-Related Requirements

Discharges from operations in Cook Inlet are prohibited in the cases listed below. Permit applicants should contact EPA if they are uncertain whether or not their discharges will be located in a prohibited area.

A. 10 Meter Isobath

New dischargers (as defined at 40 CFR 122.2) are prohibited from discharging produced water shoreward of the 10 m isobath (as measured from mean lower low water).

B. 5 Meter Isobath

The discharge of all effluents is prohibited shoreward of the 5 m isobath (as measured from mean lower low water) including intertidal areas.

C. Geographic Restrictions

All discharges are prohibited in the following areas:

1. Shoreward of the 5.5 m isobath adjacent to either (1) the Clam Gulch Critical Habitat Area (Sales 32, 40, 46A, and 49) or (2) from the Crescent River northward to a point one-half mile north of Redoubt Point (Sales 35 and 49).

2. Within the boundaries or within 1,000 m of a coastal marsh, river delta, river mouth, designated Area Meriting Special Attention, State Game Refuge, State Game Sanctuary, Critical Habitat Area, or National Park. (The seaward edge of a coastal marsh is defined as the seaward edge of emergent wetland vegetation.)

The following Areas Meriting Special Attention (AMSA), State Game Refuges (SGR), State Game Sanctuaries (SGS), Critical Habitat Areas (CHA), and National Park are located in the area covered by this permit:

Palmer Hay Flats SGR
Goose Bay SGR
Potter Point SGR
Susitna Flats SGR
McNeil River SGS
Redoubt Bay CHA
Anchorage Coastal Wildlife Refuge
Trading Bay SGR
Kalgin Island CHA
Clam Gulch CHA
Kachemak Bay CHA
Lake Clark National Park
Port Graham/Nanwalek AMSA

The legal descriptions of state specialty areas are found in Alaska Statues Title 16, Chapter 20. The present boundaries of these state special areas are described in ''State of Alaska Game Refuges, Critical Habitat Areas, and Game Sanctuaries,'' Alaska Department of Fish and Game, Habitat Division, March 1991. Further information can be obtained from the Alaska Department of Fish and Game, Habitat Division, Regional Supervisor, 333 Raspberry Road, Anchorage, Alaska 99518–1599; phone (907) 267–2284 or (907) 267–2342.

3. In Kamishak Bay west of line from Cape Douglas to Chinitna point.

4. In Chinitna Bay inside of the line between the points on the shoreline at latitude 59°52′45″ N, longitude 152°48′18″ W on the north and latitude 59°46′12″ N, longitude 153°00′24″ W on the south (Figure 1).

5. In Tuxedni Bay inside of the lines on either side of Chisik Island (Figure 1).

a. From latitude 60°04′06″ North, longitude 152°34′12″ West on the mainland to the southern tip of Chisik Island (latitude 60°05′45″ North, longitude 152°33′30″ West).

b. From the point on the mainland at latitude 60°13′45″ North, longitude 152°32′42″ West to the point on the north side of Snug Harbor on Chisik Island (latitude 60°06′36″ North, longitude 152°32′54″ West).

III. Effluent Limitations and Monitoring Requirements

The operators must limit discharges as specified in the permit below. All figures represent maximum effluent limits unless otherwise indicated. The Permittee must comply with the following effluent limits at all times unless provided for by this permit (e.g., unanticipated bypass) regardless of the frequency of monitoring or reporting required by other provisions of this permit.

A. Representative Sampling (Routine and Non-Routine Discharges)

1. The operators must collect all effluent samples from the effluent stream prior to discharge into the receiving waters. Samples and measurements must be representative of the volume and nature of the monitored discharge.

2. In order to ensure that the effluent limits set forth in this permit are not violated at times other than when routine samples are taken, the operators must collect additional samples at the appropriate outfall(s), and analyze them for the parameters appropriate to that waste stream, limited in *Parts III.B.–III.I.* of this permit, whenever any discharge occurs that may reasonably be expected to cause or contribute to a violation that is unlikely to be detected by a routine sample.

3. The Permittee must collect such additional samples as soon as possible after the spill or discharge. The samples must be analyzed in accordance with the monitoring requirements in *Parts III.B.–III.I.* of this permit. In the event of an anticipated bypass, as defined in *Part V.G.* of this permit, the Permittee must collect and analyze additional samples as soon as the bypassed effluent reaches the outfall. The Permittee must report all additional monitoring in accordance with *Part IV.D.*

B. Drilling Mud, Drill Cuttings (Discharge 001)

1. Effluent Limitations

In addition to the restrictions set out in Parts III.A., III.B.2–3. and IV, the Permittee must comply with the following effluent limitations and monitoring requirements.

Effluent characteristic	Discharge limitation	Monitoring requirements		
		Measurement frequency	Sample type/ method	Reported values
Flow Rate [1] (Water Depth):				
>40 m	1,000 bbl/hr	Continuous during discharge	Estimate	Maximum hourly rate.
>20–40 m	750 bbl/hr			
5–20 m	500 bbl/hr			
<5 m	No discharge			
Total volume	*See* note [2]	Daily	Estimate	Monthly total.
Toxicity of drilling mud	30,000 ppm SPP minimum.	Monthly & End-of-Well	Grab/Drilling Fluids Toxicity Test.	Part III.B.2.e.
Free oil	No discharge	Daily & before bulk discharges	Grab/Static Sheen Test Part III.B.2.d.	Number of days sheen observed.
Oil-based fluids, Synthetic based fluids, Enhanced Mineral Oil-based fluids.	No discharge	N/A	N/A	N/A.
Diesel oil	No discharge	End-of-well, and at failure of static sheen.	Grab/GC Part III.B.2.c.	Presence or absence.
Metals	N/A	Once per mud system	Part III.B.2.f	Part III.B.2.f.

Effluent characteristic	Discharge limitation	Monitoring requirements		
		Measurement frequency	Sample type/ method	Reported values
Mercury & cadmium in barite	1 mg/kg Hg ..... 3 mg/kg Cd	Once per well	Part III.B.2.g	mg/kg dry wt.

[1] Maximum flow rate of total muds and cuttings includes predilutant water; water depths are measured from mean lower low water.
[2] Report total volumes for all types of operations (exploratory, production and development). For exploratory operations, drilling discharges are limited to no more than five wells at a single drilling site. If a step-out or sidetracked well is drilled from a previously drilled hole, the step-out well is counted as new well. Dual lateral, which involve drilling a primary well bore and kicking off a second leg, are considered to be one well. Requests to discharge from more than five wells per site will be considered by the Water Division Director on a case-by-case basis.

a. *Mineral oil pills.* The discharge of residual amounts of mineral oil pills (mineral oil plus additives) is authorized by the permit provided that the mineral oil pill and at least a 50 bbl buffer of drilling fluid on either side of the pill are removed from the circulating drilling fluid system and not discharged to waters of the United States. If more than one pill is applied to a single well, the previous pill and buffer must be removed prior to application of a subsequent pill.

(2) Residual mineral oil concentration in the discharged mud must not exceed 2% volume/volume (API Recommended Practice 13–1, 1990) (*see Part III.B.2.c.*). If drilling mud containing residual mineral oil pill (after pill and buffer removal) is discharged, the following information must be reported within 60 days of the discharge:

(a) Dates of pill application, recovery, and discharge;

(b) Results of the Drilling Fluids Toxicity Test on samples of the mud before each pill is added and after removal of each pill and buffer (taken when residual mineral oil pill concentration is expected to greatest);

(c) Name of spotting compound and mineral oil product used;

(d) Volumes of spotting compound, mineral oil, water, and barite in the pill;

(e) Total volume of mud circulating prior to pill application, volume of pill formulated, and volume of pill circulated;

(f) Volume of pill recovered, volume of mud buffer recovered, and volume of mud circulating after pill and buffer recovery;

(g) Percent recovery of the pill (include calculations);

(h) Estimated concentrations of residual spotting compound and mineral oil in the sample of mud discharged, as determined from amounts added and total mud volume circulating prior to pill application;

(i) Measured oil content of the mud samples, as determined by the API retort method; and

(j) An itemization of other drilling fluid components and specialty additives contained in the discharged mud with concentrations reported in gal/bbl or lb/bbl.

2. Monitoring and Reporting Requirements

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures are specified here or elsewhere in this permit. Representative sampling requirements are discussed in *Part III.A.*

a. *Chemical Inventory.* For each mud system discharged, the Permittee must maintain a precise chemical inventory of all constituents added downhole, including all drilling mud additives used to meet specific drilling requirements. The Permittee must maintain these records for *each* mud system for a period of five years, and must make these records available to the EPA upon request.

b. *End of well reports.* End of well reports contain the information required in parts c–f below, and must be submitted within 90 days of well completion.

c. *Diesel oil.* 1. Compliance with the limitation on diesel oil must be demonstrated by gas chromatography (GC) analysis of drilling mud collected from the mud used at the greatest well depth (''end-of-well'' sample) and of any muds or cuttings which fail the daily Static Sheen Test (Part *III.B.2.d.* below). In all cases, the determination of the presence or absence of diesel oil must be based on a comparison of the GC spectra of the sample and of diesel oil in storage at the facility. The method for GC analysis must be that described in ''Analysis of Diesel Oil in Drilling Fluids and Drill Cuttings'' (CENTEC, 1985) available from EPA, Region 10. Gas chromatography/mass spectrometry (GC/MS) may be used if an instance should arise where the operator and EPA determine that greater resolution of the drilling mud ''fingerprint'' is needed for a particular drilling mud sample.

2. Reporting. The results and raw data, including the spectra, from the GC analysis must be provided to the Director by written report (1) within 30 days of a positive result with the Static Sheen Test when a discharge has occurred, or (2) for the end-of-well analysis, within 90 days of well completion.

d. *Static Sheen Test.* 1. The Permittee must perform the Static Sheen Test on separate samples of drilling muds and cuttings, as required in Appendix 1 to Subpart A of 40 CFR Part 435. Samples must be collected on each day of discharge and prior to bulk discharges.

2. The test must be conducted in accordance with ''Approved Methodology: Laboratory Sheen Tests for the Offshore Subcategory, Oil and Gas Extraction Industry'' which is Appendix 1 to Subpart A of 40 CFR Part 435. For discharge below ice or during periods of unstable or broken ice, water temperature for the Static Sheen Test must approximate surface water temperatures at ice breakup.

3. Whenever muds or cuttings fail the Static Sheen Test and a discharge has occurred in the past 24 hours, the Permittee is required to analyze an undiluted sample of the material which failed the test to determine the presence or absence of diesel oil. The determination and reporting of results must be performed according to *Part III.B.2.c.* above.

e. *Toxicity test for drilling fluids.* 1. If no mineral oil is used (*Part III.B.1.a.*), a toxicity test must be conducted monthly to determine compliance with the drilling fluid toxicity limit. At the end-of-well, a sample must be collected for toxicity testing. This sample can also serve as the monthly monitoring sample.

2. The Permittee must complete a minimum of two toxicity tests on each mud system where a mineral oil lubricity or spotting agent is used. One sample must be collected before applying the pill and one after removing the pill (see Part *III.B.1.a.(2)*). The ''after pill'' sample test results can be used as the monthly monitoring sample. If the well is completed within 96 hours of collection of the ''after pill'' drilling mud sample, then these test results can also serve as the end-of-well test.

3. The testing and reporting of drilling fluid toxicity test results must be in accordance with Appendix 2 to Subpart A of 40 CFR Part 435 (Drilling Fluids

Toxicity Test) using either the full or partial toxicity test. If the partial toxicity test shows a failure, however, all testing of future samples from that well shall be conducted using the full toxicity test method to determine the 96-hour LC50. Results of drilling fluid toxicity tests (in terms of pass/fail or 96-hr LC50 value) must be reported on the DMRs, and complete copies of the test reports must be attached to the DMR.

f. *Metals analysis.* 1. The Permittee shall analyze each discharged mud system for the following metals: barium, cadmium, chromium, copper, mercury, zinc, and lead. Analyses for total recoverable concentrations shall be conducted and reported for each metal utilizing the methods specified in 40 CFR Part 136. The results shall be reported in ''mg/kg of whole mud (dry weight)'' and the moisture content (percent by weight) of the original drilling mud sample shall be reported.

2. Samples shall be collected when the residual mineral oil concentration is at its maximum value (see *Part III.B.1.a.*). If no mineral oil is used, the analysis shall be done on a drilling mud sample collected from the mud system used at the greatest well depth. All samples shall be collected prior to any predilution. Each drilling mud sample shall be of sufficient size to allow for both the chemical testing described here and toxicity testing described above in Part III.B.2.e.

g. *Mercury and cadmium content of barite.* 1. The Permittee must analyze a representative sample of stock barite once prior to drilling each well and submit the results for total mercury and total cadmium in the DMR upon well completion. Analyses must be conducted by absorption spectrophotometry and results expressed as mg/kg (dry weight) of barite.

2. If more than one well is drilled at a site, new analyses are not required for subsequent wells if no new supplies of barite have been received since the previous analysis. In this case, the DMR should state that no new barite was received since the last reported analysis. Operators may provide certification, as documented by the supplier(s), that the barite meets the above limits. The concentration of mercury and cadmium in stock barite must be reported on the DMR as documented by the supplier.

3. Environmental Monitoring Requirements

a. *Within 4000 m of sensitive areas.* Monitoring of the fate and effects of drilling muds and/or cuttings discharges are required for new exploration facilities when the location of the discharges is within 4000 m of an area such as a coastal marsh, river delta, river mouth, designated AMSA, game refuge, game sanctuary, critical habitat area, or National Park. Discharges are prohibited within 1000 m of sensitive areas (see *Part II.C.2.*).

b. *Environmental Monitoring Study.* If monitoring is required by Part III.B.3.a., the Permittee must submit a plan of study for environmental monitoring to EPA for review with, or prior to, submission of a written request for authorization to discharge (*Parts I.A. and I.B.*).

c. *Objectives.* The objectives of the environmental monitoring must be to:

(1) Monitor for discharge-related impacts,

(2) Determine statistically significant changes in sediment pollutant concentrations and sediment toxicity with time and distance from the discharge,

(3) Monitor for discharge related impacts to the benthic community,

(4) Assess whether any impacts warrant an adjustment of the monitoring program, and

(5) Provide information for permit reissuance.

d. *Requirements.* The monitoring must include, but not be limited to, relevant hydrographic, sediment hydrocarbon, and heavy metal data from surveys conducted before and during drilling mud disposal and up to at least one year after drilling operations cease. The monitoring plan must address:

(1) The monitoring objectives,

(2) Appropriate null and alternate test hypotheses,

(3) A statistically valid sampling design,

(4) All monitoring procedures and methods,

(5) A quality assurance/quality control program,

(6) A detailed discussion of how data will be used to meet, test and evaluate the monitoring objectives, and

(7) A summary of the results of previous environmental monitoring as they apply to the proposed program plan.

e. *Reporting requirements.* (1) The Permittee must analyze the data and submit a draft report within 180 days following the completion of sample collection. The report must address the environmental monitoring objectives by using appropriate descriptive and analytical methods to test for and to describe any impacts of the effluent on sediment pollutant concentrations, sediment quality, water quality and/or the benthic community. The report must include all relevant quality assurance/quality control (QA/QC) information, including but not limited to instrumentation, laboratory procedures, detection limits/precision requirements of the applied analyses, and sample collection methodology.

(2) The EPA will review the draft report in accordance with the environmental monitoring objectives and evaluate it for compliance with the requirements of the permit. If revisions to the report are required, the Permittee must complete them and submit the final report to EPA within two months of the Director's request. The Permittee will be required to correct, repeat and/or expand environmental monitoring programs which have not fulfilled the requirements of the permit.

f. *Modification of Monitoring Program*. The monitoring program may be modified if EPA determines that it is appropriate. The modified program may include changes in sampling stations, sampling times, and/or parameters.

g. *Exemption*. Region 10 may grant a written exemption to this requirement if the Permittee can satisfactorily demonstrate that information on the fate and effects of the discharge is available and/or the discharge will not have significant impacts on the area of biological significance. An exemption to post-drilling monitoring will be granted if no impact was indicated during drilling. An exemption request must be submitted to the EPA for review with, or prior to, submission of a written request for authorization to discharge (*Parts I.A. and I.B.*).

C. Deck Drainage (Discharge 002)

1. Effluent Limitations

In addition to the restrictions set out in Parts III.A., III.C.2–5. and IV, the Permittee must comply with the following effluent limitations and monitoring requirements.

Effluent characteristic	Discharge limitation	Monitoring requirements		
		Measurement frequency	Sample type/ method	Reported values
Flow rate (MGD)	N/A	Monthly	Estimate	Monthly avg.

Effluent characteristic	Discharge limitation	Monitoring requirements		
		Measurement frequency	Sample type/ method	Reported values
Free oil	No discharge	Daily, during discharge	Visual/Sheen on receiving water or Static Sheen.[1]	Number of days sheen observed.
Whole effluent toxicity.[2]	N/A	Once during the first year the Permittee is covered by the permit.[3]	Part III.F.7.b	TU_c.[4]

[1] If discharge occurs during broken or unstable ice conditions, or during stable ice conditions, the Static Sheen Test must be used (see Appendix 1 to 40 CFR part 435, subpart A).
[2] Contaminated deck drainage must be processed through an oil-water separator prior to discharge and samples for that portion of the deck drainage collected from the separator effluent must be sampled for WET testing.
[3] Sample must be collected during a significant rainfall or snowmelt. If discharge of deck drainage separate from produced water is initiated after the first year of the permit, sampling must occur during the year following the initiation of separate deck drainage discharge.
[4] With the final report for each test, the following must also be reported: date and time of sample, the type of sample (i.e., rainfall or snowmelt), estimate of daily flow and basis for the estimate (e.g., turbine meters, monthly precipitation, estimated washdown).

2. Drains

Area drains for either washdown or rainfall that may be contaminated with oil and grease must be separated from those area drains that would not be contaminated. The contaminated deck drainage must be processed through an oil-water separator prior to discharge and samples for that portion of the deck drainage collected from the separator effluent must be tested for sheen.

3. Commingled Wastestreams

If deck drainage is commingled with produced water, then this discharge must be considered produced water for monitoring purposes (*Part III.F.*). The estimated deck drainage flow rate must be reported in the comment section of the DMR.

4. Unstaffed Facilities

Monitoring of unstaffed facilities is not required. Written notification that a facility is no longer staffed must be provided to EPA prior to terminating monitoring requirements.

5. Monitoring Requirements

Monitoring must be conducted according to test procedures approved under 40 CFR 136, unless other test procedures are specified here or elsewhere in this permit. Representative sampling requirements are discussed in *Part III.A.*

D. Sanitary Wastes and Domestic Wastes (Discharges 003, 004)

1. Effluent Limitations

In addition to the restrictions set out in Parts III.A., III.D.2–3. and IV, the Permittee must comply with the following effluent limitations and monitoring requirements.

Effluent characteristic	Discharge limitation	Monitoring requirements		
		Measurement frequency	Sample type/ method	Reported values
All Discharges (003, 004):				
Flow Rate	NA	Monthly	Estimate	Monthly Average.
Domestic Wastes (004):				
Floating solids	No discharge	Daily	Observation[1]	Number of days solids observed.
Foam	No discharge	Daily	Observation[1]	Number of days foam observed.
Sanitary Wastes (003) All Treatment Systems:				
Fecal Coliform		Monthly for one year, beginning the first month of permit coverage.	Grab	Daily Maximum Number of people on board.
Total Residual Chlorine (TRC) mg/l.	19 mg/l 9 mg/l	Monthly	Grab	Daily Maximum Monthly average.
Sanitary Wastes (003)[2] M10 MSD and MSD/Biological Treatment Units:				
Total Residual Chlorine	As close as possible to, but no less than,.	Monthly	Grab	Concentration in mg/l.
(TRC)(mg/l)	1 mg/l			
BOD[3] (mg/l)	60 mg/l 30 mg/l	Monthly	Grab	Daily Maximum. Monthly Average.
TSS[3] (mg/l)	67 mg/l 51 mg/l	Monthly	Grab	Daily Maximum. Monthly Average.
Sanitary Wastes(003)[2] M9IM MSD and MSD/Biological Treatment Units:				

Effluent characteristic	Discharge limitation	Monitoring requirements		
		Measurement frequency	Sample type/ method	Reported values
BOD [3] (mg/l)	60 mg/l 30 mg/l	Monthly	Grab	Daily Maximum. Monthly Average.
TSS [3] (mg/l)	67 mg/l 51 mg/l	Monthly	Grab	Daily Maximum. Monthly Average.
Sanitary Wastes(003) [2] M10 Biological Treatment Units:				
Floating solids	No discharge	Daily	Observation [1]	Number of days solids observed.
Total Residual Chlorine (TRC) (mg/l)	As close as possible to, but no less than, 1 mg/l.	Monthly	Grab	Concentration in mg/l.
BOD [3] (mg/l)	60 mg/l 30 mg/l	Monthly	Grab	Daily Maximum. Monthly Average.
TSS [3, 4] (mg/l)	60 mg/l 30 mg/l	Monthly	Grab	Daily Maximum. Monthly Average.
Sanitary Wastes(003) [2] M9IM Biological Treatment Units:				
Floating solids	No discharge	Daily	Observation [1]	Number of days solids observed.
BOD [3] (mg/l)	90 mg/l 48 mg/l	Monthly	Grab	Daily Maximum. Monthly Average.
TSS [3, 4] (mg/l)	108 mg/l 56 mg/l	Monthly	Grab	Daily maximum. Monthly Average.

[1] Permittee must monitor by observing the surface of the receiving water in the vicinity of the outfall(s) during daylight at the time of maximum estimated discharge. For domestic waste, observations must follow either the morning or midday meal.

[2] In cases where sanitary and domestic wastes are mixed prior to discharge, and sampling of the sanitary waste component stream is infeasible, the discharge may be sampled after mixing. In such cases, the discharge limitations for sanitary wastes must apply to the mixed waste stream.

[3] The numeric limits for BOD and TSS apply only to discharges to state waters.

[4] The TSS limitation for biological treatment units is a net value. The net TSS value is determined by subtracting the TSS value of the intake water from the TSS value of the effluent. Report the TSS value of the intake water on the comment section of the DMR. For those facilities that use filtered water in the biological treatment units, the TSS of the effluent may be reported as the net value.

Samples collected to determine the TSS value of the intake water must be taken on the same day, during the same time period that the effluent sample is taken. Intake water samples must be taken at the point where the water enters the facility prior to mixing with other flows. Influent samples must be taken with the same frequency that effluent samples are taken.

2. Discharge Below Water Surface

Domestic and sanitary wastes must be discharged below the water surface.

3. Monitoring Requirements

Monitoring must be conducted according to test procedures approved under 40 CFR 136, unless other test procedures are specified here or elsewhere in this permit. Representative sampling requirements are discussed in Part II.B.

Fecal Coliform Monitoring. Permittees must submit a facility specific mixing zone application to ADEC based on the first 12 months monitoring data within 18 months after the effective date of the permit (or within 18 months after commencement of discharge for new dischargers).

E. Miscellaneous Discharges (Discharges 005–014)

1. Effluent Limitations

In addition to the restrictions set out in Parts III.A., III.E.2–4, and IV, the discharge of desalination unit wastes (005); blowout preventer fluid (006); boiler blowdown (007): fire control system test water (008); non-contact cooling water (009); uncontaminated ballast water (010); bilge water (011); excess cement slurry (012); mud, cuttings, cement at the seafloor (013); and waterflooding (014) must comply with the following effluent limitations and monitoring requirements.

Effluent characteristic	Discharge limitation	Monitoring requirements		
		Measurement frequency	Sample type/ method	Reported values
Blowout Preventer, Excess Cement Slurry, Waterflooding Muds, Cuttings & Cement at Seafloor, Ballast, Bilge:				

Effluent characteristic	Discharge limitation	Monitoring requirements		
		Measurement frequency	Sample type/ method	Reported values
Free Oil	No discharge	Once/discharge for discharges lasting < 24 hrs. Once/24-hrs for discharges lasting >24 hours	Visual/Sheen on receiving water [1].	Number or days sheen is observed.
Waterflooding, Non-Contact Cooling Water, Desalination Wastestreams:				
Chemical Inventory	N/A	Annual	Part III.E.2	Part III.E.2.

[1] For Uncontaminated Ballast Water (010) and Bilge Water (011) only: uncontaminated ballast and bilge water must be processed through an oil-water separator prior to discharge. If discharge of bilge water occurs during broken, unstable, or stable ice conditions, the sample type/method used to determine compliance with the no free oil limitation must be ''Grab Static Sheen Test'' (Appendix 1 to Subpart A of 40 CFR Part 435). For discharges above stable ice, below ice, to unstable or broken ice, a water temperature that approximates surface water temperatures after breakup must be used.

2. Chemical Inventory

The Permittee must maintain an inventory of the type and quantity of chemicals (other than fresh or seawater) added to waterflooding, non-contact cooling water and desalination systems. The inventory(ies) must be submitted annually. The annual inventories must be assembled for the calendar year, and must be submitted to the EPA within 90 days of the completion of the calendar year.

3. Commingled Wastestreams

If excess waterflood water is added to the produced water discharge in order to minimize the possibility of line freezing, then this discharge must be considered produced water for monitoring purposes. The estimated waterflood flow rate must be reported in the comment section of the DMR.

4. Monitoring Requirement

Monitoring must be conducted according to test procedures approved under 40 CFR 136, unless other test procedures are specified here or elsewhere in this permit. Representative sampling requirements are discussed in Part III.A.

F. Produced Water (Discharge 015)

1. Effluent Limitations

In addition to the restrictions set out in Parts III.A., III.F.2–7., and IV, the Permittee must comply with the following effluent limitations and monitoring requirements.

Effluent characteristic	Discharge limitation	Monitoring requirements		
		Measurement frequency	Sample type/ method	Reported values
All Locations:				
Flow rate (MGD)	N/A	Weekly	Estimate	Monthly Average.
Produced sands	No discharge			
pH				
Flow rate <1mgd	6–9	Monthly	Grab	Daily Max and Min.
Flow rate >1mgd	6–9	Weekly	Grab	Daily Max and Min.
Cadmium &	N/A	Monthly for one year, beginning the first month of permit coverage.	Grab Part III.F.7.c.	Daily Max.
Mercury				
Individual Dischargers:				
Granite Point Production Facility:				
AKG285001	42 mg/l daily max.	Weekly	Grab or average of 4 samples taken within 24 hour period.	Daily Maximum.
Oil and Grease	29 mg/l monthly avg			Monthly Average.
Copper	238 µg/l	Monthly	Grab	Daily Maximum.
	163 µg/l		Part III.F.7.c	Monthly Average.
Lead	543 µg/l	Monthly	Grab	Daily Maximum.
	372g/l		Part III.F.7.c	Monthly Average.
Mercury	2.42 g/l	Monthly	Grab	Daily Maximum.
	1.66 µg/l		Part III.F.7.c	Monthly Average.

Effluent characteristic	Discharge limitation	Monitoring requirements		
		Measurement frequency	Sample type/ method	Reported values
Total Aromatic Hydrocarbons (TAH).	63,700 µg/l ..... 43,700 µg/l	Monthly	Grab ..... Part III.F.7.a	Daily Maximum.[1] Monthly Average.[1]
Whole Effluent Toxicity (WET)	133 TUc ..... 91 TUc	Annual	Grab ..... Parts III.F.7.b	Daily Maximum. Monthly Average.
Trading Bay:				
AKG285002, Oil and Grease ..	42 mg/l daily max. 29 mg/l monthly avg	Weekly	Grab or average of 4 samples taken within 24 hour period.	Daily Maximum. Monthly Average.
Copper	136 µg/l ..... 93.4 µg/l	Weekly	Grab ..... Part III.F.7.c	Daily Maximum. Monthly Average.
Lead	883 µg/l ..... 605 µg/l	Weekly	Grab ..... Part III.F.7.c	Daily Maximum. Monthly Average.
Total Aromatic Hydrocarbons (TAH).	24,500 µg/l ..... 12,200 µg/l	Weekly	Grab ..... Part III.F.7.a	Daily Maximum.[1] Monthly Average.[1]
Total Aqueous Hydrocarbons (TAqH).	36,800 µg/l ..... 18,300 µg/l	Weekly	Grab ..... Part III.F.7.a	Daily Maximum.[1] Monthly Average.[1]
Whole Effluent Toxicity (WET)	140 TUc ..... 96 TUc	Quarterly	Grab ..... Parts III.F.7.b	Daily Maximum. Monthly Average.
East Forelands:				
AKG285003, Oil and Grease ..	42 mg/l daily max. 29 mg/l monthly avg	Weekly	Grab or average of 4 samples taken within 24 hour period.	Daily Maximum. Monthly Average.
Copper	122 µg/l ..... 84 µg/l	Monthly	Grab ..... Part III.F.7.c	Daily Maximum. Monthly Average.
Arsenic	2900 µg/l ..... 1990 µg/l	Monthly	Grab ..... Part III.F.7.c	Daily Maximum. Monthly Average.
Silver	97 µg/l ..... 66 µg/l	Monthly	Grab ..... Part III.F.7.c	Daily Maximum. Monthly Average.
Lead	754 µg/l ..... 517 µg/l	Monthly	Grab ..... Part III.F.7.c	Daily Maximum. Monthly Average.
Mercury	3.37 µg/l ..... 2.31 µg/l	Monthly	Grab ..... Part III.F.7.c	Daily Maximum. Monthly Average.
Total Aromatic Hydrocarbons (TAH).	61,800 µg/l ..... 42,400 µg/l	Monthly	Grab ..... Part III.F.7.a	Daily Maximum.[1] Monthly Average. [1]
Total Aqueous Hydrocarbons (TAqH).	92,700 µg/l ..... 63,500 µg/l	Monthly	Grab ..... Part III.F.7.a	Daily Maximum.[1] Monthly Average.[1]
Whole Effluent Toxicity (WET)	115 ..... TU_c 79 TU_c	Annual	Grab ..... Parts III.F.7.b	Daily Maximum. Monthly Average.
Anna:				
AKG285004, Oil and Grease ..	42 mg/l daily max. 29 mg/l monthly avg.	Weekly	Grab or average of 4 samples taken within 24 hour period.	Daily Maximum. Monthly Average.
Copper	209 µg/l ..... 143 µg/l	Monthly	Grab ..... Part III.F.7.c	Daily Maximum. Monthly Average.
Mercury	8.23 µg/l ..... 5.64 µg/l	Monthly	Grab ..... Part III.F.7.c	Daily Maximum. Monthly Average.
Total Aromatic Hydrocarbons (TAH).	86,000 µg/l ..... 58,900 µg/l	Monthly	Grab ..... Part III.F.7.a	Daily Maximum. Monthly Average.
Total Aqueous Hydrocarbons (TAqH).	129,000 µg/l ..... 88,400 µg/l	Monthly	Grab ..... Part III.F.7.a	Daily Maximum. Monthly Average.

Effluent characteristic	Discharge limitation	Monitoring requirements		
		Measurement frequency	Sample type/method	Reported values
Whole Effluent Toxicity (WET).	486 TU_c	Annual	Grab	Daily Maximum.
	333 TU_c		Parts III.F.7.b	Monthly Average.
Baker:				
AKG285005, Oil and Grease.	42 mg/l daily max.	Weekly	Grab or average of 4 samples taken within 24 hour period.	Daily Maximum.
	29 mg/l monthly avg.			Monthly Average.
Zinc	16,700 µg/l	Monthly	Grab	Daily Maximum.
	5330 µg/l		Part III.F.7.c	Monthly Average.
Whole Effluent Toxicity (WET).	100 TU_c	Annual	Grab	Daily Maximum.
	72 TU_c		Parts III.F.7.b	Monthly Average.
Bruce:				
AKG285006, Oil and Grease.	42 mg/l daily max.	Weekly	Grab or average of 4 samples taken within 24 hour period.	Daily Maximum.
	29 mg/l monthly avg.			Monthly Average.
Silver	766 µg/l	Monthly	Grab	Daily Maximum.
	525 µg/l		Part III.F.7.c	Monthly Average.
Total Aromatic Hydrocarbons (TAH).	298,000 µg/l	Monthly	Grab	Daily Maximum.
	205,000 µg/l		Part III.F.7.a	Monthly Average.
Whole Effluent Toxicity (WET).	912 TU_c	Annual	Grab	Daily Maximum.
	625 TU_c		Parts III.F.7.b	Monthly Average.
Dillon:				
AKG285007, Oil and Grease.	42 mg/l daily max.	Weekly	Grab or average of 4 samples taken within 24 hour period.	Daily Maximum.
	29 mg/l monthly avg.			Monthly Average.
Copper	244 µg/l	Monthly	Grab	Daily Maximum.
	167 µg/l		Part III.F.7.c	Monthly Average.
Lead	1030 µg/l	Monthly	Grab	Daily Maximum.
	706 µg/l		Part III.F.7.c	Monthly Average.
Zinc	7,980 µg/l	Monthly	Grab	Daily Maximum.
	5,470 µg/l		Part III.F.7.c	Monthly Average.
Total Aromatic Hydrocarbons (TAH).	59,300 µg/l	Monthly	Grab	Daily Maximum.[1]
	40,600 µg/l		Part III.F.7.a	Monthly Average.[1]
Total Aqueous Hydrocarbons (TAqH).	88,900 µg/l	Monthly	Grab	Daily Maximum.[1]
	61,000 µg/l		Part III.F.7.a	Monthly Average.[1]
Whole Effluent Toxicity (WET).	174 TU_c	Annual	Grab	Daily Maximum.
	119 TU_c		Parts III.F.7.b	Monthly Average.
Phillips A/Tyonek (gas) see Part III.F.6:				
AKG285011, Oil and Grease.	20 mg/l daily max.	Weekly	Grab or average of 4 samples taken within 24 hour period.	Daily Maximum.
	15 mg/l monthly avg			Monthly Average.
Arsenic	1240 µg/l	Monthly	Grab	Daily Maximum.
	851 µg/l		Part III.F.7.c	Monthly Average.
Copper	58 µg/l	Monthly	Grab	Daily Maximum.
	40 µg/l		Part III.F.7.c	Monthly Average.
Lead	193 µg/l	Monthly	Grab	Daily Maximum.
	132 µg/l		Part III.F.7.c	Monthly Average.
Mercury	0.862 µg/l	Monthly	Grab	Daily Maximum.
	0.591 µg/l		Part III.F.7.c	Monthly Average.
Total Aqueous Hydrocarbons (TAqH).	4530 µg/l	Monthly	Grab	Daily Maximum.[1]
	3110 µg/l		Part III.F.7.a	Monthly Average.[1]
Whole Effluent Toxicity (WET).	16 TU_c	Annual	Grab	Daily Maximum.
	11 TU_c		Parts III.F.7.b	Monthly Average.

Effluent characteristic	Discharge limitation	Monitoring requirements		
		Measurement frequency	Sample type/ method	Reported values
Phillips A/Tyonek (crude) see Part III.F.6:				
AKG285011, Oil and Grease ..	42 mg/l daily max 29 mg/l monthly avg	Weekly	Grab or average of 4 samples taken within 24 hour period.	Daily Maximum. Monthly Average.
Silver	766 µg/l 525 µg/l	Monthly	Grab Part III.F.7.c	Daily Maximum. Monthly Average.
Mercury	21.9 µg/l 15.0 µg/l	Monthly	Grab Part III.F.7.c	Daily Maximum. Monthly Average.
Arsenic, Cadmium, Copper, Lead, Nickel, Zinc.	N/A	Monthly for one year	Grab Part III.F.7.c	Daily Maximum. Monthly Average.
Total Aromatic Hydrocarbons (TAH).	298,000 µg/l 205,000 µg/l	Monthly	Grab Part III.F.7.a	Daily Maximum.[1] Monthly Average.[1]
Total Aqueous Hydrocarbons (TAqH).	448,000 µg/l 307,000 µg/l	Monthly	Grab Part III.F.7.a	Daily Maximum.[1] Monthly Average.[1]
Whole Effluent Toxicity (WET)	912 TU_c 625 TU_c	Quarterly	Grab Parts III.F.7.b	Daily Maximum. Monthly Average.
Interim Limitations (Flow Rate <1mgd):				
Oil and Grease	42 mg/l daily max.. 29 mg/l monthly avg.	Weekly	Grab or average of 4 samples taken within 24 hour period.	Daily Maximum. Monthly Average.
Silver	766 µg/l 525 µg/l	Monthly	Grab Part III.F.7.c	Daily Maximum. Monthly Average.
Mercury	21.9 µg/l 15.0 µg/l	Monthly	Grab Part III.F.7.c	Daily Maximum. Monthly Average.
Arsenic, Cadmium, Copper, Lead, Nickel, Zinc.	N/A	Monthly for one year	Grab Part III.F.7.c	Daily Maximum. Monthly Average.
Total Aromatic Hydrocarbons (TAH).	298,000 µg/l 205,000 µg/l	Monthly	Grab Part III.F.7.a	Daily Maximum.[1] Monthly Average.[1]
Total Aqueous Hydrocarbons (TAqH).	448,000 µg/l 307,000 µg/l	Monthly	Grab Part III.F.7.a	Daily Maximum.[1] Monthly Average.[1]
Whole Effluent Toxicity (WET)	912 TU_c 625 TU_c	Annual	Grab Parts III.F.7.b	Daily Maximum. Monthly Average.
Interim Limitations (Flow Rate >1mgd):				
Oil and Grease	42 mg/l daily max.. 29 mg/l monthly avg.	Weekly	Grab or average of 4 samples taken within 24 hour period.	Daily Maximum. Monthly Average.
Silver	766 µg/l 382 µg/l	Weekly	Grab Part III.F.7.c	Daily Maximum. Monthly Average.
Mercury	21.9 µg/l 10.9 µg/l	Weekly	Grab Part III.F.7.c	Daily Maximum. Monthly Average.
Arsenic, Cadmium, Copper, Lead, Nickel, Zinc.	N/A	Monthly for one year	Grab Part III.F.7.c	Daily Maximum. Monthly Average.
Total Aromatic Hydrocarbons (TAH).	298,000 µg/l 149,000 µg/l	Weekly	Grab Part III.F.7.a	Daily Maximum.[1] Monthly Average.[1]

Effluent characteristic	Discharge limitation	Monitoring requirements		
		Measurement frequency	Sample type/ method	Reported values
Total Aqueous Hydrocarbons (TAqH).	448,000 µg/l	Weekly	Grab	Daily Maximum.[1]
	223,000 µg/l		Part III.F.7.a	Monthly Average.[1]
Whole Effluent Toxicity (WET)	912 TU_c	Quarterly	Grab	Daily Maximum.
	625 TU_c		Parts III.F.7.b	Monthly Average.

[1] Fifteen months after permit issuance, a report summarizing the concentrations of the individual TAH components (benzene, toluene, ethylbenzene and xylene isomers) and individual TAqH components from data collected during the first year of permit coverage must be provided to the EPA.

2. Rerouting Platform Discharge to a Shore-Based Facility

In situations where the platforms are not able to treat produced water and a bypass may occur, the Baker and Dillon platforms may route their produced water discharge to the Granite Point Production Facility for treatment and discharge; the Anna and Bruce platforms may route their produced water discharge to the East Foreland Production Facility for treatment and discharge. The Permittee must report rerouting by telephone or facsimile within 24 hours of rerouting, and must provide a written submission within five days of rerouting that describes why rerouting was necessary, and the anticipated time that rerouting is expected to continue. The permittee must cease rerouting as soon as possible.

3. Interim Produced Water Limitations

Facilities which obtain authorization to discharge produced water subject to interim produced water limitations (see Part I.B.) must submit a facility specific mixing zone application to ADEC based on the first 12 months of monitoring data within 18 months after commencement of discharge.

4. Trading Bay Groundwater

Trading Bay is authorized to discharge treated groundwater extracted pursuant to State Compliance Order #91–23–01–053–02 as part of the produced water waste stream.

5. Spill Clean-Up

Water that is collected as a result of spill clean-up can be treated as produced water and discharged with the produced water waste stream. The Permittee must report the treatment and discharge of spill clean-up water to the EPA within 24 hours of initiating such treatment, and must provide a written submission within five days of initiating treatment that describes the spill, the anticipated volume of spill clean-up water, and the anticipated time that treatment and discharge of spill clean-up water is expected to continue.

6. Phillips A/Tyonek

Two sets of limits for Phillips A/Tyonek are listed at Part III.F.1. The ''gas'' limits are effective at the time of permit issuance, and will continue to be the effective permit limits until Phillips A/Tyonek initiates discharge of crude related discharge directly from the Phillips A/Tyonek platform. The Permittee must submit a notification letter to EPA prior to initiating the discharge of crude related produced water from the platform. The ''crude'' limits become effective on the day identified in the notification letter. A facility specific mixing zone application must be submitted to ADEC for Phillips A/Tyonek based on the first 12 months monitoring data within 18 months after commencement of crude related produced water discharges.

7. Monitoring Requirements

Monitoring must be conducted according to test procedures approved under 40 CFR 136, unless other test procedures are specified here or elsewhere in this permit. Representative sampling requirements are discussed in Part III.A.

a. *Total Aromatic Hydrocarbons (TAH) and Total Aqueous Hydrocarbons (TAqH).* For analysis of TAH and TAqH, all analytical requirements cited in the Alaska Standards, 18 AAC 70.020(b) are applicable.

b. *Whole effluent toxicity.* (1) The Permittee must conduct tests on grab effluent samples with one vertebrate and two invertebrate species, as follows.

Vertebrate (survival and growth): Inland silverside, *Menidia beryllina.*

Invertebrate: Atlantic myside *Mysidopsis bahia* (survival, growth and fecundity test) and one of the following two bivalve species tests: Mussel *Mytilis sp.* or Pacific oyster *Crassostrea gigas* (larval development test). Due to seasonal variability, testing may be performed during reliable spawning periods (e.g. December through February for mussels; June through August for oysters).

(2) Each year, the permittee must re-screen with the three species listed above, and continue to monitor with the most sensitive species. Rescreening must consist of one test conducted at a different time of year from the previous years test.

(3) The presence of chronic toxicity must be estimated as specified in ''USEPA Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms, Second Edition,'' (EPA/600/4–91/003). For the bivalve species, chronic toxicity must be estimated as specified in ''Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Water to West Coast Marine and Estuarine Organisms'' (EPA/600/R–95/136).

(4) Results must be reported in TU_c, where $TU_c = 100/NOEC$. The reported NOEC must be the highest NOEC calculated for the applicable survival, growth or fecundity endpoints.

(5) A series of five dilutions and a control will be tested. The series must include the instream waste concentration (IWC), two dilutions above the IWC, and two dilutions below the IWC. The IWC is the concentration of effluent at the edge of the mixing zone.

(6) In addition to those quality assurance measures specified in the methodology, the following quality assurance procedures must be followed:

(a) If organisms are not cultured in-house, concurrent testing with reference toxicants must be conducted. Where organisms are cultured in-house, monthly reference toxicant testing is sufficient.

(b) If either of the reference toxicant tests or the effluent tests do not meet all test acceptability criteria as specified in the test methods manual, then the permittee must re-sample and re-test as soon as possible.

(c) Control and dilution water should be receiving water, or salinity adjusted

lab water. If the dilution water used is different from the culture water, a second control, using culture water must also be used.

(7) Accelerated Testing. (a) If chronic toxicity is detected above the permit limits, collection and analysis of one additional sample is required within two weeks of receipt of the test results.

(b) If chronic toxicity is not detected in the sample required by Part III.F.7.a, the Permittee must notify the EPA and ADEC in writing of the results within fifteen (15) days of receipt of the results, and must discuss the cause of the exceedance, and the corrective actions which were taken.

(c) If chronic toxicity is detected in the sample required by Part III.F.7.a., then the Permittee must conduct four bi-weekly tests over an eight week period. Accelerated testing must be initiated within fifteen (15) days of the receiving the sample results required by Part III.F.7.a.

(8) Toxicity Reduction Evaluation (TRE). (a) If chronic toxicity is detected above the permit limits during accelerated testing, then in accordance with EPA/600/2–88/070, a toxicity reduction evaluation (TRE) must be initiated within fifteen days of this exceedance in order to expeditiously locate the source(s) of toxicity and evaluate the effectiveness of pollution control actions and/or in plant modifications toward attaining compliance.

(b) If none of the four tests indicates toxicity, then the permittee may return to the normal testing frequency.

(9) Toxicity Identification Evaluation (TIE). (a) If chronic toxicity is detected in any two of the four bi-weekly tests, the permittee must initiate a TIE to identify the specific chemical(s) responsible for toxicity (EPA/600/6–91/005F (Phase I), EPA/600/R–92/080 (Phase II), and EPA–600/R–92/081 (Phase III).

(b) If a TIE is triggered prior to completion of the accelerated testing, the accelerated testing schedule may be terminated, or used as necessary in performing the TIE.

(10) Reporting. (a) The permittee must notify EPA and the State in writing within fifteen (15) days of receipt of the results of the exceedance of the permit limit, of the finding of the TRE/TIE or other investigation to identify the cause(s) of toxicity; actions the permittee has taken or will take to mitigate the impact of the discharge, to correct the noncompliance and to prevent the recurrence of toxicity; where corrective actions including a TRE/TIE have not been completed, an expeditious schedule under which corrective actions will be implemented; and if no actions have been taken, the reason for not taking action.

c. *Metals.* The method detection limits and interim minimum level listed below are needed in order to determine whether or not violations of water quality are occurring at the point of discharge. In addition to the procedures approved under 40 CFR 136, the ICP–MS test procedure 200.8 (''Methods for Chemical Analyses of Water and Wastes,'' EPA–600/4–79–020) may be used for analysis of these samples.

Pollutant	Aquatic life chronic criteria (µg/l)	Method detection limit (µg/l)	Interim minimum level (µg/l)
Arsenic	36	7.2	N/A
Cadmium	9.3	1.9	N/A
Copper	2.9	0.6	N/A
Lead	5.6	1.1	N/A
Nickel	7.1	1.4	N/A
Silver	2.3	0.5	N/A
Mercury	0.025	0.2	0.5
Zinc	58	12	N/A

G. Completion Fluids, Workover Fluids, Well Treatment Fluids, and Test Fluids (Discharges 016–019)

1. Effluent Limitations

In addition to the restrictions set out in Parts III.A., III.G.2–4., and IV, the Permittee must comply with the following effluent limitations and monitoring requirements.

Effluent characteristic	Discharge limitation	Monitoring requirements		
		Measurement frequency	Sample type/method	Reported values
All Wastestreams:				
Discharge frequency.	N/A	Once/discharge[1]	Count	Type and total number of discharges.
Flow rate (MGD).	N/A	Daily[1]	Estimate	Monthly average.
Oil-based fluids.	No discharge	Included in free oil monitoring, below[2].		
Free oil[3]	No free oil	Once per discharge[1]	Grab/Static Sheen Test	Number of times sheen observed.
Oil and grease[3].	42 mg/l max. daily. 29 mg/l monthly avg	Once per discharge[1]	Grab or average of 4 samples taken within 24 hours.	Daily max. and monthly average.
pH	6.5–8.5	Once per discharge[1]	Grab	pH.

Effluent characteristic	Discharge limitation	Monitoring requirements		
		Measurement frequency	Sample type/method	Reported values
Treatment, Workover, Completion Metals.	.....	Once per discharge [1]	Part III.G.4.	

[1] The type of discharge (i.e., completion, workover, treatment, test fluid, or any combination) must be reported. Discharge of individual wastestreams must be reported separately from the discharge of commingled wastestreams.
[2] Discharge of oil-based fluids is prohibited.
[3] No free oil and oil and grease limits apply to each discharge, whether these wastestreams are discharged individually or are commingled. All fluids must be processed through an oil-water separator prior to discharge. Samples must be collected after the final step of treatment.

2. Commingled Wastestreams

If workover, completion, well treatment or test fluids are mixed with produced water, then this discharge must be considered produced water for monitoring purposes (*Part III.F.*). The estimated flow rate of workover, completion, well treatment or test fluids must be reported in the comment section of the DMR.

3. Chemical Inventory

The Permittee must maintain an inventory of the type and quantity of chemicals (other than fresh or seawater) added to completion, workover, well treatment, and test fluids. The inventory(ies) must be submitted annually. The annual inventories must be assembled for the calendar year, and must be submitted to the EPA within 90 days of the completion of the calendar year.

4. Monitoring Requirements

Monitoring must be conducted according to test procedures approved under 40 CFR 136, unless other test procedures are specified here or elsewhere in this permit. Representative sampling requirements are discussed in *Part III.A.*

Metals. For each discharge of well treatment, completion or workover fluids which is characterized as an acid job (strong or weak, including but not limited to hydrochloric or hydrofluoric acid, EDTA), samples of effluent must be taken for analyses of the following: cadmium, chromium, copper, lead, nickel and zinc. Analyses for total recoverable concentrations must be conducted and reported for each metal.

H. Other Discharge Limitations

1. Floating Solids, Visible Foam, or Oily Wastes

There must be no discharge of floating solids or visible foam in other than trace amounts, nor of oily wastes which produce a sheen on the surface of the receiving water.

2. Surfactants, Dispersants, and Detergents

The discharge of surfactants, dispersants, and detergents must be minimized except as necessary to comply with the safety requirements of the Occupational Health and Safety Administration and the Minerals Management Service. The discharge of dispersants to marine waters in response to oil or other hazardous spills is not authorized by this permit.

3. Applicable Marine Water Quality Criteria

There must be no discharge of any constituent in concentrations which results in an exceedence of applicable marine water quality criteria at the edge of any permitted mixing zone.

4. Other Toxic and Non-conventional Compounds

There must be no discharge of diesel oil, halogenated phenol compounds, trisodium nitrilotriacetic acid, sodium chromate or sodium dichromate.

I. Best Management Practices Plan Requirement.

1. Development

The Permittee must develop a Best Management Practices (BMP) Plan which achieves the objectives and the specific requirements listed below.

The Permittee must certify that its BMP Plan is complete, on-site, and available upon request to EPA . This certification must identify the NPDES permit number and be signed by an authorized representative of the Permittee. For new exploratory operations, the certification must be submitted no later than the written notice of intent to commence discharge (Part I.A.3). For existing dischargers, the certification must be submitted within one year of permit issuance.

2. Purpose

The BMP Plan must be designed to prevent or minimize the generation and the potential for the release of pollutants from the facility to the waters of the United States through normal operations and ancillary activities.

3. Objectives

The Permittee must develop and amend the BMP Plan consistent with the following objectives for the control of pollutants.

a. The number and quantity of pollutants and the toxicity of effluent generated, discharged or potentially discharged at the facility must be minimized by the Permittee to the extent feasible by managing each influent waste stream in the most appropriate manner.

b. The Permittee must establish specific objectives for the control of pollutants by conducting the following evaluations.

(1) Each facility component or system must be examined for its waste minimization opportunities and its potential for causing a release of significant amounts of pollutants to waters of the United States due to equipment failure, improper operation, natural phenomena such as rain or snowfall, etc.

(2) Where experience indicates a reasonable potential for equipment failure (e.g., a tank overflow or leakage), natural condition (e.g., precipitation), or other circumstances to result in significant amounts of pollutants reaching surface waters, the program should include a prediction of the direction, rate of flow and total quantity of pollutants which could be discharged from the facility as a result of each condition or circumstance.

4. Requirements

The BMP Plan must be consistent with the objectives in Part 3 above and the general guidance contained in the publication entitled ''Guidance Document for Developing Best Management Practices (BMP)'' (EPA 833–B–93-004, U.S. EPA, 1993) or any subsequent revisions to the guidance document. The BMP Plan must:

a. Be documented in narrative form, and must include any necessary plot plans, drawings or maps, and must be

developed in accordance with good engineering practices. At a minimum, the BMP Plan must contain the planning, development and implementation, and evaluation/reevaluation components discussed in ''Guidance Document for Developing Best Management Practices (BMP)'' (EPA 833-B–93–004, U.S. EPA, 1993) or any subsequent revisions to the guidance document.

b. Include the following provisions concerning BMP Plan review:

(1) Be reviewed by plant engineering staff and the plant manager as warranted by changes in the operation or at the facility which are covered by the BMP.

(2) Be reviewed and endorsed by the individuals responsible for development and implementation of the BMP plan.

(3) Include a statement that the above reviews have been completed and that the BMP Plan fulfills the requirements set forth in this permit. The statement must be certified by the dated signatures of the individuals responsible for development and implementation of the BMP Plan.

c. Establish specific best management practices to meet the objectives identified in Part 3 of this section, addressing each component or system capable of generating or causing a release of significant amounts of pollutants, and identifying specific preventative or remedial measures to be implemented.

5. Documentation

The Permittee must maintain a copy of the BMP Plan at the facility and must make the plan available to EPA upon request.

6. BMP Plan Modification

The Permittee must amend the BMP Plan whenever there is a change in the facility or in the operation of the facility which materially increases the generation of pollutants or their release or potential release to the receiving waters. The Permittee must also amend the Plan, as appropriate, when plant operations covered by the BMP Plan change. Any such changes to the BMP Plan must be consistent with the objectives and specific requirements listed above. All changes in the BMP Plan must be reviewed by the plant engineering staff and plant manager.

7. Modification for Ineffectiveness

At any time, if the BMP Plan proves to be ineffective in achieving the general objective of preventing and minimizing the generation of pollutants and their release and potential release to the receiving waters and/or the specific requirements above, the permit and/or the BMP Plan must be subject to modification to incorporate revised BMP requirements.

IV. Recording and Reporting Requirements

A. Reporting of Monitoring Results

The Permittee must summarize monitoring results each month on the Discharge Monitoring Report (DMR) form (EPA No. 3320–1). The Permittee must submit reports monthly, postmarked by the 20th day of the following month. Quarterly sampling results must be reported on, or before the March, June, September, and December DMRs. The Permittee must sign and certify all DMRs, and all other reports, in accordance with the requirements of *Part VI.D.* of this permit (''Signatory Requirements'').

The Permittee must submit the legible originals of these documents to the Director, Water Division, with copies to ADEC, at the following addresses:

United States Environmental Protection Agency, Region 10, 1200 Sixth Avenue, OW–133, Seattle, Washington 98101

Alaska Department of Environmental Conservation, Attn: Watershed Management Section, 555 Cordova Street, Anchorage, Alaska 99501

B. Annual Biocide Report

The Permittee must maintain an inventory of the type and volume of all biocides added to any waste streams authorized for discharge under this permit. Each annual inventory must be assembled for the calendar year, and must be submitted to the EPA within 90 days of the completion of the calendar year.

C. Annual Chemical Inventory and TAH/TAqH Report Requirements

See chemical inventory requirements at Part III.E.2. and III.G.3, and the TAH/TAqH requirement at Part III.F.1., footnote 1.

D. Additional Monitoring by Permittee

If the Permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR 136 or as specified in this permit, the Permittee must include the results of this monitoring in the calculation and reporting of the data submitted in the DMR. The Permittee must indicate on the DMR whenever it has performed additional monitoring, and must explain why it performed such monitoring.

Upon request by the Director, the Permittee must submit results of any other sampling, regardless of the test method used.

E. Records Contents

All effluent monitoring records must bear the hand-written signature of the person who prepared them. In addition, all records of monitoring information must include:

1. The date, exact place, and time of sampling or measurements;

2. The names of the individual(s) who performed the sampling or measurements;

3. The date(s) analyses were performed;

4. The names of the individual(s) who performed the analyses;

5. The analytical techniques or methods used; and

6. The results of such analyses.

F. Retention of Records

The Permittee must retain records of all monitoring information, including, but not limited to, all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, copies of DMRs, a copy of the NPDES permit, and records of all data used to complete the application for this permit, for a period of at least five years from the date of the sample, measurement, report or application, or for the term of this permit, whichever is longer. This period may be extended by request of the Director at any time.

A copy of the final permit must be maintained at the drilling site.

G. Twenty-four Hour Notice of Noncompliance Reporting

1. The Permittee must report the following occurrences of noncompliance by telephone or facsimile within 24 hours from the time the Permittee becomes aware of the circumstances:

a. Any noncompliance that may endanger health or the environment;

b. Any unanticipated bypass that results in or contributes to an exceedance of any effluent limitation in the permit (see Part V.G., ''Bypass of Treatment Facilities'');

c. Any upset that results in or contributes to an exceedance of any effluent limitation in the permit (see *Part V.H.*, ''Upset Conditions''); or

d. Any violation of a maximum daily discharge limitation for any of the pollutants listed in the permit .

2. The Permittee must also provide a written submission within five days of the time that the Permittee becomes aware of any event required to be reported under subpart 1 above. The written submission must contain:

a. A description of the noncompliance and its cause;

b. The period of noncompliance, including exact dates and times;

c. The estimated time noncompliance is expected to continue if it has not been corrected; and

d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

3. The Director may, at her or his sole discretion, waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the Water Compliance Section in Seattle, Washington, by telephone, (206) 553–1846.

4. Reports must be submitted to the addresses in *Part IV.A.* (''Reporting of Monitoring Results'').

H. Other Noncompliance Reporting

The Permittee must report all instances of noncompliance, not required to be reported within 24 hours, at the time that monitoring reports for *Part IV.A.* are submitted. The reports must contain the information listed in *Part IV.G.2.* of this permit.

I. Changes in Discharge of Toxic Substances.

The Permittee must notify the Director as soon as it knows, or has reason to believe:

1. That any activity has occurred or will occur that would result in the discharge, on a routine or frequent basis, of any toxic pollutant that is not limited in the permit, if that discharge will exceed the highest of the following ''notification levels'':

a. One hundred micrograms per liter (100 µg/l);

b. Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

c. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or

d. The level established by the Director in accordance with 40 CFR 122.44(f).

2. That any activity has occurred or will occur that would result in any discharge, on a non-routine or infrequent basis, of any toxic pollutant that is not limited in the permit, if that discharge will exceed the highest of the following ''notification levels'':

a. Five hundred micrograms per liter (500 µg/l);

b. One milligram per liter (1 mg/l) for antimony;

c. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or

d. The level established by the Director in accordance with 40 CFR 122.44(f).

V. Compliance Responsibilities

A. Duty To Comply

The Permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action, for permit termination, revocation and reissuance, or modification, or for denial of a permit renewal application. The Permittee must give reasonable advance notice to the Director of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.

B. Penalties for Violations of Permit Conditions.

1. Civil and Administrative Penalties

Any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act must be subject to a civil or administrative penalty, not to exceed the maximum amounts specified in Section 309(d) and 309(g) of the Act.

2. Criminal Penalties

a. *Negligent Violations.* Any person who negligently violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act must, upon conviction, be punished by a fine and/or imprisonment as specified in Section 309(c)(1) of the Act.

b. *Knowing Violations.* Any person who knowingly violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act must, upon conviction, be punished by a fine and/or imprisonment as specified in Section 309(c)(2) of the Act.

c. *Knowing Endangerment.* Any person who knowingly violates a permit condition implementing Sections 301, 302, 303, 306, 307, 308, 318, or 405 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, must, upon conviction, be subject to a fine and/or imprisonment as specified in Section 309(c)(3) of the Act.

d. *False Statements.* Any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this Act, must be punished by a fine and/or imprisonment as specified in Section 309(c)(4) of the Act.

Except as provided in permit conditions in *Part V.G.*, (''Bypass of Treatment Facilities'') and *Part V.H.*, (''Upset Conditions''), nothing in this permit must be construed to relieve the Permittee of the civil or criminal penalties for noncompliance.

C. Need To Halt or Reduce Activity Not a Defense.

It must not be a defense for the Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

D. Duty To Mitigate

The Permittee must take all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

E. Proper Operation and Maintenance

The Permittee must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the Permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when the operation is necessary to achieve compliance with the conditions of the permit.

F. Removed Substances

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of water and wastewaters must be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

G. Bypass of Treatment Facilities

1. Bypass Not Exceeding Limitations

The Permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 2 and 3 of this Part.

2. Notice

a. *Anticipated bypass.* If the Permittee knows in advance of the need for a bypass, it must submit prior notice, if

possible at least 10 days before the date of the bypass.

b. *Unanticipated bypass.* The Permittee must submit notice of an unanticipated bypass as required under *Part IV.G.* (''Twenty-four Hour Notice of Noncompliance Reporting'').

3. Prohibition of Bypass

a. Bypass is prohibited, and the Director may take enforcement action against the Permittee for a bypass, unless:

(1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The Permittee submitted notices as required under paragraph 2 of this Part.

b. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determine that it will meet the three conditions listed above in paragraph 3.a. of this Part.

H. Upset Conditions

1. Effect of an Upset

An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the Permittee meets the requirements of paragraph 2 of this Part. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

2. Demonstration of an Upset

To establish the affirmative defense of upset, the Permittee must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

a. An upset occurred and that the Permittee can identify the cause(s) of the upset;

b. The permitted facility was at the time being properly operated;

c. The Permittee submitted notice of the upset as required under *Part IV.G.*, Twenty-four Hour Notice of Noncompliance Reporting; and

d. The Permittee complied with any remedial measures required under *Part V.D.*, Duty to Mitigate.

3. Burden of Proof

In any enforcement proceeding, the Permittee seeking to establish the occurrence of an upset has the burden of proof.

I. Toxic Pollutants

The Permittee must comply with effluent standards or prohibitions established under Section 307(a) of the Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

J. Planned Changes

The Permittee must give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility whenever:

1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source as determined in 40 CFR 122.29(b); or

2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations in the permit, nor to notification requirements under *Part IV.I.*

The Permittee must give notice to the Director as soon as possible of any planned changes in process or chemical use whenever such change could significantly change the nature or increase the quantity of pollutants discharged.

K. Anticipated Noncompliance

The Permittee must also give advance notice to the Director of any planned changes in the permitted facility or activity that may result in noncompliance with this permit.

VI. General Provisions

A. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

B. Duty To Provide Information

The Permittee must furnish to the Director, within the time specified in the request, any information that the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The Permittee must also furnish to the Director, upon request, copies of records required to be kept by this permit.

C. Other Information

When the Permittee becomes aware that it failed to submit any relevant facts in a permit application, or that it submitted incorrect information in a permit application or any report to the Director, it must promptly submit the omitted facts or corrected information.

D. Signatory Requirements

All applications, reports or information submitted to the Director must be signed and certified.

1. All permit applications must be signed as follows:

a. For a corporation: by a responsible corporate officer.

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively.

c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official.

2. All reports required by the permit and other information requested by the Director must be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described above and submitted to the Director, and

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company.

3. Changes to authorization. If an authorization under Part VI.D.2. is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph VI.D.2. must be submitted to the Regional Administrator prior to or together with any reports, information, or applications to be signed by an authorized representative.

4. Certification. Any person signing a document under this Part must make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

E. Availability of Reports

Except for data determined to be confidential under 40 CFR 2, all reports prepared in accordance with this permit must be available for public inspection at the offices of the state water pollution control agency and the Director. As required by the Act, permit applications, permits, Best Management Practices Plans, and effluent data must not be considered confidential.

F. Inspection and Entry

The Permittee must allow the Director, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the Permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

G. Oil and Hazardous Substance Liability

Nothing in this permit must be construed to preclude the institution of any legal action or relieve the Permittee from any responsibilities, liabilities, or penalties to which the Permittee is or may be subject under Section 311 of the Act.

H. Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.

I. Severability

The provisions of this permit are severable. If any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, must not be affected thereby.

J. Transfers

This permit may be automatically transferred to a new Permittee if:

1. The current Permittee notifies the Director at least 30 days in advance of the proposed transfer date;

2. The notice includes a written agreement between the existing and new Permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

3. The Director does not notify the existing Permittee and the proposed new Permittee of his or her intent to modify, or revoke and reissue the permit.

If the notice described in paragraph 3 above is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph 2 above.

K. State Laws

Nothing in this permit must be construed to preclude the institution of any legal action or relieve the Permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Act.

L. Reopener Clause

This permit is subject to modification, revocation and reissuance, or termination at the request of any interested person (including the permittee) or upon EPA initiative. However, permits may only be modified, revoked or reissued, or terminated for the reasons specified in 40 CFR 122.62 or 122.64, and 40 CFR 124.5. This includes new information which was not available at the time of permit issuance and would have justified the application of different permit conditions at the time of issuance including future monitoring results. All requests for permit modification must be addressed to EPA in writing and must contain facts or reasons supporting the request.

VII. Definitions

1. *''AAS''* means atomic absorption spectrophotometry.

2. *''Acute toxic unit (TU_a)''* is a measure of acute toxicity. The number of acute toxic units in the effluent is calculated as 100/LC50, where the LC50 is measured in percent effluent.

3. *''ADEC''* means the Alaska Department of Environmental Conservation.

4. *''Average monthly discharge limitation''* means the highest allowable average of ''daily discharges'' over a calendar month, calculated as the sum of all ''daily discharges'' measured during a calendar month divided by the number of ''daily discharges'' measured during that month.

5. *''Ballast water''* means harbor or seawater added or removed to maintain the proper ballast floater level and ship draft.

6. *''bbl/hr''* means barrels per hour. One barrel equals 42 gallons.

7. *''Bilge water''* means water which collects in the lower internal parts of the drilling vessel hull.

8. *''Biocide''* means any chemical agent used for controlling the growth of or destroying nuisance organisms (e.g., bacteria, algae, and fungi).

9. *''Blowout preventer fluid''* means fluid used to actuate hydraulic equipment on the blowout preventer.

10. *''BOD''* means biochemical oxygen demand.

11. *''Boiler blowdown''* means the discharge of water and minerals drained from boiler drums.

12. *''Bulk discharge''* means the discharge of more than 100 barrels in a one-hour period.

13. *''Bypass''* means the intentional diversion of waste streams from any portion of a treatment facility.

14. *''Cd''* means cadmium.

15. *''Chronic toxic unit (TU_c)''* is a measure of chronic toxicity. The number of chronic toxic units in the effluent is calculated as 100/NOEC, where the NOEC is measured in percent effluent.

16. *''Coastal''* means any location in or on a water of the United States landward of the inner boundary of the territorial seas (40 CFR 435.40).

17. *''COD''* means chemical oxygen demand.

18. *''Completion fluid''* means salt solutions, weighted brines, polymers, and various additives used to prevent damage to the wellbore during operations which prepare the drilled well for hydrocarbon production.

19. ''*Cooling water*'' means once-through non-contact cooling water.

20. ''*Daily discharge*'' means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the ''daily discharge'' is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the ''daily discharge'' is calculated as the average measurement of the pollutant over the day.

21. ''*Deck drainage*'' means all waste resulting from platform washings, deck washings, spillage, rainwater, and runoff from curbs, gutters, and drains including drip pans and wash areas within facilities subject to this permit.

22. ''*Desalination unit wastes*'' means wastewater associated with the process of creating freshwater from seawater.

23. ''*Development*'' operations are those operations that are engaged in the drilling and completion of production wells. These operations may occur prior to or simultaneously with production operations.

24. ''*Diesel oil*'' means the grade of distillate fuel, as specified in the American Society for Testing and Materials Standard Specifications D975–81, that is typically used as the continuous phase in conventional oil-based drilling fluids, which contains a number of toxic pollutants. For the purpose of this permit, ''diesel oil'' includes the fuel oil present at the facility.

25. ''*Director*'' means the Regional Administrator or delegated authority for administration of the NPDES program in EPA, Region 10.

26. ''*Domestic wastes*'' means materials discharged from showers, sinks, safety showers, eye-wash stations, hand-wash stations, fish-cleaning stations, galleys and laundries.

27. ''*Drill cuttings*'' means particles generated by drilling into subsurface geological formations and carried to the surface with the drilling fluid.

28. ''*Drilling Fluid*'' refers to the circulating fluid (mud) used in the rotary drilling of wells to clean and condition the hole and to counterbalance formation pressure. The four classes of drilling fluids are:

(a) A water-based drilling fluid has water as its continuous phase and the suspending medium for solids, whether or not oil is present.

(b) An oil-based drilling fluid has diesel oil, mineral oil, or some other oil, but neither a synthetic material nor enhanced mineral oil, as its continuous phase with water as the dispersed phase.

(c) An enhanced mineral oil-based drilling fluid has an enhanced mineral oil as its continuous phase with water as the dispersed phase.

(d) A synthetic-based drilling fluid has a synthetic material as its continuous phase with water as the dispersed phase.

29. ''*Drilling Fluids Toxicity Test*'' means a toxicity test conducted and reported in accordance the following approved toxicity test methodology: ''Drilling Fluids Toxicity Test,'' as defined in Appendix 2 to Subpart A of 40 CFR 435, or other methods approved in advance by Region 10 that produce results which will assure equivalent protection levels.

30. ''*Enhanced Mineral Oil*'' as applied to enhanced mineral oil-based drilling fluid means a petroleum distillate which has been highly purified and is distinguished from diesel oil and conventional mineral oil in having a lower polycyclic aromatic hydrocarbon (PAH) content. Typically, conventional mineral oils have a PAH content on the order of 0.35 weight percent expressed as phenanthrene, whereas enhanced mineral oils typically have a PAH content of 0.001 or lower weight percent PAH expressed as phenanthrene.

31. ''*End of well*'' describes the point during drilling when the greatest well depth is obtained.

32. ''*Excess cement slurry*'' means the excess cement and wastes from equipment washdown after a cementing operation.

33. ''*Exploratory*'' operations are limited to those operations involving drilling to determine the nature of potential hydrocarbon reserves and does not include drilling of wells once a hydrocarbon reserve has been defined. Discharges form exploratory operations are limited to five wells per site.

34. ''*Filter Backwash*'' means wastewater generated when filters are cleaned and maintained.

35. ''*Fire control system test water*'' means the water released during the training of personnel in fire protection and the testing and maintenance of fire protection equipment.

36. ''*GC*'' means gas chromatography. ''GC/MS'' means gas chromatography/mass spectrometry.

37. *A* ''*Grab*'' sample is a single sample or measurement taken at a specific time or over as short a period of time as is feasible.

38. ''*Hg*'' means mercury.

39. ''*Hydrotest water*'' is filtered sea water, or occasionally fresh water, used to test the integrity of unused produced water lines, or produced water lines which are suspected of leaking or which have recently been repaired.

40. ''*Interim Minimum Level*'' means the level calculated when a method specified ML does not exist. It is equal to 3.18 times the method specified MDL.

41. ''*lb/bbl*'' means pounds per barrel.

42. ''LC_{50}'' means the concentration of effluent that is acutely toxic to 50 percent of the test organisms exposed.

43. ''*Maximum daily discharge limitation*'' means the highest allowable ''daily discharge.''

44. ''*Maximum hourly rate*'' as applied to drilling mud, cuttings, and washwater means the greatest number of barrels of drilling fluids discharged within one hour, expressed as barrels per hour.

45. ''*Method Detection Limit (MDL)*'' means the minimum concentration of an analyte that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero as determined by a specific laboratory method.

46. ''*Minimum Level*'' (ML) means the concentration at which the entire analytical system must give recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedures, assuming that all the method specified sample weights, volumes and processing steps have been followed.

47. ''*MGD*'' means million gallons per day.

48. ''*mg/kg*'' means milligrams per kilogram.

49. ''*mg/l*'' means milligrams per liter.

50. ''*Mineral oil*'' means a class of low volatility petroleum product, generally of lower aromatic hydrocarbon content and lower toxicity than diesel oil.

51. ''*Mineral oil pills*'' (also called mineral oil spots) are formulated and circulated in the mud system as a slug in attempt to free stuck pipe. Pills generally consist of two parts: a spotting compound and mineral oil.

52. ''*Minimum daily*'' discharge limitation means the lowest allowable ''daily discharge.''

53. ''*Monitoring month*'' means the period consisting of the calendar weeks which end in a given calendar month.

54. ''*Monthly average*'' means the average of ''daily discharges'' over a monitoring month, calculated as the sum of all ''daily discharges'' measured during a monitoring month divided by the number of ''daily discharges'' measured during that month.

55. ''*Muds, cuttings, cement at sea floor*'' means the materials discharged at

the surface of the ocean floor in the early phases of drilling operations, before the well casing is set, and during well abandonment and plugging.

56. ''*MSD*'' means marine sanitation device, and is a sanitary wastewater treatment system specifically designed to meet U.S. Coast Guard requirements.

57. ''*M9IM*'' means those facilities continuously manned by nine (9) or fewer persons or only intermittently manned by any number of persons.

58. ''*M10*'' means those facilities continuously manned by ten (10) or more persons.

59. ''*NAA*'' means neutron activation analysis.

60. ''*No discharge of free oil*'' means that waste streams may not be discharged when they would cause a film or sheen upon or a discoloration of the surface of the receiving water or fail the static sheen test defined in Appendix 1 to 40 CFR 435, Subpart A.

61. ''*No discharge of diesel oil*'' in drilling mud means a determination that diesel oil is not present based on a comparison of the gas chromatogram from an extract of the drilling mud and from diesel oil obtained from the drilling rig or platform. GC/MS may also be used.

62. ''*NOEC*'' means no observable effect concentration. The NOEC is the highest tested concentration of an effluent at which no adverse effects are observed on the test organisms at a specific time of observation.

63. ''*Non-contact cooling water*''—see ''cooling water.''

64. ''*Oil-based drilling mud*'' means a drilling mud with fossil-derived petroleum hydrocarbons as the continuous phase.

65. ''*Open water*'' means less than 25 percent ice coverage within a one mile radius of the discharge site.

66. ''*Produced solids*'' means sands and other solids deposited from produced water which collect in vessels and lines and which must be removed to maintain adequate vessel and line capacities.

67. ''*Produced water*'' means fluid extracted from a hydrocarbon reserve during development or production, and hydrotest water. The fluid is generally a mixture of oil, water, and natural gas. This may include formation water, injection water, and any chemicals added downhole or during the oil/water separation process.

68. ''*Production*'' operations are those operations involving active recovery of hydrocarbons from production formations. These operations may occur simultaneously with or following development operations.

69. ''*SPP*'' means the suspended particulate phase of a muds sample, the preparation of which is described in 40 CFR 435, Subpart A, Appendix 2.

70. ''*Sanitary wastes*'' means human body waste discharged from toilets and urinals.

71. ''*Severe property damage*'' means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

72. ''*Site*'' means the single, specific geographical location where a mobile drilling facility (jackup rig, semi-submersible, or arctic mobile rig) conducts its activity, including the area beneath the facility, or to a location of a single gravel island.

73. ''*Slush ice*'' occurs during the initial stage of ice formation when unconsolidated individual ice crystals (frazil) form a slush layer at the surface of the water column.

74. ''*Stable ice*'' means ice that is stable enough to support discharged muds and cuttings.

75. ''*State waters,*'' or territorial seas, means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea or the line marking the seaward limit of inland waters (''baseline''), and extending seaward a distance of three miles. The line which marks the seaward limit of inland waters is also referred to as the inner boundary of the territorial seas, and is illustrated by the line separating coastal and offshore waters in Figure 1.

76. ''*Static Sheen Test*'' means the standard test procedures that has been developed for this industrial subcategory for the purpose of demonstrating compliance with the requirement of no discharge of free oil. The methodology for performing the static sheen test is presented in Appendix 1 to Subpart A of 40 CFR 435.

77. ''*Synthetic material*'' as applied to synthetic-based drilling fluid means material produced by the reaction of specific purified chemical feedstock, as opposed to the traditional base fluids such as diesel and mineral oil which are derived from crude oil solely though physical separation processes. Physical separation processes include fractionation and distillation and/or minor chemical reactions such as cracking and hydro processing. Since they are synthesized by the reaction of purified compounds, synthetic materials suitable for use in drilling fluids are typically free of polycyclic aromatic hydrocarbons (PAHs) but test sometimes report levels of PAH up to 0.001 weight percent PAH expressed as phenanthrene. Poly (alpha olefins) and vegetable esters are two examples of synthetic materials used by the oil and gas extraction industry in formulating drilling fluids. Poly (alpha olefins) are synthesized from the polymerization (dimerization trimerization, tetramerization and higher oligomerization) of purified straight-chain hydrocarbons such as C_6-C_{14} alpha olefins. Vegetable esters are synthesized from the acid-catalyzed esterification of vegetable fatty acids with various alcohols. The mention of these two synthetic fluid base materials is to provide examples, and is not meant to exclude other synthetic materials that are either in current use or may be used in the future. A synthetic-based drilling fluid may include a combination of synthetic materials.

78. ''*Test fluid*'' means the discharge which would occur should hydrocarbons be located during exploratory drilling and tested for formation pressure and content. This would consist of fluids sent downhole during testing along with water from the formation.

79. ''*TOC*'' means total organic carbon.

80. A ''*24-hour composite*'' sample must mean a flow-proportioned mixture of not less than 8 discrete aliquots. Each aliquot must be a grab sample of not less than 100 ml and must be collected and stored in accordance with procedures prescribed in the most recent edition of ''Standard Methods for the Examination of Water and Wastewater.''

81. ''*Unstable or broken ice conditions*'' means greater than 25% ice coverage within a one mile radius of the discharge site after spring breakup or after the start of slush ice formation in the fall, but not stable ice.

82. ''*Upset*'' means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

83. ''*Waste stream*'' means any non-de minimis stream of pollutants within the Permittee's facility that enters any permitted outfall or navigable waters. This includes spills and other

unintentional, non-routine or unanticipated discharges.

84. ''*Waterflooding discharges*'' means discharges associated with the treatment of seawater prior to its injection into a hydrocarbon-bearing formation to improve the flow of hydrocarbons from production wells, and prior to its use in operating physical/chemical treatment units for sanitary waste. These discharges include strainer and filter backwash water.

85. ''*Weekly average*'' means the average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week. For fecal coliform bacteria, the weekly average is calculated as the geometric mean of all daily discharges measured during a calendar week.

86. ''*Well completion fluids*'' are salt solutions, weighted brines, polymers and various additives used to prevent damage to the well bore during operations which prepare the drilled well for hydrocarbon production. These fluids move into the formation and return to the surface as a slug with the produced water.

87. A ''*well treatment fluid*'' is any fluid used to restore or improve productivity by chemically or physically altering hydrocarbon bearing strata after a well has been drilled.

88. ''*Workover fluids*'' are salt solutions, weighted brines, polymers, or other specialty additives used in a producing well to allow for maintenance, repair of abandonment procedures. Drilling fluids used during workover operations are not considered workover fluids by definition. Packer fluids (low solid fluids between the packer, production string, and well casing) are considered to be workover fluids.

89. ''*XFA*'' means x-ray fluorescence analysis.

90. ''*96-hour LC50*'' means the concentration of a test material that is lethal to 50 percent of the test organisms in a toxicity test after 96 hours of constant exposure.

91. ''*µg/l*'' means micrograms per liter.

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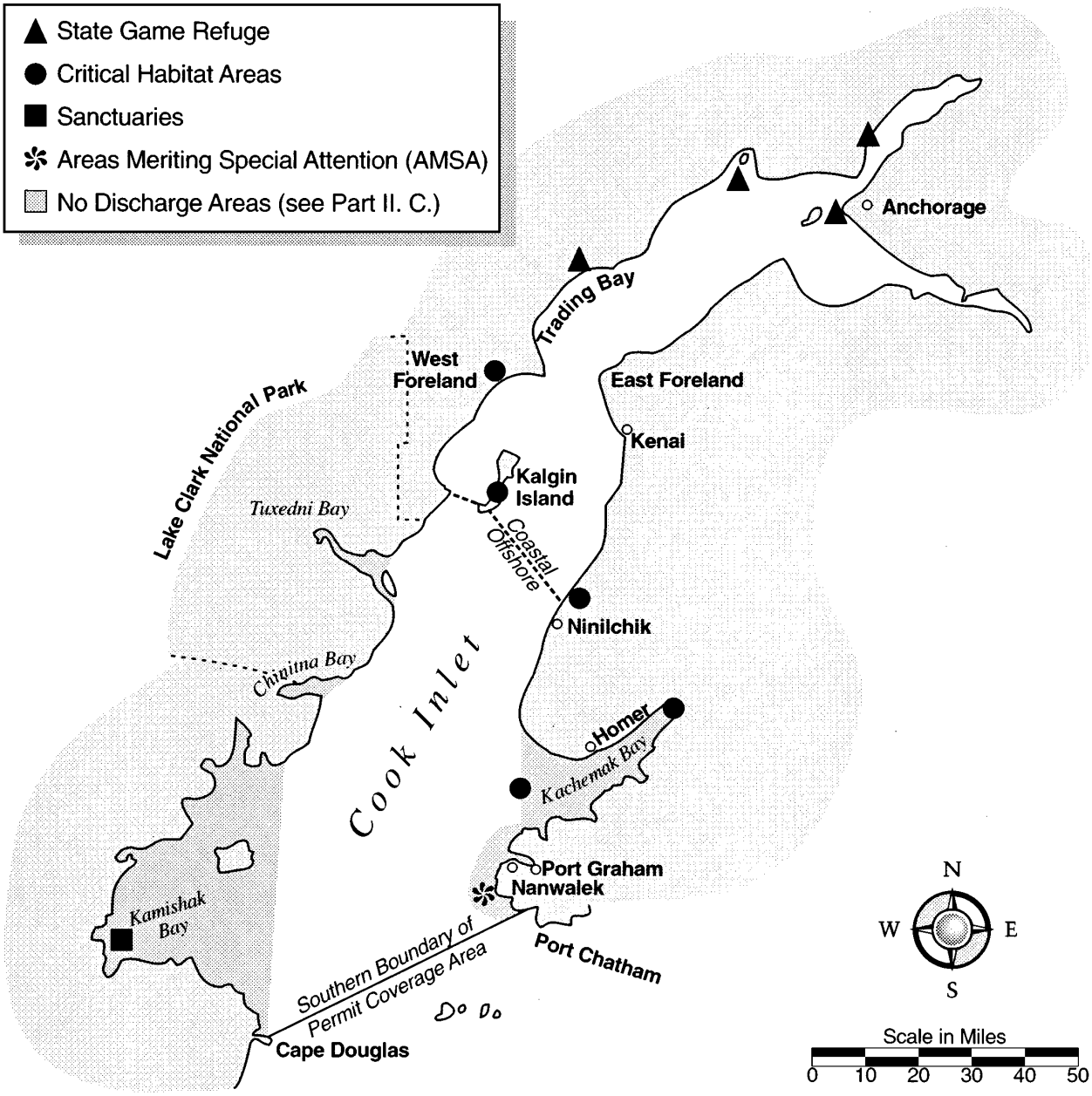

Figure 1
Area of Coverage:
Cook Inlet NPDES Permit AKG285000

[FR Doc. 99–5667 Filed 3–8–99; 8:45 am]
BILLING CODE 6560–50–C

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) being Reviewed by the Federal Communications Commission

February 25, 1999.

SUMMARY: The Federal Communications Commissions, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before May 10, 1999. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0713.

Title: Alternative Broadcast Inspection Program (ABIP) Compliance Notification.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; and Not-for-profit institutions.

Number of Respondents: 50.

Estimated Time Per Response: 5 minutes (30 responses/year).

Total Annual Burden: 125 hours.

Total Annual Cost: None.

Needs and Uses: The Commission established an ABIP that permits broadcast stations to arrange for a voluntary inspection of their facility by an entity, usually a state broadcast association, and to have the entity notify the Commission's local field office that the broadcast station has passed an inspection. The information collection requires such entities to file a statement with the FCC field office in whose geographic area of responsibility broadcast station is located that the broadcast station has passed an ABIP inspection. The Commission will use the information collected to determine which broadcast stations are exempted from routine, random inspections by the local FCC field office during a two or three year period.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–5852 Filed 3–9–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Notices

DATE & TIME: Tuesday, March 16, 1999 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: Wednesday, March 17, 1999 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be closed to the public.

MATTER BEFORE THE COMMISSION: Notice of Proposed Rulemaking Defining of Who Qualifies as a ''Member'' of a Membership Association.

DATE & TIME: Thursday, March 18, 1999 at 10:00 a.m.

PLACE: 999 E Street, NW, Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Advisory Opinion 1999–3: The Microsoft Corporate Political Action Committee by counsel, G.T. Franklin Walker, Jr.

Status of PricewaterhouseCoopers (PwC) Recommendations.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 99–6082 Filed 3–8–99; 3:33 pm]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Monday, March 15, 1999.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Future capital framework.

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for *a recorded announcement* of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an *electronic announcement* that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: March 5, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–5982 Filed 3–5–99; 4:21pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Submission for OMB Review; Comment Request

The Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and 5 CFR 1320.5. The following are those information collections recently submitted to OMB:

1: 42 CFR 50 Subpart B: Sterilization of Persons in Federally Assisted Family Planning Projects—0937–0166—Extension no Change—These regulations and informed consent procedures are associated with Federally-funded sterilization services. Selected consent forms are audited during site visits and program reviews to ensure compliance with regulations and the protection of the rights of individuals undergoing sterilization. Burden Estimate for Consent Form—Annual Responses: 40,000; Burden per Response: one hour; Total Burden for Consent Form: 40,000 hours—Burden Estimate for Recordkeeping Requirement—Number of Recordkeepers: 4,000; Average Burden per Recordkeeper: 2.5 hours; Total Burden for Recordkeeping: 10,000 hours. Total Burden: 50,000 hours.

OMB Desk Officer: Allison Eydt.

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 690–6207. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street N.W., Washington, D.C. 20503.

Comments may also be sent to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue S.W., Washington DC, 20201. Written comments should be received within 30 days of this notice.

Dated: March 1, 1999.

Dennis P. Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 99–5830 Filed 3–9–99; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Agency Information Collection Activities Proposed Collection: Comment Request

AGENCY: Agency for Health Care Policy and Research, HHS.

ACTION: Notice.

SUMMARY: This notice announces the Agency for Health Care Policy and Research's (AHCPR) intention to request the Office of Management and Budget (OMB) to allow a proposed information collection of the ''Medical Expenditure Panel Survey Medical Provider Component (MEPS–MPC) for 1998, 1999, and 2000.'' In accordance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)), AHCPR invites the public to comment on this proposed information collection.

DATES: Comments on this notice must be received by May 10, 1999.

ADDRESSES: Written comments should be submitted to: Ruth A. Celtnieks, Reports Clearance Officer, AHCPR, 2101 East Jefferson Street, Suite 500, Rockville, MD 20852–4908.

All comments will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Ruth A. Celtnieks, AHCPR Reports Clearance Officer, (301) 594–6659.

SUPPLEMENTARY INFORMATION:

Proposed Project; Medical Panel Expenditure Survey—Medical Provider Component (MEPS–MPC) for 1998 and 1999 and 2000

The MEPS–MPC is a survey of hospitals, physicians and other medical providers. The purpose 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. With the permission of members of the households surveyed in the MEPS–HC, we plan to contact their medical providers 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, the MEPS–HC.

The MEPS–HC to be conducted 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. MEPS is cosponsored by the Agency for Health Care Policy and Research (AHCPR) and the National Center For Health Statistics (NCHS).

MEPS data confidentiality is protected under sections 308(d) and 903(c) of the Public Health Service Act (42 U.S.C. 242m and 42 U.S.C. 299 a–1).

Data from medical providers linked to household respondents in the MEPS–HC for calendar year 1998 will be collected beginning in 1999 and continuing into the year 2000, data for calendar year 1999 will be collected beginning in 2000 and continue into the year 2001. Data for calendar year 2000 will be collected beginning in 2001 and continue into the year 2002.

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 estimated annual hour burden is as follows;

Type of provider	No. of respondents	Average No. of patients/providers	Average No. of events/patient	Average burden/event	Total hours of burden
Hospital	3500	2	3.2	5 min. (.083 hrs.)	1859
Office-based Doctor	8500	1.3	3.5	5 min	3210
Separately Billing Doctor	8000	1	1.3	5 min	863
Home Health	500	1.1	5.8	5 min	265
Pharmacy	6000	1.8	10.3	3 min	5562

Estimated Annual Burden Total: 11759.

Request for Comments

Comments are invited on: (a) The necessity of the proposed collection; (b) the accuracy of the Agency's estimate of 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 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/or included in the request for OMB approval of this information collection.

Copies of these proposed collection plans and instruments can be obtained from the AHCPR Reports Clearance Officer (see above).

Dated: March 2, 1999.

John M. Eisenberg,

Administrator.

[FR Doc. 99–5951 Filed 3–9–99; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 99002]

Public Health Conference Support Cooperative Agreement Program for Human Immunodeficiency Virus (HIV) Prevention; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal years (FY) 1999 and (FY) 2000 funds for a cooperative agreement program for Public Health Conference Support for Human Immunodeficiency Virus (HIV) Prevention. This program addresses the ''Healthy People 2000'' priority area of HIV infection.

Topics concerned with issues and areas other than HIV prevention should be directed to other public health agencies or in accordance with the current **Federal Register** notice (see **Federal Register** Notice 99006, [61 FR 19296] published on June 9, 1998).

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, and local governments or their bona fide agents, and federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations. State and local health departments may apply for funding only under Category 2 (See E. Application Content). Conferences planned for *June 1, 1999,* through *May 31, 2000,* are eligible. Foreign organizations are not eligible to apply.

Note: Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $250,000 is available in FY 1999 to fund approximately 15 to 25 awards. It is expected that the average award will be $20,000, ranging from $10,000 to $25,000. Organizations will be funded in rank order within each of the three categories. It is expected that the awards will begin on or after June 1, 1999, and will be funded for a 12-month budget and project period. Funding estimates may vary and are subject to change.

Contingency awards will be made allowing usage of only 10 percent of the total amount to be awarded until a final full agenda is approved by CDC. This will provide funds to support costs associated with preparation of the agenda. The remainder of funds will be released only upon CDC approval of the final full agenda. CDC reserves the right to terminate co-sponsorship at any time.

Use of Funds

a. CDC funds may be used for direct cost expenditures: salaries, speaker fees (for services rendered), rental of conference related equipment, registration fees, and transportation costs (not to exceed economy class fares) for non-Federal individuals.

b. CDC funds may not be used to purchase equipment, pay honoraria (for conferring distinction) or organizational dues, support entertainment, personal expenses, travel costs or payment of a Federal employee, or per diem and expenses, other than mileage, for local participants.

c. CDC funds may not be used to reimburse indirect costs.

d. CDC funds may not be used to purchase novelty items (e.g., bags, T-shirts, hats, pens) distributed at meetings.

e. CDC will not fund 100 percent of the proposed conference. Part of the cost of the proposed conference must be supported with non-federal funds.

f. CDC will not fund a conference after it has taken place.

g. CDC funds may be used for only those parts of the conference specifically supported by CDC as documented on the notice of award.

h. This program is not meant for conferences to educate the general public or to deliver prevention interventions to persons at risk for HIV infection. Such conferences cannot be supported through this announcement.

Funding Preferences

Preference may be given to:

a. conferences sponsored by organizations that serve high-risk populations, especially populations and geographic areas that are under-served;

b. applications consistent with the CDC national goal of assisting in building and maintaining State, local, and community infrastructure and technical capacity to carry out necessary HIV and STD prevention programs; and

c. health departments collaborating with other State agencies and community-based organizations;

No preference will be given to organizations that have received funding in past years.

D. Program Requirements

Development of HIV prevention conferences may require substantial CDC collaboration and involvement. Because conference support by CDC creates the appearance of CDC co-sponsorship, there will be active participation by CDC in the development and approval of the conference agenda. In addition, CDC will reserve the right to approve or reject the content of the full agenda, press events, promotional materials (including press releases), speaker selection, and site selection.

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities listed under 1, Recipient Activities, and CDC will be responsible for the activities listed under 2, CDC Activities.

1. Recipient Activities

a. Manage all activities related to conference content (e.g., objectives, topics, participants, session design, workshops, special exhibits, speakers, fees, agenda composition, printing). Many of these items may be developed in concert with CDC personnel assigned to support the conference.

b. Provide draft copies of the agenda and proposed ancillary activities to the CDC Grants Management Office for review and comment. Submit a copy of

the final agenda and proposed ancillary activities to the CDC Grants Management Office for acceptance/approval.

c. Determine and manage all promotional activities (e.g., title, logo, announcements, mailers, press). CDC must review and approve the use of any materials with reference to CDC involvement or support.

d. Manage all registration processes with participants, invitees, and registrants (e.g., travel, reservations, correspondence, conference materials and hand-outs, badges, registration procedures).

e. Plan, negotiate, and manage conference site arrangements, including all audio-visual needs.

f. Develop and conduct education and training programs on HIV prevention.

g. If the proposed conference is or includes a satellite broadcast:

(1) Provide individual, on-camera rehearsals for all presenters,

(2) Provide at least one full dress rehearsal involving the moderator, all presenters, equipment, visuals, and practice telephone calls at least one day before the actual broadcast and as close to the actual broadcast time as possible,

(3) Provide full scripting and Teleprompter use for the moderator and all presenters,

(4) Select a professional moderator.

h. Collaborate with CDC staff in reporting and disseminating results and recommendations and relevant HIV/AIDS prevention and education and training information to appropriate Federal, State, and local agencies, health-care providers, HIV/AIDS prevention and service organizations, and the general public.

2. CDC Activities

a. Provide technical assistance through telephone calls, correspondence, and site visits in the areas of program agenda development, implementation, and priority setting related to the cooperative agreement.

b. Provide scientific collaboration for appropriate aspects of the program, including selection of speakers, pertinent scientific information on risk factors for HIV infection, preventive measures, and program strategies for the prevention of HIV infection.

c. Review draft agendas and the Grants Management Officer will issue approval or disapproval of the final agenda and proposed ancillary activities prior to release of restricted funds.

d. Assist in the reporting and dissemination of research results and relevant HIV prevention education and training information to appropriate Federal, State, and local agencies, health-care providers, the scientific community, and HIV/AIDS prevention and service organizations, and the general public.

E. Application Content

Organizations should submit separate applications in any of the three following categories:

Category 1—Sharing Lessons Learned From HIV Prevention Program or Service Delivery and Networking With Other Organizations and Agencies

Regional, national, or international conferences for individuals or organizations responsible for implementing HIV prevention programs or providing relevant services. The focus will be on information exchange including lessons learned from program or service delivery and sharing information about successful or unsuccessful program experiences. Conferences may also provide opportunity for staff of different organizations and agencies involved in HIV prevention programs and services to meet and develop joint plans or activities or other collaborations and working relationships;

Category 2—Technical Support for HIV Prevention Program Services for a Defined Population or Geographic Area

Local, statewide, or regional conferences supported by local or State health departments, providing information or training on HIV prevention interventions believed or proven to be effective for a defined population within a specific locality including a State, or multi-state area. The focus will be on technology transfer, guidelines for program implementation, lessons learned from program or service delivery experience, successful program delivery models, and development of professional skills. State and local health departments may apply only under Category 2; and

Category 3—Technology Transfer Training

Regional, national, or international conferences for researchers to impart information or guidelines on how to implement theoretically based or empirically demonstrated health research. The main goal is to train health and other professionals in new, innovative, and enhanced interventions.

Letter Of Intent (LOI)

Interested applicants must submit Letters of Intent (LOIs) to CDC. They will be used to eliminate potential applicants. Upon review of the LOIs, CDC will extend written invitations to prospective applicants to submit applications. CDC will accept applications by invitation only. Availability of funds may limit the number of applicants, regardless of merit, that receive an invitation to submit an application. CDC will notify prospective applicants within 30 days following receipt of the LOI.

Applicants must submit an original and two copies of a two-page typewritten LOI that briefly describes:

a. The application category (1, 2, or 3)

b. The title of the proposed conference

c. The location of the proposed conference

d. Proposed conference dates

e. The purpose of the proposed conference

f. The intended audience of the proposed conference (number and description)

g. Target population(s) (e.g., youth, women, men who have sex with men [MSM], injecting drug users [IDU])

h. The estimated total cost of the proposed conference

i. The percentage of the total cost (which must be less than 100 percent) being requested from CDC

j. The relationship of the conference to CDC Topics of Special Interest below.

Topics of Special Interest

Prevention of HIV infection related to:

a. Populations in special settings (e.g., correctional institutions);

b. Under-served geographic areas, especially rural populations;

c. Communities of color;

d. Support of comprehensive primary and secondary prevention programs for persons living with HIV;

Also include the name of the organization, primary contact person's name, mailing address, telephone number, and if available, fax number and e-mail address. Current recipients of CDC HIV funding must provide the award number and title of the funded programs. No attachments, booklets, or other documents accompanying the LOI will be considered. THE TWO PAGE LIMITATION (INCLUSIVE OF LETTERHEAD AND SIGNATURES), MUST BE OBSERVED OR THE LETTER OF INTENT WILL BE RETURNED WITHOUT REVIEW.

CDC will review the LOIs based on the following criteria:

a. documented need for the proposed conference;

b. potential contribution to the prevention of HIV/AIDS;

c. national HIV prevention priorities based on emerging trends in the epidemic:

(1) Prevention of HIV transmission through behavior change

(2) Providing comprehensive prevention services to persons living with HIV

(3) Building capacity and enhancing HIV prevention programs for populations at higher risk for infection (e.g., MSM, IDU, and their sex and needle-sharing partners), especially in communities of color.

d. the proposed conference's relationship to the CDC determined topics of special interest;

e. timing of the conference that will allow for CDC input; and

f. availability of funds.

Competing Application

Use the information in the Program Requirements, Evaluation Criteria, and Other Requirements sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 12 double-spaced pages, printed on one side, with one-inch margins, and 12-point font. Pages must be clearly numbered, and a complete index to the application and its appendices must be included. The original and two required copies of the application must be submitted UNSTAPLED AND UNBOUND. Materials which should be part of the basic plan should not be in the appendices.

Include the following information:

a. A project summary cover sheet that includes:

(1) application category (1, 2, or 3)
(2) name of organization
(3) name of conference
(4) location of conference
(5) date(s) of conference
(6) target population(s) (e.g., youth, women, MSM, IDU)
(7) intended audience and number
(8) dollar amount requested
(9) total conference budget

b. Biographical sketches and job descriptions of the individuals responsible for planning and coordinating the conference.

c. A Budget Narrative separately identifying and justifying line items to which the requested Federal funds would be applied.

d. A draft agenda for the proposed conference.

e. Award number and title of funded programs for current recipients of CDC HIV funding. Applicants must not have submitted the same proposal for review for funding to other parts of CDC.

F. Submission and Deadline

Letter of Intent (LOI)

The original and two copies of the LOI must be postmarked by the following deadline dates in order to be considered in either of this announcement's two cycles. (Facsimiles are not acceptable).

Letter of Intent Due Dates

Cycle A: April 2, 1999
Cycle B: July 30, 1999 *

* LOI's due July 30, 1999 will support funding for calendar year 2000.

Submit to: Juanita Crowder, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 99002, Centers for Disease Control and Prevention, 2920 Brandywine Road, M/S E–15, Room 3000, Atlanta, GA 30341–4146.

If your LOI does not arrive in time for submission to the review group, it will not be considered in the current competition unless you can provide proof that you mailed it on or before the deadline (e.g., receipt from U.S. Postal Service or a commercial carrier; private metered postmarks are not acceptable).

Application

If invited, submit the original and two copies of PHS 5161 (OMB Number 0937–0189). Forms are in the application kit.

Application due dates	Earliest possible award date
Cycle A: April 30, 1999	June 1, 1999.
Cycle B: September 17, 1999*.	November 1, 1999.

*Applications due September 17, 1999 will support funding for calender year 2000.

Submit to: Juanita Crowder, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 99002, Centers for Disease Control and Prevention, 2920 Brandywine Road, M/S E–15, Room 3000, Atlanta, GA 30341–4146.

If your application does not arrive in time for submission to the independent review group, it will not be considered in the current competition unless you can provide proof that you mailed it on or before the deadline (e.g., receipt from U.S. Postal Service or a commercial carrier; private metered postmarks are not acceptable).

G. Evaluation Criteria

Letter of Intent

LOIs will be reviewed by CDC and an invitation to submit a full application will be made based on the following criteria:

1. Documented need for the proposed conference;

2. Potential contribution to the prevention of HIV/AIDS;

3. National HIV prevention priorities based on emerging trends in the epidemic:

a. Prevention of HIV transmission through behavior change.

b. Providing comprehensive prevention services to persons living with HIV.

c. Building capacity and enhancing HIV prevention programs for populations at higher risk for infection (e.g., MSM, IDU, and their sex and needle-sharing partners), especially in communities of color.

4. The proposed conference's relationship to the CDC determined topics of special interest;

5. Timing of the conference that will allow for CDC input; and

6. Availability of funds.

Application

Each application will be evaluated individually against the following criteria (TOTAL 100 POINTS) by an independent review group appointed by CDC. Use these headings in preparing your application.

1. Category-Specific Criterion (20 points)

a. If applying under Category 1—Sharing Lessons Learned From HIV Prevention Program or Service Delivery and Networking With Other Organizations and Agencies: Extent to which the applicant provides evidence that participants and presenters will have the opportunity to interact during the conference, share information on successful and unsuccessful program experiences, and develop collaborative working relationships.

b. If applying under Category 2—Technical Support for HIV Prevention Program Services for a Defined Population or Geographic Area: Extent to which the applicant specifically relates the content of the conference to HIV prevention community planning priorities for a defined population or within a specific geographic area and the extent to which the Applicant justifies the need for the proposed conference.

c. If applying under Category 3—Technology Transfer Training: Extent to which the applicant demonstrates the scientific soundness of the technology to be transferred as evidenced by its inclusion in HIV prevention research publications, peer reviewed journals, or scientific consensus panel review; and the extent of the need for applying the new technology or knowledge by HIV prevention programs.

The following criteria apply to all applications:

2. Proposed Program and Technical Approach (30 points)

a. The extent to which the applicant's description of the proposed conference demonstrates that the conference relates to HIV prevention and education, responds to a specific public health need, and can be expected to influence public health practices; and the extent of the applicant's collaboration with other agencies serving the intended audience, including local health and education agencies concerned with HIV prevention.

b. The applicant's description of conference objectives in terms of quality, specificity, and the feasibility of the conference based on the operational plan, and the extent to which evaluation mechanisms for the conference adequately assess increased knowledge, attitudes, and behaviors of the target participants.

c. The relevance and effectiveness of the proposed agenda in addressing the chosen HIV prevention and education topic(s).

d. The degree to which conference activities proposed for CDC funding strictly adhere to the prevention of HIV transmission. For conferences dealing with people living with HIV/AIDS the degree to which conference activities focus on primary and secondary prevention goals.

3. Applicant Capability and Experience (25 points)

a. The adequacy and commitment of institutional resources to administer the program for the proposed conference.

b. The adequacy of existing and proposed facilities and resources for conducting conference activities.

c. The degree to which the applicant has established and used critical linkages with health and education departments and community planning groups with the mandate for HIV prevention. Letters of support (limit of 5) from such agencies which address related capability and experience should be included. They must explain how the agency will work with the applicant to plan the proposed conference. Letters that do not pertain directly to the proposed conference will not be considered.

4. Qualifications of Program Personnel (25 points)

a. The qualifications, experience, and commitment of the principal staff person, and his or her ability to devote adequate time and effort to provide effective leadership.

b. The competence of associate staff persons, discussion leaders, and speakers to accomplish conference objectives.

c. The degree to which the application demonstrates that all key personnel have education and expertise relative to the conference objectives, are informed about the transmission of HIV, and understand nationwide information and education efforts currently underway that may affect, and be affected by, the proposed conference.

5. Budget Justification: (not scored)

The proposed budget will be evaluated on the basis of its reasonableness, concise and clear justification, consistency with the intended use of cooperative agreement funds, and the extent to which the applicant documents financial support from other sources.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with the original plus two copies of the final financial status report (reporting actual expenses) and performance report, no more than 90 days after the end of the budget/project period. The performance report should include:

1. the cooperative agreement number;
2. title of the conference;
3. name of the principal investigator, program director or coordinator;
4. name of the organization that conducted the conference;
5. a copy of the agenda;
6. a list of individuals who participated in the formally planned sessions of the meeting;
7. a summarization of the meeting results, including a discussion of its achievement of the stated conference objectives; and
8. the Program Review Panel's report that all written materials have been reviewed as required.

With the prior approval of CDC, copies of proceedings or publications resulting from the conference may be substituted for the final performance report, provided they contain the information requested in items 1 through 8 above.

Send all reports to: Juanita Crowder, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 99002, Centers for Disease Control and Prevention, 2920 Brandywine Road, M/S E–15, Room 3000, Atlanta, GA 30341–4146.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit:

AR–5 HIV Program Review Panel Requirements
AR–8 Public Health System Reporting Requirements
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2000
AR–12 Lobbying Restrictions
AR–15 Proof of Non-Profit Status
AR–20 Conference Support
See Attachment II for Background Statement

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under the Public Health Service Act, Section 301(a), 42 U.S.C. 241(a), as amended and Section 317(a), 42 U.S.C. 247b(a), as amended. The Catalog of Federal Domestic Assistance number is 93.941.

J. Where to Obtain Additional Information:

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest (99002).

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Juanita Crowder, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 99002, Centers for Disease Control and Prevention, 2920 Brandywine Road, M/S E–15, Room 3000, Atlanta, GA 30341–4146, Telephone (770) 488–2734, E-mail address jdd2@cdc.gov.

For program technical assistance, contact: Linda LaChanse, Program Analyst, Training and Technical Support Systems Branch, Division of HIV/AIDS Prevention—Intervention Research and Support, National Center for HIV, STD and TB Prevention, 1600 Clifton Road, NE, M/S E40, Atlanta, GA 30333, Telephone (404) 639–0964, E-mail address lml5@cdc.gov.

See also the CDC home page on the Internet: http://www.cdc.gov

Dated: March 4, 1999.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–5867 Filed 3–9–99; 8:45 am]

BILLING CODE 4163–18–p

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Immunization Practices: Teleconference

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting:

Name: Advisory Committee on Immunization Practices (ACIP) Teleconference.

Time and Date: 4:15 p.m.–6 p.m. (EST), March 16, 1999.

Place: The teleconference call will originate at the Centers for Disease Control and Prevention in Atlanta,Georgia. Please see **SUPPLEMENTARY INFORMATION** for details on accessing the teleconference.

Status: Open to the public, teleconference access limited only by availability of telephone ports.

Purpose: The Committee is charged with advising the Director, CDC, on the appropriate uses of immunizing agents. In addition, under 42 U.S.C. § 1396s, the Committee is mandated to establish and periodically review and, as appropriate, revise the list of vaccines for administration to vaccine-eligible children through the Vaccines for Children (VFC) program, along with schedules regarding the appropriate periodicity, dosage, and contraindications applicable to the vaccines.

Matters To Be Discussed: The teleconference agenda will include a discussion on the ACIP 1999 Prevention and Control of Influenza recommendation, and a final decision from the committee members on acceptance of the recommendation for publication in the Morbidity and Mortality Reports and Recommendations.

Agenda items are subject to change as priorities dictate.

Supplementary Information: This conference call is scheduled to begin at 4:15 p.m. Eastern Standard Time. To participate in the teleconference, please dial 1/800/713–1971 and enter conference code 497796. You will then be automatically connected to the call.

Due to difficulties in scheduling this meeting, and the necessity to meet publication deadlines, this notice is being published less than 15 days prior to the teleconference.

Contact Person for More Information: Gloria A. Kovach, Committee Management Specialist, CDC, 1600 Clifton Road, NE, m/s D50, Atlanta, Georgia 30333. Telephone 404/639–7250.

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: March 4, 1999.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–5862 Filed 3–5–99; 4:33 pm]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Notice of Meeting/Draft Program Announcement 99064]

National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention Announcement of Meeting

Name: Meeting for Public Comment on Racial and Ethnic Approaches to Community Health Demonstration Projects (REACH).

Time and Date: 8:30 a.m.–3:30 p.m., March 16, 1999.

Place: Crystal City Marriott, 1700 Jefferson Davis Highway, Arlington, Virginia 22202, (703) 920–3230.

Status: Attendees will include invited participants representing private nonprofit organizations, academic institutions, State and local health agencies, community health centers, Indian tribal governments and organizations. The meeting is open to the public and is limited only by space available. The meeting room will accommodate approximately 150 people.

Purpose: Attendees will be charged with reviewing major concepts and strategies that pertain to the Centers for Disease Control and Prevention (CDC), National Center for Chronic Disease Prevention and Health Promotion's pending funding announcement for REACH Demonstration Projects. The funding announcement is in response to the ten million dollars appropriated to the CDC by Congress in response to the Health and Human Services Initiative to Eliminate Racial and Ethnic Disparities in Health, which is aimed at eliminating disparities in health outcomes for racial and ethnic communities in six health focus areas by the year 2010.

Matters to be Discussed: Agenda items include discussion of directly funding private nonprofit organizations (including community based organizations and foundations); universities, colleges, research institutions, and hospitals; governments and their agencies (including State and local health agencies, and community health centers); and federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations; Public input and comments will be sought regarding proposed recipient activities under Phase I/Phase II, evaluation plan, and proposed CDC activities.

Due to administrative delays in the program, this notice was not published fifteen (15) days in advance of the meeting.

Contact Person for More Information: Regina Lee, Office of Minority Health, 5515 Security Lane, Suite 1000, Rockville, MD 20852, Attn: REACH, OFFICE: (301) 443–9924, FAX: (301) 443–8280, EMAIL: rlee@osodhs.dhhs.gov.

Racial and Ethnic Approaches to Community Health (REACH) Demonstration Projects; Notice of Availability of Funds

SUMMARY

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1999 funds for a cooperative agreement program for organizations serving racial and ethnic minority populations at increased risk for infant mortality, diabetes, cardiovascular diseases, Human Immunodeficiency Virus (HIV), deficits in breast and cervical cancer screening and management, and deficits in child or adult immunization rates.

The purpose of this notice is to request comments on the proposed program. A more complete description of the goals of this program, the target applicants, availability of funds, program requirements and evaluation criteria follows.

Dates: The public is invited to submit comments by March 24, 1999.

Submit comments to: Community Health and Program Services Branch, Attn: Racial and Ethnic Approaches to community Health (REACH), Division of Adult and Community Health, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE, Mailstop K–30, Atlanta, GA 30333, or FAX: (770) 488–5974, E-mail address: ccdinfo@cdc.gov

For Further Information Contact: Letitia Presley-Cantrell, Community Health and Program Services Branch Division of Adult and Community Health, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE, Mailstop K–30, Atlanta, GA 30333, Telephone (770) 488–5426.

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1999 funds for a cooperative agreement

program for organizations serving racial and ethnic minority populations at increased risk for infant mortality, diabetes, cardiovascular diseases, HIV, deficits in breast and cervical cancer screening and management services, or deficits in child or adult immunization rates.

The applicant must be the lead organization, or central collaborating organization, for a community coalition of three (3) or more organizations, focusing on minority health concerns. The lead organization will serve as leader, catalyst, facilitator, and coordinator. The lead organization must have direct fiduciary responsibility over the administration and management of the project and will distribute funds to other partners in the coalition as appropriate.

The Racial and Ethnic Approaches to Community Health (REACH) Demonstration Projects are two-phase projects whose purpose is for communities to mobilize and organize their resources in support of effective and sustainable programs which will eliminate the health disparities of racial and ethnic minorities.

The REACH Demonstration Projects are a Department of Health and Human Services initiative in response to the President's Initiative on Race. The REACH Demonstration Projects will test science-based community level interventions which could be effective in eliminating health disparities, with the goal of replicating their successes in other communities.

Phase I is a 12-month planning Phase to organize and prepare infrastructure for Phase II. Cooperative agreements in Phase I will support the planning and development of demonstration programs using a collaborative multi-agency and community participation model. Phase I may also include the collection of data necessary to develop baseline measures for assessing the outcomes of the projects. Upon completion of Phase I, grantees will have utilized appropriate data and developed a Community Action Plan (CAP) designed to reduce the level of disparity within the selected communities in one or more of the six priority areas of complications of diabetes, deficits in breast and cervical cancer screening and management, deficits in child and adult immunizations, cardiovascular diseases, HIV, or infant mortality. The CAP must target a specific racial or ethnic minority community that is African American, American Indian or Alaska Native, Hispanic American, Asian American, or Pacific Islander. Communities or groups which cannot be specified under these categories will not be considered. Only applicants selected for Phase I will be eligible to compete for additional funds to implement and evaluate the demonstration program of Phase II.

Phase II is the implementation of a demonstration project of specified interventions for a specified priority areas(s), for a well defined minority population. Phase Ii also involves appropriate evaluations of interventions and outcomes of the project.

CDC is committed to achieving the health promotion and disease prevention objectives of the Department of Health and Human Services' Initiative to Eliminate Racial and Ethnic Health Disparities, *Healthy People 2000,* and *Healthy People 2010* a nationwide strategy to reduce morbidity and mortality and improve the quality of life. This announcement relates to the *Healthy People 2000* and *Healthy People 2010* priority areas of infant mortality, diabetes, cardiovascular diseases, HIV, cancer screening and prevention, and immunizations specifically pertaining to a racial or ethnic minority community that is African American, American Indian, Alaska Native, Hispanic American, Asian American, or Pacific Islander.

B. Eligible Applicants

Applications may be submitted by (a) private nonprofit organizations (including community-based organizations and foundation), (b) universities, colleges, research institutions, and hospitals, (c) governments and their agencies (including State and local health agencies, or their bona fide agents, and community health centers), and (d) federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

1. Organizational Eligibility Criteria

Eligible applicants must further be organizations active in community-focused, collaborative efforts which serve to bring together agencies, community groups, academic institutions and other groups to address health or social concerns. These organizations will serve as central collaborating bodies in a community collaboration.

2. Private and Non-Profit Organizations

Private and non-profit organizations must have the following characteristics:

a. The applicant organization must be part of a collaborative community health effort that is organized and has appropriate experience as follows:

(i) A governing board composed of more than 50% racial or ethnic minority members at the time of application or prior to Phase II, or

(ii) A significant number of minority individuals in key program positions (including management, administrative, and service provision), who reflect the racial and ethnic demographics, and the characteristics of the population to be served.

In addition, private, nonprofit organizations which are affiliated with a larger organization with a national board, must document that the larger organization has the same board composition listed above.

3. Lead Organization

The applicant must be the lead organization, or Center Coordinating Organization, for a community coalition focusing on minority health concerns. The Central Coordinating Organization must have direct fiduciary responsibility over the administration and management of the project. All applicants must include proof of collaborative relationships with a least three (3) other organizations as evidenced by signed Memoranda of agreements (or other official documentation) among the participants. The applicant must be able to show representation by the minority community in the coalition.

4. Organizational Experience

The applicant must document at least 2 years of experience in operating and centrally administering a coordinated public health or related program serving racial or ethnic minority populations. Such programs must have included:

a. The collection of appropriate program data (example of data collected must be appended to the application);

b. the implementation of complex, community level intervention strategies used in successful public health programs in such areas as infant mortality, diabetes, cardiovascular diseases, HIV, deficits in breast and cervical cancer screening and management, or deficits in child or adult immunization rates (examples of programs implemented must be appended to the application).

5. Tax-Exempt Status

For those applicants applying as a private, nonprofit organization, proof of tax-exempt status must be provided with the application. Tax-exempt status is determined by the Internal Revenue Service (IRS) Code, Section 501(c)(3). Any of the following is acceptable evidence:

a. A reference to the organization's listing in the IRS's most recent list of

tax-exempt organizations described in section 501(c)(3) of the IRS Code.

b. A copy of a currently valid IRS tax-exemption certificate.

c. A statement from a state taxing body, State Attorney General, or other appropriate state official certifying that the applicant organization has a nonprofit status and that none of the net earnings accrue to any private shareholders or individuals.

d. A certified copy of the organization's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the organization.

Note: Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

In FY 1999, CDC expects to provide up to $9,400,000 for funding approximately 30 Phase I cooperative agreements. It is expected that the awards will begin on or about September 30, 1999 and will be made for a 12-month budget period. Only Phase I recipients which successfully compete for Phase II awards may anticipate and additional four years of funding (for a total project period of five (5) years for Phase I and Phase II). Funding estimates, and continuation of awards, may change based on the availability of funds.

Approximately $30 million may be available to fund approximately 15–20 Phase II cooperative agreements. Criteria for selection of Phase II grantees are:

1. Extent to which Phase I requirements were met.

2. Appropriate definition of the level of health disparity among the target population and the extent of the disparity.

3. Potential for proposed interventions to affect the priority area(s).

4. Extent of inclusion of community participants and partners. Awardee will specifically be evaluated on their ability to recruit and maintain appropriate community and public/private collaborators.

5. The potential for community action plans to assure sustainability of the effort.

6. The potential for the community action plans to leverage additional public and/or private resources to support the overall prevention effort.

7. The appropriateness and thoroughness of the evaluation process to assess the impact and effectiveness of the project intervention in the community. (Standard performance measures to be provided in addendum).

8. The appropriateness and thoroughness of the data collection infrastructure that is planned for and developed for the demonstration project.

Should additional funding become available in the future, a new announcement will be issued and grantees funded under Phase I of this announcement, but not funded for Phase II, will receive preference for funding under the new announcement.

Use of Funds

Under this program announcement, funds may not be used for data collection or research until Institutional Review Board (IRB) approval is obtained. Funds may be restricted until appropriate IRB clearances and procedures are in place.

Funds may not be used to support direct patient medical care, or facilities construction in Phase I or Phase II, or to supplant or duplicate existing funding.

Although applicants may contract with other organizations under these cooperative agreements, applicants must perform a substantial portion of the activities (including program management and operations) for which funds are requested.

Funding Preferences

Geographic distribution among communities across the United States, diversity in priority areas, and racial/ethnic diversity will be funding considerations. Each applicant may submit only one application, and only one award will be made per geographically-defined community. A community will not be eligible for multiple awards for different priority areas. However, applications addressing related priority areas (e.g. diabetes and cardiovascular diseases, HIV and infant mortality, etc.) will be considered.

D. Program Requirements

In conducting activities to achieve the purposes of this program, the recipient will be responsible for the activities under 1. Recipient Activities, and CDC will be responsible for the activities under 2. CDC Activities.

1. Recipient Activities

(Phase I)

a. Select intervention strategies which have the most promising potential for reducing the health disparities of the target population. Develop a Community Action Plan reflecting the intervention strategies, and other activities described in Recipient Activities, Phase II.

b. Coordinate and use relevant data and community input to assess the extent of the problem in the selected program priority areas (diabetes, deficits in breast and cervical cancer screening and management, deficits in adult and child immunizations, cardiovascular diseases, HIV or infant mortality).

c. Identify academic partners, foundations, and State and local agencies, from which to strengthen the community's overall ability to eliminate the health disparities of the target population, and to demonstrate the changes in health disparities. Establish community working groups to address critical program issues, and enhance local partnerships to strengthen the overall commitment of the community. Establish linkages with national and state partners (governmental and non-governmental) and other interested organizations.

d. Identify data sources and establish outcome and process evaluation measures to be reviewed at the completion of Phase I. Collaborate with CDC, academic partners or other appropriate organizations, to determine an appropriate evaluation of the program and to identify promising intervention strategies for Phase II.

e. Participate in up to 3 CDC sponsored workshops for technical assistance, planning, evaluation and other essential programmatic issues.

(Phase II)

a. Implement the community action plan addressing the selected priority area(s) for the target population. Initiate actions to assure the interventions are provided appropriately and in a timely manner.

b. Collect appropriate data to monitor and evaluate the program including process and outcome measures.

c. Collaborate with academic or other appropriate institutions in the analysis and interpretation of the data.

d. Maintain linkages and collaborations with local partners, and develop new linkages with state and national partners.

e. Establish mechanisms with foundations, and other public and/or private groups to maintain financial support for the program at the conclusion of federal support.

f. Participate in conferences and workshops to inform and educate others regarding the experiences and lessons learned from the project, and collaborate with appropriate partners to publish the results of the project to the public health community.

2. CDC Activities

a. Provide consultation and technical assistance in the planning and evaluation of program activities.

b. Provide up-to-date scientific information on the basic epidemiology of the priority area(s), recommendations on promising intervention strategies, and other pertinent data and information needs for the specified priority area(s) including prevention measures and program strategies.

c. Assist in the analysis of data and evaluation of program progress.

d. Assist recipients in collaborating with State and local health departments, community planning groups, foundations and other funding institutions, and other potential partners.

e. Foster the transfer of successful prevention interventions and programs models through convening meetings of grantees, workshops, conference, and communications with project officers.

E. Application Content

Each applicant may submit only one application. Applicants should use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Applications will be evaluated on the criteria listed, so it is important to follow them in laying out the program plan. In developing this plan, applicants must describe a community-based program within at least one of the six following priority areas: (1) Infant mortality, (2) diabetes, (3) cardiovascular diseases, (4) HIV, (5) deficits in breast and cervical cancer screening and management, or (6) deficits in child and adult immunizations, that specifically focus on a racial or ethnic minority community that is African American, American Indian, Alaska Native, Hispanic American, Asian American, or Pacific Islander.

The narrative should be no more than 30 double-spaced pages, printed on one side, with one inch margins, and 12 point font. The thirty pages does not include budget, appended pages, or items placed in appended pages (resumes, agency descriptions, etc.). The narrative should include:

1. Introduction

A brief summary of which ethnic or racial group the applicant will target, the population size of both the ethnic or racial group and total population of the catchment area of the applicant and its partners, the geographic boundaries in which the applicant will operate (append a legible map to the application) and the priority area(s) chosen for the proposal.

2. Community, Need, and Priority Area(s)

A description of the specific community's health problem and need for the priority area(s) for which the applicant will address. Any data in support of the priority area(s) and which defines the degree of disparity in terms of mortality or morbidity (or other measures appropriate to the priority areas(s)). All sources of data and information must be referenced.

3. Organizational Summary

A brief organizational summary including mission statement, history of incorporation, and experience in community-based work. Relevant supporting documents (including resumes and job descriptions of participating staff) should be appended to the application, but should not be included in this summary.

A brief history of the organization's experience in operating and centrally administering a coordinated public health or related program serving racial or ethnic minority populations (including program data collection and interventions for one or more of six (6) priority areas). Other collaborative ventures should be included with a description of the both the nature and extent of the collaborations. Signed Memoranda of Agreement (or other official documentation) of the relevant collaboration should be appended to the document, but not included in this section of the narrative. Tribal resolution(s) or letter(s) of support from tribal chair(s) or president(s) should be appended to this section of the document for those applicants applying as a federally recognized tribe.

4. History and Experience in Working With Ethnic/Racial Groups

Succinctly describe past working efforts in minority communities. Applicants should also explain their current relationship with the target population. Any other related experience in which the applicant was involved but not the lead organization, but which is specific to the target population should also be included. Letters of support, awards, newspaper articles, evaluation reports, and other forms of recognition which validate statements and past efforts should be appended to the application.

5. Community Action Plan

A description of plans for developing and organizing the planning effort, to including who is or should partner in the effort, how community participation will be obtained, how the applicant anticipates enhancing the sustainability of the effort including improving linkages with collaborators and other organizations to leverage more resources (such as foundations, health departments, and other potentially influential and beneficial groups), how the applicant will collect data and information to track progress towards project goals of decreasing disparities. Letters of support from agencies, institutions, and other potential collaborators as well as any examples of previous planning documents should be appended to the application.

6. Evaluation Plan

A description of the evaluation and monitoring process that the applicant will use to track and measure progress in Phase I. The evaluation plan should include time-specific objectives which account for the major activities of the community action plan, the means of tracking and measuring the collaborative work with coalition partners, and any other relevant process measures. Timeliness, objectives, and other supporting documentation should be included in the appendix for this section.

7. Budget

Provide a line-item budget with a detailed, narrative justification that is consistent with the purpose and objectives of this cooperative agreement.

F. Submission and Deadline

Letter of Intent (LOI)

Organizations intending to apply must submit a non-binding letter of intent to the address below. Your letter of intent should include the following information:

1. Identify the project by name and announcement number (99064).

2. Identify the geographic location, health priority area(s), and racial/ethnic group which the application will address.

3. Certification that you meet the applicable eligibility requirements contained in Section B., ''Eligible Applicants.''

This letter is a prerequisite for application under this announcement, but will not influence the review or funding decision process. This process will enable CDC to plan more efficiently for the processing and review of the applications.

The letter of intent must be submitted and received at the address below on or before [14 days after the date of the publication of the final R.A. in the **Federal Register**].

Send the letter to: Adrienne Brown, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 99064, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, Georgia 30341–4146.

Application

Submit the original and five copies of PHS–398 (OMB Number 0925–0001) (adhere to the instructions on the Errata Instruction Sheet for PHS 398). Forms are in the application kit. Submit the application on or before [DATE TO BE DETERMINED], to the business management contact listed in Section J., ''Where to Obtain Additional Information.''

Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline with a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

Late Applications

Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria (100 points)

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Background on Community and Priority Area(s): (25 Points)

The extent to which the applicant clearly defines the racial/ethnic group, community, and priority area(s) to be addressed. The extent to which the applicant uses data and other supporting evidence to document the disparities within the group, and the appropriateness of the target population sizes (see addendum—to be developed) for the priority area(s) selected. The degree of the disparity between the target population and the general population based on local data wherever available, or from state or national level data which directly supports the basis for the health disparity in the priority area(s) selected.

2. Organizational Summary: (20 Points)

Extent to which the applicant describes existing facilities and staff (including resumes and job descriptions) appropriate for the proposed activities. The extent to which the applicant describes the history, nature, and extent of their community activities with supporting documentation. The adequacy of proposed staffing and collaborations with partners, particularly to meet the design and evaluation needs of the project. Also describe the degree to which you have met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research.

3. History and Experience in Working on Public Health Programs With Ethnic/Racial Groups: (25 Points)

Extent to which the applicant documents their experience and successes in operating and centrally administering a coordinated public health or related program serving the target population for the selected priority area(s) (including appended letters of support). Extent of experience in other public health programs, and public health research or related data collection.

A. Community Action Plan (CAP): (20 Points)

Extent to which the applicant demonstrates a thorough and reasonable plan for the development of their CAP, including the assurance of community participation in the CAP.

5. Evaluation Plan: (10 Points)

Extent to which the applicant presents a reasonable and thorough evaluation plan for Phase I. Appropriateness of evaluation methods, goals, objectives, and timeliness to the development of the community action plan and the overall planning effort, and identification of data and information sources needed to track progress toward the project's objectives.

6. Budget (Not Scored)

Extent to which a line-item budget is presented, justified, and is consistent with the purposes and objectives of the cooperative agreement.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Progress reports semiannually;

2. Financial status report, no more than 90 days after the end of the budget period; and

3. Final financial and performance reports, no more than 90 days after the end of the project period. Send all reports to the business management contact listed in Section J., ''Where to Obtain Additional Information.''

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–1 Human Subjects Requirements

AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research

AR–7 Executive Order 12372 Review

AR–8 Public Health System Reporting Requirements

AR–9 Paperwork Reduction Act Requirements

AR–10 Smoke-Free Workplace Requirements

AR–11 Healthy People 2000

AR–12 Lobbying Restrictions

AR–14 Accounting System Requirements

AR–15 Proof of Non-Profit Status

I. Authority and Catalog of Federal Domestic Assitance (CFDA) Number

This program is authorized under sections 301, 317(k)(2), and 1706 (e) of the Public Health Service Act, [42 U.S.C. section 247b(k)(2)], as amended. The Catalog of Federal Domestic Assistance number is 93.206.

J. Where To Obtain Additional Information

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the Program Announcement Number 99064.

If you have questions after reviewing the contents of all the documents, business management technical assitance may be obtained from: Adrienne Brown, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 99064, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room, 3000, Atlanta, GA 30341–4146, Telephone: (770) 488–2755, E-mail: asm1@cdc.gov

For program technical assistance, contact: Letitia Presley-Cantrell, Centers for Disease Control and Prevention (CDC), 4770 Buford Hwy, NE, Mailstop K–30, Atlanta, Georgia 30341, Telephone (770) 488–5426, ccdinfo@cdc.gov

Also see the CDC home page on the Internet: http://www.cdc.gov

Dated: March 4, 1999.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–5866 Filed 3–9–99; 8:45 am]

BILLING CODE 4163–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0747]

Agency Information Collection Activities; Announcement of OMB Approval; Customer/Partner Satisfaction Surveys

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Customer/Partner Satisfaction Surveys'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 24, 1998 (63 FR 71294), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0360. The approval expires on March 31, 2002. A copy of the supporting statement for this information collection is available on the Internet at ''http://www.fda.gov/ohrms/dockets''.

Dated: March 4, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–5903 Filed 3–9–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0482]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Adverse Experience Reporting for Licensed Biological Products, and General Records

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 April 9, 1999.

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: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance.

Adverse Experience Reporting for Licensed Biological Products—21 CFR 600.80, 600.81, and 600.90; and General Records—21 CFR 600.12 (OMB Control Number 0910–0308)—Extension

Under the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 201 *et seq.*) and the Public Health Service Act (42 U.S.C. 262 and 264), FDA is required to ensure the marketing of only those biological products that are shown to be safe and effective. Under the authority of section 301(e) of the act (21 U.S.C. 331(e)), FDA issued regulations for adverse experience reports related to the use of licensed biological products. FDA issued the adverse experience reporting requirements to enable FDA to take actions necessary for the protection of the public health in response to reports of adverse experiences related to licensed biological products. The adverse experience reporting system flags potentially serious safety problems with licensed biological products, focusing especially on newly licensed products. Although premarket testing discloses a general safety profile of a new drug's comparatively common adverse effects, the larger and more diverse patient populations exposed to the licensed biological product provides the opportunity to collect information on rare, latent, and long-term effects. Reports are obtained from a variety of sources, including patients, physicians, foreign regulatory agencies, and clinical investigators. Information derived from the adverse experience reporting system contributes directly to increased public health protection because such information enables FDA to recommend important changes to the product's labeling (such as adding a new warning), to initiate removal of a biological product from the market when necessary, and to assure the manufacturer has taken adequate corrective action, if necessary.

Manufacturers of biological products for human use must also keep records of each step in the manufacture and distribution of products including any recalls of the product. The recordkeeping requirements serve preventative and remedial purposes. These requirements establish accountability and traceability in the manufacture and distribution of products, and enable FDA to perform meaningful inspections.

Section 600.12 (21 CFR 600.12) requires that all records of each step in the manufacture and distribution of a product be made and retained for no less than 5 years after the records of manufacture have been completed or 6 months after the latest expiration date for the individual product, whichever represents a later date. In addition, records of sterilization of equipment and supplies, animal necropsy records, and records in cases of divided manufacturing of a product are required to be maintained. Section 600.12(b)(2) requires complete records to be maintained pertaining to the recall from distribution of any product.

Section 600.80(c)(1) (21 CFR 600.80(c)(1)) requires the licensed manufacturer to report each adverse experience that is both serious and unexpected, regardless of source, as soon as possible but in any case within 15 working days of initial receipt of the information. Section 600.80(e) requires licensed manufacturers to submit a 15-day alert report obtained from a postmarketing clinical study only if there is a reasonable possibility that the

product caused the adverse experience. Section 600.80(c)(2) requires the licensed manufacturer to report each adverse experience not reported under paragraph (c)(1) at quarterly intervals, for 3 years from the date of issuance of the product license, and then at annual intervals. The majority of the periodic reports will be submitted annually since a large percentage of the current licensed biological products have been licensed longer than 3 years. Section 600.80(i) requires the licensed manufacturers to maintain for a period of 10 years records of all adverse experiences known to the licensed manufacturer, including raw data and any correspondence relating to the adverse experiences. Section 600.81 (21 CFR 600.81) requires the licensed manufacturer to submit information about the quantity of the product distributed under the product license, including the quantity distributed to distributors at an interval of every 6 months. The semiannual distribution report informs FDA of the quantity, the lot number, and the dosage of different products. Section 600.90 (21 CFR 600.90) requires a licensed manufacturer to submit a waiver request with supporting documentation when asking for waiving the requirement that applies to them under §§ 600.80 and 600.81.

In the **Federal Register** of July 10, 1998 (63 FR 37394), a 60-day notice for public comment on the information collection provisions was published. Two comments were received in response to the 60-day notice.

Both comments agreed there is practical value in this proposed collection of information. However they questioned the estimate of the annual responses and provided estimates of burden hours for § 600.80(c)(2). Based on these comments and further internal research, the estimated annual reporting burden has been revised as follows. A periodic report submitted under § 600.80(c)(2) may include one or more, even hundreds, of individual MedWatch and Vaccine Adverse Event Reporting System (VAERS)–1 Forms. These forms are attached to the report. The original estimate of periodic reports (5,903) included the number of individual attached forms, whereas the current estimate (1,129) reflects only the number of periodic reports received regardless of the number of attachments. More than half of these reports are monthly reports on plasma derivatives that should take on the average 2 hours each to complete. The balance of the reports are quarterly and annual reports that may each require an average of 28 hours to prepare. The burden hours required to complete the MedWatch Form for § 600.80(c)(1), (e), and (f) are reported under OMB Control No. 0910–0291. The VAERS–1 Form is exempt from compliance with paperwork reduction requirements under the National Childhood Vaccine Injury Act (42 U.S.C. 300aa–1) (section 321 of Pub. L. 99–660).

Both comments questioned the statement that there are no capital, operating, or maintenance costs associated with maintaining records of adverse experience reports for 10 years. FDA believes there are no maintenance costs associated with the storage/retention of records because respondents already have the facilities and the infrastructure for ongoing record retention, and that existing and emerging data storage technology minimizes space and costs of long-term record retention.

Both comments recommended ways to enhance the quality, utility, and clarity of the information to be collected, and to minimize the burden of the collection of information on the respondents. FDA is in the process of revising its safety reporting and recordkeeping regulations and will consider these comments in developing its rulemaking. FDA has provided notice and requested comments on several proposed rules. In the **Federal Register** of October 27, 1994 (59 FR 54046), FDA published a proposed rule to amend its postmarketing expedited and periodic safety reporting requirements, as well as others, to implement international standards and to facilitate the reporting of adverse drug experiences. In the **Federal Register** of October 27, 1997 (62 FR 52237), FDA published a final rule amending its expedited safety reporting regulations to implement certain recommendations in the International Conference on Harmonization of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH) E2A guidance on definitions and standards for expedited reporting (58 FR 37408, July 9, 1993). At this time, the agency is further considering recommendations in the ICH E2A guidance for additional amendments to its postmarketing expedited safety reporting regulations. With respect to the proposed amendments to the periodic adverse drug experience reporting requirements in the proposal of October 27, 1994, FDA has decided to repropose these amendments based on recommendations in the ICH E2C guidance on periodic safety update reports (62 FR 27470, May 19, 1997). In developing the reproposal, FDA will also consider comments submitted in response to the proposed rule of October 27, 1994, regarding periodic adverse experience reports. FDA is also considering rulemaking concerning the electronic submission of postmarketing expedited and periodic safety reports using standardized medical terminology, data elements, and electronic transmission standards recommended by ICH. The respondents to the collection of information discussed here will, therefore, have further opportunity to provide comment on these rulemaking initiatives.

Description of Respondents: Respondents to this collection of information are manufacturers of biological products.

Reporting Burden: The total number of respondents in the chart, is based upon information submitted to FDA in fiscal year (FY) 1996, which shows that 69 licensed manufacturers (excluding 3 manufacturers who received waivers from Adverse Event Reporting (AER) requirements, produced 242 licensed biological products. The 69 licensed manufacturers excludes those manufacturers who only produce blood and blood components or in vitro diagnostic licensed products and are exempt from the AER regulations. In FY 1996, licensed manufacturers submitted approximately 1,616 15-day alert reports under § 600.80(c)(1) and (e); 1,129 periodic reports under § 600.80(c)(2); and 464 distribution reports under § 600.81. The MedWatch Form that is used to submit the information provided under § 600.80(c)(1), (e), and (f) has received approval under OMB Control No. 0910–0291.

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
600.80(c)(1) and (e)	69	23.4	1,616	1	1,616
600.80(c)(2)	69	16.4	1,129	28	31,612

TABLE 1.—Estimated Annual Reporting Burden[1]—Continued

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
600.81	69	6.7	464	1	464
600.90	3	1	3	1	3
Total					33,695

[1]There are no capital costs or operation and maintenance costs associated with this collection of information.

Recordkeeping Burden: There are approximately 391 licensed manufacturers of biological products. The number of recordkeepers under § 600.12(a), (c), (d), and (e) is estimated to be 102. That number excludes the 189 manufacturers of blood and blood components whose recordkeeping is conducted under 21 CFR 606.160, which is approved under OMB Control No. 0910–0116. FDA expects that the total number of AER records kept by the respondent will parallel the total number of reports submitted to FDA. The total number of annual records, therefore, is based on reporting information provided to FDA by manufacturers. Based on FY 1996 data, the total annual records are estimated as follows: Under § 600.12(a), (c), (d), and (e), the number of lots released was 9,027; under § 600.12(b)(2), the number of recalls was 710; and under § 600.80(i), the total number of AER reports received was 2,745. Based on FDA's experience, the agency estimates that the total number of hours per recordkeeper under § 600.12(a), (c), (d), and (e) would be 32 hours per lot multiplied by 88.5 lot records on the average per recordkeeper, totaling 2,832 hours; the total number of hours per recordkeeper under § 600.12(b)(2) would be 24 hours per recall multiplied by 1.8 recalls on the average per recordkeeper, totaling 43 hours; and the total number of hours per recordkeeper under § 600.80(i) would be 1 hour per report multiplied by 39.8 AER records on the average per recordkeeper, totaling 40 hours.

TABLE 2.—Estimated Annual Recordkeeping Burden[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
600.12(a), (c), (d) and (e)	102	88.5	9,027	2,832	288,864
600.12(b)(2)	391	1.8	710	43	16,813
600.80(i)	69	39.8	2,745	40	2,760
Total					308,437

[1]There are no capital costs or operation and maintenance costs associated with this collection of information.

Dated: March 4, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–5904 Filed 3–9–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–1771]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection;

Title of Information Collection: Attending Physicians Statement and Documentation of Medicare Emergency and Supporting Regulations in 42 CFR Sections 424.101 and 424.103;

Form No.: HCFA–1771 (OMB# 0938–0023);

Use: Payment, by Medicare, may be made for certain Part A inpatient hospital services and Part B outpatient services provided in a nonparticipating U.S. or foreign hospital, when services are necessary to prevent the death or serious impairment to the health of an individual. This form is used to document the attending physician's statement that the hospitalization was required due to an emergency and give clinical support for the claim;

Frequency: On occasion;

Affected Public: Business or other for profit;

Number of Respondents: 2,000;

Total Annual Responses: 2,000;

Total Annual Hours: 500.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards

Attention: Dawn Willinghan, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: March 1, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–5842 Filed 3–9–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Phase I Clinical Studies/Phase II Clinical Trials of New Chemopreventive Agents.

Date: March 30, 1999.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: Executive Plaza North, Conference Room F, 6130 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Gerald G. Lovinger, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard/EPN—Room 630D, Rockville, MD 20892–7405, 301/496–7987.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398; Cancer Research Manpower, 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 3, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–5914 Filed 3–9–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Small Grants Program for Behavioral Research in Cancer Control.

Date: April 8–9, 1999.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: 6130 Executive Boulevard, EPN, Room 635, Rockville, MD 20852.

Contact Person: Wilna A. Woods, Deputy Chief, Special Review, Referral and Research Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, Rockville, MD 20852, (301) 496–7903.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 3, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–5915 Filed 3–9–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel International Phase III IL–21 Study

Date: March 15, 1999.

Time: 11:00 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: 6130 Executive Boulevard, Rockville, MD 20852.

Contact Person: Olivia T. Preble, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard—Rm. 643B, Rockville, MD 20892–7405, 301/496–7929.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 3, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–5916 Filed 3–9–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as

amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Small Animal Imaging Resource Programs.

Date: April 15–16, 1999.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ramada Inn, Rockville, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Lalita D Palekar, Scientific Review Administrator, Special Review, Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard/EPN—622B, Rockville, MD 20892–7405, 301/496–7575.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 3, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–5917 Filed 3–9–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, ''Signal Transduction in Time and Space.''

Date: April 14–16, 1999.

Time: 7:30 p.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: OMNI Charlottesville Hotel, 235 West Main Street, Charlottesville, VA 22902.

Contact Person: Michael B. Small, MPH, Scientific Review Administrator, National Cancer Institute, Division of Extramural Activities, 6130 Executive Blvd., Room 643, Bethesda, MD 20892, 301.496.7929.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 3, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–5918 Filed 3–9–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel Flexibility System to Advance Innovative Research for Cancer Drug Discovery by Small Businesses.

Date: April 8–10, 1999.

Time: 7:00 p.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ramada Inn, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Gerald G. Lovinger, PhD, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard/EPN—Room 630D, Rockville, MD 20892–7405, 301/496–7987.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 3, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–5919 Filed 3–9–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Basic Behavioral and Cognitive Science Research: Approaches to the Study of HIV/AIDS and Drug Abuse.

Date: March 31, 1999.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Marina L. Volkov, Special Assistant, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS 6001 Executive Boulevard, Room 3158, MSC 9547 Bethesda, MD 20892–9547, (301) 435–1433.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist

Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: March 4, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–5910 Filed 3–9–99; 8:45 am]

BILLING CODE 5140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Animal Model Testing of Tuberculosis Drugs.

Date: March 31, 1999.

Time: 8:30 A.M. to 5:00 P.M.

Agenda: To review and evaluate contract proposals.

Place: 6003 Executive Blvd., Solar Bldg.—Room 3B05, Rockville, MD 20852.

Contact Person: Allen C. Stoolmiller, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Solar Building, Room 4C05, 6003 Executive Boulevard MSC 7610, Bethesda, MD 20892–7610, 301–496–7966.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: March 4, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–5911 Filed 3–9–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Immunology Research.

Date: March 26, 1999.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: 6003 Executive Blvd., Solar Bldg., Conf. Room 4C38, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Edward W. Schroder, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Solar Building, Room 4C38, 6003 Executive Boulevard MSC 7610, Bethesda, MD 20892–7610, 301–435–8537.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: March 4, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–5912 Filed 3–9–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; 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 Neurological Disorders and Stroke Special Emphasis Panel.

Date: April 12–13, 1999.

Time: 7:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Washington, 515 15th Street NW., Washington, DC 20004.

Contact Person: Katherine Woodbury, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities, NINDS, National Institutes of Health, PHS, DHHS, Federal Building, Room 9C10, 7550 Wisconsin Avenue, Bethesda, MD 20892, 301–496–9223, kw47o@nih.gov

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: March 3, 1999.

LaVerne Y. Stringfield,

Committee Management Office, NIH

[FR Doc. 99–5913 Filed 3–9–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute of Health

National Institute of Allergy and Infectious Diseases; Notice of Meeting: Chronic Fatigue Syndrome Coordinating Committee

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the National Institute of Allergy and Infectious Diseases (NIAID), National Institutes of Health (NIH) announces the following committee meeting.

Name: Chronic Fatigue Syndrome Coordinating Committee (CFSCC).

Time and Date: 1 p.m.–5 p.m., *April 21, 1999,* 9 a.m.–5 p.m., April 22, 1999.

Place: Hubert H. Humphrey Building, Room 800, 200 Independence Avenue, SW, Washington, DC.

Status: Open to the public, limited only by the space available. The meeting room will accommodate approximately 100 people.

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey Building by non-government employees. Thus, persons without a

government identification card will need to provide a photo ID and must know the subject and room number of the meeting in order to be admitted into the building. Visitors must use the Independence Avenue entrance.

Purpose: The Committee is charged with providing advice to the Secretary, the Assistant Secretary for Health, and the Commissioner, Social Security Administration (SSA), to assure interagency coordination and communication regarding chronic fatigue syndrome (CFS) research and other related issues; facilitating increased Department of Health and Human Services (HHS) and agency awareness of CFS research and educational needs; developing complementary research programs that minimize overlap; identifying opportunities for collaborative and/or coordinated efforts in research and education; and developing informed responses to constituency groups regarding HHS and SSA efforts and progress.

Matters To Be Discussed: Agenda items will include medical provider education; the development of a CFSCC progress report; and updates from HHS agencies.

Agenda items are subject to change as priorities dictate.

Public comments will be received on the April 22, 1999, meeting for approximately 60 minutes. Priority for public statements presented at this meeting will be given to individuals who have never testified before the Committee and should focus on the major topic of this meeting: medical provider issues. Persons wishing to make oral comments should notify the contact person listed below no later than close of business on *April 7, 1999.* All requests to make oral comments should contain the name, address, telephone number, and organizational affiliation of the presenter. These comments will become a part of the official record of the meeting. Due to the time available, public comments will be limited to five minutes per person. If you are unable to attend but wish to testify we will accept a video of your testimony to play at the meeting. Copies of any written comments should be provided at the meeting; please provide at least 100 copies.

Contact Person for More Information: Lillian Abbey, Executive Secretary, NIAID, NIH, Solar Building, Room 3A26, 6003 Executive Boulevard, Rockville, Maryland 20892, telephone 301–496–1884, fax 301–480–4528, will provide substantive program information.

Dated: March 2, 1999.

Anthony S. Fauci,

Director, National Institute of Allergy and Infectious Diseases, National Institutes of Health.

[FR Doc. 99–5920 Filed 3–9–99; 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 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: March 8, 1999.

Time: 3:00 pm to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Bethesda Ramada Inn, 8400 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Sami A. Mayyasi, PhD, Scientific Review Administration, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5112, MSC 7852, Bethesda, MD 20892, (301) 435–1169.

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: March 15–16, 1999.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Ramada Inn, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Houston Baker, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7854, Bethesda, MD 20892, 301–435–1175, bakerh@drg.nih.gov

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 15, 1999.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Ramesh K. Nayak, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5146, MSC 7840, Bethesda, MD 20892, (301) 435–1026.

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: March 15–16, 1999.

Time: 9:00 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: ANA Hotel, 2401 M Street, NW, Washington, DC 20037.

Contact Person: Cheryl M. Corsaro, PhD, Scientific Review Administrator, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 6172, MSC 7890, Bethesda, MD 20892, (301) 435–1045.

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: March 15, 1999.

Time: 1:00 pm to 4:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Daniel B. Berch, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7848, Bethesda, MD 20892, (301) 435–0902.

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: March 15, 1999.

Time: 3:00 pm to 5:00 pm.

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.

Name of Committee: Center for Scientific Review Special Emphasis Panel SSS–Z.

Date: March 15–17, 1999.

Time: 4:00 pm to 12:00 pm.

Agenda: To review and evaluate grant applications.

Place: Sheraton Hotel, 36th & Chestnut, Philadelphia, PA 19104.

Contact Person: Ron Manning, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158, MSC 7806, Bethesda, MD 20892, (301) 435–1723.

This notice is being published less than 15 days prior to the meeting due to the timing

limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel (ZRG1–SSS5–08).

Date: March 15–16, 1999.

Time: 7:00 pm to 5:00 pm.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Nancy Shinowara, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4208, MSC 7814, Bethesda, MD 20892, (301) 435–1173, shinowan@drg.nih.gov

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG–1 AARR–4 (01).

Date: March 16–17, 1999.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Mohindar Poonian, PhD, Scientific Review, National Administrator, Center for Scientific Review, Institutes of Health, 6701 Rockledge Drive, Room 5110, MSC 7852, Bethesda, MD 20892, (301) 435–1168.

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: March 16–17, 1999.

Time: 8:00 am to 4:00 pm.

Agenda: To review and evaluate grant applications.

Place: St. James Hotel, 950 24th Street, N.W., Washington, DC 20037.

Contact Person: Jean D. Sipe, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5152, MSC 7842, Bethesda, MD 20892, (301) 435–1743.

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: March 16–17, 1999.

Time: 2:00 pm to 6:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Contact Person: Shirley Hilden, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, MSC 7814, Bethesda, MD 20892, (301) 435–1198.

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: March 16, 1999.

Time: 3:00 pm to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jo Pelham, BA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4106, MSC 7814, Bethesda, MD 20892, (301) 435–1786.

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 ZRG–1 VACC (01).

Date: March 17–18, 1999.

Time: 8:30 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Mary Clare Walker, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 7852, Bethesda, MD 20892, (301) 435–1165.

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: March 3, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–5908 Filed 3–9–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, February 19, 1999, 11:00 a.m. to February 19, 1999, 12:00 p.m., NIH, Rockledge 2, Bethesda, MD, 20892 which was published in the **Federal Register** on February 19, 1999, 64FR33.

The meeting will be held March 10, 1999, from 10:00 a.m. to 12:00 p.m. The location remains the same. The meeting is closed to the public.

Dated: March 3, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–5909 Filed 3–9–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Refugee Resettlement Program; Proposed Availability of Formula Allocation Funding for FY 1999 Targeted Assistance Grants for Services to Refugees in Local Areas of High Need

AGENCY: Office of Refugee Resettlement (ORR), ACF, HHS.

ACTION: Notice of proposed availability of formula allocation funding for FY 1999 targeted assistance grants to States for services to refugees [1] in local areas of high need.

SUMMARY: This notice announces the proposed availability of funds and award procedures for FY 1999 targeted assistance grants for services to refugees under the Refugee Resettlement Program (RRP). These grants are for service provision in localities with large refugee populations, high refugee concentrations, and high use of public assistance, and where specific needs exist for supplementation of currently available resources.

This notice proposes that the qualification of counties be based on refugee and entrant arrivals during the 5-year period from FY 1994 through FY 1998, and on the concentration of refugees and entrants as a percentage of the general population. Under this proposal, 10 new counties would qualify for targeted assistance and 7 counties which previously received targeted assistance grants would no longer qualify for targeted assistance funding.

DATES: Comments on this notice must be received by April 9, 1999.

ADDRESSES: Address written comments, in duplicate, to: Toyo A. Biddle, Office of Refugee Resettlement, Administration for Children and Families, 370 L'Enfant Promenade, SW, Washington, DC 20447.

APPLICATION DEADLINE: The deadline for applications will be established by the final notice; applications should not be sent in response to this notice of proposed allocations.

[1] In addition to persons who meet all requirements of 45 CFR 400.43, ''Requirements for documentation of refugee status,'' eligibility for targeted assistance includes Cuban and Haitian entrants, certain Amerasians from Vietnam who are admitted to the U.S. as immigrants, and certain Amerasians from Vietnam who are U.S. citizens. (See section II of this notice on ''Authorization.'') The term ''refugee'', used in this notice for convenience, is intended to encompass such additional persons who are eligible to participate in refugee program services, including the targeted assistance program.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 93.584.

FOR FURTHER INFORMATION CONTACT: Toyo Biddle, Director, Division of Refugee Self-Sufficiency, (202) 402–9250.

SUPPLEMENTARY INFORMATION:

I. Purpose and Scope

This notice announces the proposed availability of funds for grants for targeted assistance for services to refugees in counties where, because of factors such as unusually large refugee populations, high refugee concentrations, and high use of public assistance, there exists and can be demonstrated a specific need for supplementation of resources for services to this population.

The Office of Refugee Resettlement (ORR) has available $49,477,000 in FY 1999 funds for the targeted assistance program (TAP) as part of the FY 1999 appropriation for the Department of Health and Human Services (Pub. L. 105–277).

The Director of the Office of Refugee Resettlement (ORR) proposes to use the $49,477,000 in targeted assistance funds as follows:

- $44,529,300 will be allocated to States under the 5-year population formula, as set forth in this notice.
- $4,947,700 (10% of the total) will be used to award discretionary grants to States under separate grant announcements.

The purpose of targeted assistance grants is to provide, through a process of local planning and implementation, direct services intended to result in the economic self-sufficiency and reduced welfare dependency of refugees through job placements.

The targeted assistance program reflects the requirements of section 412(c)(2)(B) of the Immigration and Nationality Act (INA), which provides that targeted assistance grants shall be made available ''(i) primarily for the purpose of facilitating refugee employment and achievement of self-sufficiency, (ii) in a manner that does not supplant other refugee program funds and that assures that not less than 95 percent of the amount of the grant award is made available to the county or other local entity.''

II. Authorization

Targeted assistance projects are funded under the authority of section 412(c)(2) of the Immigration and Nationality Act (INA), as amended by the Refugee Assistance Extension Act of 1986 (Pub. L. 99–605), 8 U.S.C. 1522(c); section 501(a) of the Refugee Education Assistance Act of 1980 (Pub. L. 96–422), 8 U.S.C. 1522 note, insofar as it incorporates by reference with respect to Cuban and Haitian entrants the authorities pertaining to assistance for refugees established by section 412(c)(2) of the INA, as cited above; section 584(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as included in the FY 1988 Continuing Resolution (Pub. L. 100–202), insofar as it incorporates by reference with respect to certain Amerasians from Vietnam the authorities pertaining to assistance for refugees established by section 412(c)(2) of the INA, as cited above, including certain Amerasians from Vietnam who are U.S. citizens, as provided under title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Pub. L. 100–461), 1990 (Pub. L. 101–167), and 1991 (Pub. L. 101–513).

III. Client and Service Priorities

Targeted assistance funding must be used to assist refugee families to achieve economic independence. To this end, States and counties are required to ensure that a coherent family self-sufficiency plan is developed for each eligible family that addresses the family's needs from time of arrival until attainment of economic independence. (See 45 CFR 400.79 and 400.156(g).) Each family self-sufficiency plan should address a family's needs for both employment-related services and other needed social services. The family self-sufficiency plan must include: (1) A determination of the income level a family would have to earn to exceed its cash grant and move into self-support without suffering a monetary penalty; (2) a strategy and timetable for obtaining that level of family income through the placement in employment of sufficient numbers of employable family members at sufficient wage levels; (3) employability plans for every employable member of the family; and (4) a plan to address the family's social services needs that may be barriers to self-sufficiency. In local jurisdictions that have both targeted assistance and refugee social services programs, one family self-sufficiency plan may be developed for a family that incorporates both targeted assistance and refugee social services.

Services funded through the targeted assistance program are required to focus primarily on those refugees who, either because of their protracted use of public assistance or difficulty in securing employment, continue to need services beyond the initial years of resettlement. States may not provide services funded under this notice, except for referral and interpreter services, to refugees who have been in the United States for more than 60 months (5 years).

In accordance with 45 CFR 400.314, States are required to provide targeted assistance services to refugees in the following order of priority, except in certain individual extreme circumstances: (a) Refugees who are cash assistance recipients, particularly long-term recipients; (b) unemployed refugees who are not receiving cash assistance; and (c) employed refugees in need of services to retain employment or to attain economic independence.

In addition to the statutory requirement that TAP funds be used ''primarily for the purpose of facilitating refugee employment'' (section 412(c)(2)(B)(i)), funds awarded under this program are intended to help fulfill the Congressional intent that ''employable refugees should be placed on jobs as soon as possible after their arrival in the United States'' (section 412(a)(1)(B)(i) of the INA). Therefore, in accordance with 45 CFR 400.313, targeted assistance funds must be used primarily for employability services designed to enable refugees to obtain jobs with less than one year's participation in the targeted assistance program in order to achieve economic self-sufficiency as soon as possible. Targeted assistance services may continue to be provided after a refugee has entered a job to help the refugee retain employment or move to a better job. Targeted assistance funds may not be used for long-term training programs such as vocational training that last for more than a year or educational programs that are not intended to lead to employment within a year.

In accordance with § 400.317, if targeted assistance funds are used for the provision of English language training, such training must be provided in a concurrent, rather than sequential, time period with employment or with other employment-related activities.

A portion of a local area's allocation may be used for services which are not directed toward the achievement of a specific employment objective in less than one year but which are essential to the adjustment of refugees in the community, provided such needs are clearly demonstrated and such use is approved by the State. Allowable services include those listed under § 400.316.

Reflecting section 412(a)(1)(A)(iv) of the INA, States must ''insure that women have the same opportunities as men to participate in training and instruction.'' In addition, in accordance with § 400.317, services must be

provided to the maximum extent feasible in a manner that includes the use of bilingual/bicultural women on service agency staffs to ensure adequate service access by refugee women. The Director also strongly encourages the inclusion of refugee women in management and board positions in agencies that serve refugees. In order to facilitate refugee self-support, the Director also expects States to implement strategies which address simultaneously the employment potential of both male and female wage earners in a family unit. States and counties are expected to make every effort to obtain day care services, preferably subsized day care, for children in order to allow women with children the opportunity to participate in employment services or to accept or retain employment. To accomplish this, day care may be treated as a priority employment-related service under the targeted assistance program. Refugees who are participating in TAP-funded or social services-funded employment services or have accepted employment are eligible for day care services for children. For an employed refugee, TAP-funded day care should be limited to one year after the refugee becomes employed. States and counties, however, are expected to use day care funding from other publicly funded mainstream programs as a prior resource and are encouraged to work with service providers to assure maximum access to other publicly funded resources for day care.

In accordance with § 400.317, targeted assistance services must be provided in a manner that is culturally and linguistically compatible with a refugee's language and cultural background, to the maximum extent feasible. In light of the increasingly diverse population of refugees who are resettling in this country, refugee service agencies will need to develop practical ways of providing culturally and linguistically appropriate services to a changing ethnic population. Services funded under this notice must be refugee-specific services which are designed specifically to meet refugee needs and are in keeping with the rules and objectives of the refugee program. Vocational or job-skills training, on-the-job training, or English language training, however, need not be refugee-specific.

When planning targeted assistance services, States must take into account the reception and placement (R & P) services provided by local resettlement agencies in order to utilize these resources in the overall program design and to ensure the provision of seamless, coordinated services to refugees that are not duplicative. See § 400.156(b) as referenced in § 400.317.

ORR strongly encourages States and counties when contracting for targeted assistance services, including employment services, to give consideration to the special strengths of mutual assistance associations (MAAs), whenever contract bidders are otherwise equally qualified, provided that the MAA has the capability to deliver services in a manner that is culturally and linguistically compatible with the background of the target population to be served. ORR also strongly encourages MAAs to ensure that their management and board composition reflect the major target populations to be served.

ORR defines MAAs as organizations with the following qualifications:

a. The organization is legally incorporated as a nonprofit organization; and

b. Not less than 51% of the composition of the Board of Directors or governing board of the mutual assistance association is comprised of refugees or former refugees, including both refugee men and women.

Finally, in order to provide culturally and linguistically compatible services in as cost-efficient a manner as possible in a time of limited resources, ORR strongly encourages States and counties to promote and give special consideration to the provision of services through coalitions of refugee service organizations, such as coalitions of MAAs, voluntary resettlement agencies, or a variety of service providers. ORR believes it is essential for refugee-serving organizations to form close partnerships in the provision of services to refugees in order to be able to respond adequately to a changing refugee picture. Coalition-building and consolidation of providers is particularly important in communities with multiple service providers in order to ensure better coordination of services and maximum use of funding for services by minimizing the funds used for multiple administrative overhead costs.

The award of funds to States under this notice will be contingent upon the completeness of a State's application as described in section IX, below.

IV. Reserved for Discussion of Comments in the Final Notice

V. Eligible Grantees

Eligible grantees are those agencies of State governments that are responsible for the refugee program under 45 CFR 400.5 in States containing counties which qualify for FY 1999 targeted assistance awards.

The Director of ORR proposes to determine the eligibility of counties for inclusion in the FY 1999 targeted assistance program on the basis of the method described in section VI of this notice.

The use of targeted assistance funds for services to Cuban and Haitian entrants is limited to States which have an approved State plan under the Cuban/Haitian Entrant Program (CHEP).

The State agency will submit a single application on behalf of all county governments of the qualified counties in that State. Subsequent to the approval of the State's application by ORR, local targeted assistance plans will be developed by the county government or other designated entity and submitted to the State.

A State with more than one qualified county is permitted, but not required, to determine the allocation amount for each qualified county within the State. However, if a State chooses to determine county allocations differently from those set forth in the final notice, in accordance with § 400.319, the FY 1999 allocations proposed by the State must be based on the State's population of refugees who arrived in the U.S. during the most recent 5-year period. A State may use welfare data as an additional factor in the allocation of its targeted assistance funds if it so chooses; however, a State may not assign a greater weight to welfare data than it has assigned to population data in its allocation formula. In addition, if a State chooses to allocate its FY 1999 targeted assistance funds in a manner different from the formula set forth in the final notice, the FY 1999 allocations and methodology proposed by the State must be included in the State's application for ORR review and approval.

Applications submitted in response to the final notice are not subject to review by State and areawide clearinghouses under Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

VI. Qualification and Allocation

For FY 1999, ORR proposes to continue to use the formula that limits the use of targeted assistance funds to serving refugees who have been in the U.S. 5 years or less. The Director of ORR proposes to determine the qualification of counties for targeted assistance once every three years, as stated in the FY 1996 notice of proposed availability of targeted assistance allocations to States which was published in the **Federal Register** on May 6, 1996 (61 FR 20260). Since the FY 1996–FY 1998 three-year period has expired, for FY 1999, ORR

has reviewed data on all counties that could potentially qualify for TAP funds on the basis of the most current 5-year refugee/entrant arrival data.

A. Qualifying Counties

In order to qualify for application for FY 1999 targeted assistance funds, a county (or group of adjacent counties with the same Standard Metropolitan Statistical Area, or SMSA) or independent city, would be required to rank above a selected cut-off point of jurisdictions for which data were reviewed, based on two criteria: (1) The number of refugee/entrant arrivals placed in the county during the most recent 5-year period (FY 1994—FY 1998); and (2) the 5-year refugee/entrant arrival population as a percent of the county overall population.

Each county would be ranked on the basis of its 5-year arrival population and its concentration of refugees, with a relative weighting of 2 to 1 respectively, because we believe that large numbers of refugee/entrant arrivals into a county create a significant impact, regardless of the ratio of refugees to the county general population.

Each county would then be ranked in terms of the sum of a county's rank on refugee arrivals and its rank on concentration. To qualify for targeted assistance, a county would have to rank within the top 50 counties. ORR has decided to limit the number of qualified counties to the top 50 counties in order to target a sufficient level of funding to the most impacted counties.

ORR has screened data on all counties that have received awards for targeted assistance since FY 1983 and on all other counties that could potentially qualify for TAP funds based on the criteria proposed in this notice. Analysis of these data indicates that: (1) 40 counties which have previously received targeted assistance would continue to qualify; (2) 7 counties which have previously received targeted assistance would no longer qualify; and (3) 10 new counties would be qualified.

Table 1 provides a list of the counties that would remain qualified and the new counties that would qualify, the number of refugee/entrant arrivals in those counties within the past 5 years, the percent that the 5-year arrival population represents of the overall county population, and each county's rank, based on the qualification formula described above.

Table 2 lists the counties that have previously received targeted assistance which would no longer qualify, the number of refugee/entrant arrivals in those counties within the past 5 years, the percent that the 5-year arrival population represents of the overall county population, and each county's rank, based on the qualification formula.

The proposed counties listed in this notice as qualified to apply for FY 1999 TAP funding would remain qualified for TAP funding through FY 2001. ORR does not plan to consider the eligibility of additional counties for TAP funding until FY 2002, when ORR will again review data on all counties that could potentially qualify for TAP funds based on the criteria contained in this proposed notice. We believe that a more frequent redetermination of county qualification for targeted assistance would not provide qualifying counties a sufficient period of time within a stable funding climate to adequately address the refugee impact in their counties, while a less frequent redetermination of county qualification would pose the risk of not considering new population impacts in a timely manner.

B. Allocation Formula

Of the funds available for FY 1999 for targeted assistance, $44,529,300 would be allocated by formula to States for qualified counties based on the initial placements of refugees, Amerasians, entrants, and Kurdish asylees in these counties during the 5-year period from FY 1994 through FY 1998 (October 1, 1993–September 30, 1998).

With regard to Havana parolees, in the absence of reliable data on the State-by-State resettlement of this population, we are crediting 13,442 Havana parolees who arrived in the U.S. in FY 1998 according to the Immigration and Naturalization Service (INS), using the following methodology. For FY 1995, FY 1996, and FY 1997, Florida's Havana parolees for each qualifying county are based on actual arrival data submitted by the State of Florida, while Havana parolees credited to qualifying counties in other States were prorated based on the counties' proportion of the 5-year entrant population in the U.S.

If a qualifying county does not agree with ORR's population estimate and believes that its 5-year population for FY 1994–FY 1998 was undercounted and wishes ORR to reconsider its population estimate, the county must provide the following evidence: The county must submit to ORR a letter from each local voluntary agency that resettled refugees in the county that attests to the fact that the refugees/entrants listed in an attachment to the letter were resettled as initial placements during the 5-year period from FY 1994–FY 1998 in the county making the claim.

Documentation must include the name, alien number, date of birth and date of arrival in the U.S. for each refugee/entrant claimed. Listings of refugees who are not identified by their alien numbers will not be considered. Counties should submit such evidence separately from comments on the proposed formula no later than 30 days from the date of publication of this notice and should be addressed to: Loren Bussert, Division of Refugee Self-Sufficiency, Office of Refugee Resettlement, 370 L'Enfant Promenade, SW, Washington, DC 20447, telephone: (202) 401–4732. Failure to submit the required documentation within the required time period will result in forfeiture of consideration.

VII. Allocations

Table 3 lists the proposed qualifying counties, the number of refugee and entrant arrivals in those counties during the 5-year period from October 1, 1993–September 30, 1998, the prorated number of Havana parolees credited to each county based on the county's proportion of the 5-year entrant population in the U.S., the sum of the third, fourth, and fifth columns, and the proposed amount of each county's allocation based on its 5-year arrival population.

Table 4 provides State totals for proposed targeted assistance allocations.

Table 5 indicates the areas that each proposed qualifying county represents.

TABLE 1.—TOP 50 COUNTIES ELIGIBLE FOR TARGETED ASSISTANCE

County and state	5-Year arrival population	Concentration percent	Sum of ranks
Targeted Assistance Counties Eligible for Continuation			
Dade County, FL	67,475	3.4833	3
Sacramento County, CA	11,795	1.1328	30
New York, NY	55,434	.7570	30

TABLE 1.—TOP 50 COUNTIES ELIGIBLE FOR TARGETED ASSISTANCE—Continued

County and state	5-Year arrival population	Concentration percent	Sum of ranks
City of St. Louis, MO	7,672	1.9340	32
Multnomah, OR	12,261	.8681	36
King/Snohomish, WA	14,510	.7354	38
DeKalb County, GA	6,582	1.2059	41
San Francisco, CA	8,110	.5057	49
Oneida County, NY	4,125	1.6444	50
Fulton County, GA	5,690	.8768	55
Orange County, CA	12,856	.5333	58
Jefferson County, KY	5,161	.7761	65
Suffolk County, MA	4,755	.7163	72
Dallas/Tarrant, TX	12,684	.4196	77
Santa Clara County, CA	10,902	.7280	78
Polk County, IA	3,435	1.0499	79
District of Columbia, DC	3,890	.6409	86
Hennepin County, MN	5,323	.5156	86
Cook/Kane, IL	17,379	.3205	90
Maricopa County, AZ	8,723	.4111	91
Duval County, FL	3,847	.5717	94
Monroe County, NY	3,888	.5446	94
San Diego County, CA	9,355	.3745	97
Bernalillo County, NM	3,286	.6837	101
Harris County, TX	9,387	.3331	103
Denver County, CO	3,246	.6942	104
Philadelphia County, PA	5,797	.3656	108
Davidson County, TN	3,252	.6367	109
Ingham County, MI	2,535	.8991	112
City of Richmond, VA	2,340	1.1526	113
Lancaster County, NE	2,337	1.0938	118
Hudson County, NJ	2,982	.5391	123
Los Angeles County, CA	17,321	.1954	129
Ramsey County, MN	2,700	.5558	129
Fairfax County, VA	3,609	.3763	129
Fresno County, CA	3,014	.4516	134
Cass County, ND	1,669	1.6225	139
Pierce County, WA	2,658	.4534	147
Cuyahoga County, OH	3,815	.2702	151
Broward County, FL	3,440	.2740	155
New Counties That Qualify			
Spokane County, WA	3,009	.8327	98
Clark County, NV	3,517	.4743	114
Davis/Salt Lake, UT	4,605	.3911	114
Minnehaha County, SD	1,430	1.1550	154
Kent County, MI	2,374	.4742	155
Guilford County, NC	2,093	.6024	155
Erie County, PA	1,873	.6797	156
Yolo County, CA	1,434	1.0160	158
Hillsborough County, FL	2,946	.3532	158
Hampden County, MA	2,239	.4907	158

TABLE 2.—TARGETED ASSISTANCE COUNTIES THAT NO LONGER QUALIFY

County and state	5-year arrival population	Concentration percent	Sum of ranks
Alameda County, CA	3,330	.2604	165
Oakland County, MI	2,827	.2609	180
Palm Beach County, FL	2,410	.2791	186
City of Baltimore, MD	2,104	.2859	197
Broome County, NY	1,098	.5200	221
San Joaquin County, CA	1,221	.2540	258
Merced County, CA	690	.3868	296

TABLE 3.—TARGETED ASSISTANCE PROPOSED ALLOCATIONS BY COUNTY: FY 1999

County	State	Refugees [1]	Entrants	Havana parolees [2]	Total arrivals	$44,429,300 total FY 1999 allocation
Maricopa County	Arizona	7,394	780	549	8,723	$983,963
Fresno County	California	3,011	2	1	3,014	339,982
Los Angeles County	California	16,581	434	306	17,321	1,953,825
Orange County	California	12,817	23	16	12,856	1,450,169
Sacramento County	California	11,788	4	3	11,795	1,330,487
San Diego County	California	8,476	516	363	9,355	1,055,253
San Francisco	California	8,028	48	34	8,110	914,816
Santa Clara County	California	10,815	51	36	10,902	1,229,756
Yolo County	California	1,425	5	4	1,434	161,757
Denver County	Colorado	3,241	3	2	3,246	366,152
District of Columbia	District of Col.	3,866	14	10	3,890	438,796
Broward County	Florida	977	1,548	915	3,440	388,035
Dade County	Florida	8,427	33,143	25,905	67,475	7,611,244
Duval County	Florida	3,788	28	31	3,847	433,945
Hillsborough County	Florida	1,525	767	654	2,946	332,312
DeKalb County	Georgia	6,562	12	8	6,582	742,456
Fulton County	Georgia	5,334	209	147	5,690	641,837
Cook/Kane	Illinois	16,699	399	281	17,379	1,960,368
Polk County	Iowa	3,433	1	1	3,435	387,471
Jefferson County [3]	Kentucky	3,605	913	643	5,161	582,166
Hampden County	Massachusetts	2,224	9	6	2,239	252,561
Suffolk County	Massachusetts	4,648	63	44	4,755	536,368
Ingham County	Michigan	1,785	440	310	2,535	285,950
Kent County	Michigan	2,304	41	29	2,374	267,789
Hennepin County	Minnesota	5,318	3	2	5,323	600,439
Ramsey County	Minnesota	2,683	10	7	2,700	304,563
City of St. Louis	Missouri	7,670	1	1	7,672	865,409
Lancaster County	Nebraska	2,272	38	27	2,337	263,616
Clark County [4]	Nevada	1,363	1,264	890	3,517	396,721
Hudson County	New Jersey	1,605	808	569	2,982	336,372
Bernalillo County	New Mexico	1,137	1,261	888	3,286	370,664
Monroe County	New York	2,723	684	481	3,888	438,570
New York	New York	54,272	682	480	55,434	6,253,007
Oneida County	New York	4,123	1	1	4,125	465,304
Guliford County	North Carolina	2,081	7	5	2,093	236,092
Cass County	North Dakota	1,664	3	2	1,669	188,265
Cuyahoga County	Ohio	3,805	6	4	3,815	430,336
Multnomah	Oregon	11,216	613	432	12,261	1,383,052
Erie County	Pennsylvania	1,873	0	0	1,873	211,276
Philadelphia County	Pennsylvania	5,708	52	37	5,797	653,907
Minnehaha County	South Dakota	1,430	0	0	1,430	161,305
Davidson County	Tennessee	3,160	54	38	3,252	366,829
Dallas/Tarrant	Texas	11,479	707	498	12,684	1,430,767
Harris County	Texas	9,065	189	133	9,387	1,058,862
Davis/Salt Lake	Utah	4,603	1	1	4,605	519,448
Fairfax	Virginia	3,595	8	6	3,609	407,099
City of Richmond	Virginia	2,153	110	77	2,340	263,954
King/Snohomish	Washington	14,423	51	36	14,510	1,636,742
Pierce County	Washington	2,641	10	7	2,658	299,825
Spokane County	Washington	3,009	0	0	3,009	339,418
		313,824	46,016	34,920	394,760	44,529,300

[1] Refugees includes refugees, Kurdish asylees, and Amerasian immigrants from Vietnam.
[2] For FY 1995, 1996 and 1997, Havana parolee arrivals to the qualifying Florida counties (18,538) are based on actual data while parolees in the non-Florida counties (4,948) are prorated based on the counties' proportion of the five-year (FY 1994–1998) entrant population. For FY 1998, 11,434 Havana parolees are prorated to all the qualifying counties based on their proportion of the five-year entrant population.
[3] The allocation for Jefferson County, Kentucky will be awarded to the Kentucky Wilson/Fish project.
[4] The allocation for Clark County, Nevada will be awarded to the Nevada Wilson/Fish project.

TABLE 4—TARGETED ASSISTANCE PROPOSED ALLOCATIONS BY STATE: FY 1999

State	$44,529,300 total FY 1999 allocation
Arizona	$983,963
California	8,436,044

TABLE 4—TARGETED ASSISTANCE PROPOSED ALLOCATIONS BY STATE: FY 1999—Continued

State	$44,529,300 total FY 1999 allocation
Colorado	366,152
District of Columbia	438,796

TABLE 4—TARGETED ASSISTANCE PROPOSED ALLOCATIONS BY STATE: FY 1999—Continued

State	$44,529,300 total FY 1999 allocation
Florida	8,765,536
Georgia	1,384,293

TABLE 4—TARGETED ASSISTANCE PROPOSED ALLOCATIONS BY STATE: FY 1999—Continued

State	$44,529,300 total FY 1999 allocation
Illinois	1,960,368
Iowa	387,471
Kentucky	582,166
Massachusetts	788,930
Michigan	553,740
Minnesota	905,002
Missouri	865,409
Nebraska	263,616
Nevada	396,721

TABLE 4—TARGETED ASSISTANCE PROPOSED ALLOCATIONS BY STATE: FY 1999—Continued

State	$44,529,300 total FY 1999 allocation
New Jersey	336,372
New Mexico	370,664
New York	7,156,881
North Carolina	236,092
North Dakota	188,265
Ohio	430,336
Oregon	1,383,052
Pennsylvania	865,183
South Dakota	161,305

TABLE 4—TARGETED ASSISTANCE PROPOSED ALLOCATIONS BY STATE: FY 1999—Continued

State	$44,529,300 total FY 1999 allocation
Tennessee	366,829
Texas	2,489,630
Utah	519,448
Virginia	671,053
Washington	2,275,985
Total	44,529,300

TABLE 5—TARGETED ASSISTANCE AREAS

State	Targeted assistance area	Definition
Arizona	Maricopa County	
California	Fresno County	
	Los Angeles County	
	Orange County	
	Sacramento County	
	San Diego	
	San Francisco	Marin, San Francisco, and San Mateo Counties.
	Santa Clara County	
	Yolo County	
Colorado	Denver	
District of Columbia		
Florida	Broward County	
	Dade County	
	Duval County	
	Hillsborough County	
Georgia	De Kalb County	
	Fulton County	
Illinois	Cook and Kane Counties	
Iowa	Polk County	
Kentucky	Jefferson County	
Massachusetts	Hampden County	
	Suffolk County	
Michigan	Ingham County	
	Kent County	
Minnesota	Hennepin County	
	Ramsey County	
Missouri	City of St. Louis	
Nebraska	Lancaster County	
Nevada	Clark County	
New Jersey	Hudson County	
New Mexico	Bernalillo County	
New York	Monroe County	
	New York	Bronx, Kings, Queens, New York, and Richmond Counties.
	Oneida County	
North Carolina	Guilford County	
North Dakota	Cass County	
Ohio	Cuyahoga County	
Oregon	Multnomah	Clackamas, Multnomah, and Washington Counties, Oregon, and Clark County, Washington.
Pennsylvania	Erie	
	Philadelphia	
South Dakota	Minnehaha County	
Tennessee	Davidson County	
Texas	Dallas/Tarrant	
	Harris County	
Utah	Davis/Salt lake	Davis, Salt Lake, and Utah Counties.
Virginia	Fairfax	Fairfax County and the cities of Falls Church, Fairfax, and Alexandria.
	City of Richmond	
Washington	King/Snohomish	
	Pierce County	
	Spokane County	

VIII. Application and Implementation Process

Under the FY 1999 targeted assistance program, States may apply for and receive grant awards on behalf of qualified counties in the State. A single allocation will be made to each State by ORR on the basis of an approved State application. The State agency will, in turn, receive, review, and determine the acceptability of individual county targeted assistance plans.

Pursuant to § 400.210(b), FY 1999 targeted assistance funds must be obligated by the State agency no later than one year after the end of the Federal fiscal year in which the Department awarded the grant. Funds must be liquidated within two years after the end of the Federal fiscal year in which the Department awarded the grant. A State's final financial report on targeted assistance expenditures must be received no later than two years after the end of the Federal fiscal year in which the Department awarded the grant. If final reports are not received on time, the Department will deobligate any unexpended funds, including any unliquidated obligations, on the basis of the State's last filed report.

The requirements regarding the discretionary portion of the targeted assistance program will be addressed separately in a grant announcement for those funds. Applications for these funds are therefore not subject to provisions contained in this notice but to other requirements which will be conveyed separately.

IX. Application Requirements

In applying for targeted assistance funds, a State agency is required to provide the following:

A. Assurance that targeted assistance funds will be used in accordance with the requirements in 45 CFR part 400.

B. Assurance that targeted assistance funds will be used primarily for the provision of services which are designed to enable refugees to obtain jobs with less than one year's participation in the targeted assistance program. States must indicate what percentage of FY 1999 targeted assistance formula allocation funds that are used for services will be allocated for employment services.

C. Assurance that targeted assistance funds will not be used to offset funding otherwise available to counties or local jurisdictions from the State agency in its administration of other programs, e.g. social services, cash and medical assistance, etc.

D. Identification of the local administering agency.

E. The amount of funds to be awarded to the targeted county or counties. If a State with more than one qualifying targeted assistance county chooses to allocate its targeted assistance funds differently from the formula allocation for counties presented in the ORR targeted assistance notice in a fiscal year, its allocations must be based on the State's population of refugees who arrived in the U.S. during the most recent 5-year period. A State may use welfare data as an additional factor in the allocation of targeted assistance funds if it so chooses; however, a State may not assign a greater weight to welfare data than it has assigned to population data in its allocation formula. The application must provide a description of, and supporting data for, the State's proposed allocation plan, the data to be used, and the proposed allocation for each county.

In instances where a State receives targeted assistance funding for impacted counties contained in a standard metropolitan statistical area (SMSA) which includes a county or counties located in a neighboring State, the State receiving those funds must provide a description of coordination and planning activities undertaken with the State Refugee Coordinator of the neighboring State in which the impacted county or counties are located. These planning and coordination activities should result in a proposed allocation plan for the equitable distribution of targeted assistance funds by county based on the distribution of the eligible population by county within the SMSA. The proposed allocation plan must be included in the State's application to ORR.

F. A description of the State's guidelines for the required content of county targeted assistance plans and a description of the State's review/approval process for such county plans. Acceptable county plans must minimally include the following:

1. Assurance that targeted assistance funds will be used in accordance with the requirements contained in ORR regulations in 45 CFR 400.156 as incorporated by § 400.317.

2. Procedures for carrying out a local planning process for determining targeted assistance priorities and service strategies. All local targeted assistance plans will be developed through a planning process that involves, in addition to the State Refugee Coordinator, representatives of the private sector (for example, private employers, private industry council, Chamber of Commerce, etc.), leaders of refugee/entrant community-based organizations, voluntary resettlement agencies, refugees from the impacted communities, and other public officials associated with social services and employment agencies that serve refugees. Counties are encouraged to foster coalition-building among these participating organizations.

3. Identification of refugee/entrant populations to be served by targeted assistance projects, including approximate numbers of clients to be served, and a description of characteristics and needs of targeted populations. (As per 45 CFR 400.314)

4. Description of specific strategies and services to meet the needs of targeted populations. These should be justified where possible through analysis of strategies and outcomes from projects previously implemented under the targeted assistance programs, the regular social service programs, and any other services available to the refugee population.

5. The relationship of targeted assistance services to other services available to refugees/entrants in the county including State-allocated ORR social services.

6. Analysis of available employment opportunities in the local community. Examples of acceptable analyses of employment opportunities might include surveys of employers or potential employers of refugee clients, surveys of presently effective employment service providers, review of studies on employment opportunities/forecasts which would be appropriate to the refugee populations.

7. Description of the monitoring and oversight responsibilities to be carried out by the county or qualifying local jurisdiction.

8. Assurance that the local administrative budget will not exceed 15% of the local allocation. Targeted assistance grants are cost-based awards. Neither a State nor a county is entitled to a certain amount for administrative costs. Rather, administrative cost requests should be based on projections of actual needs. All TAP counties will be allowed to spend up to 15% of their allocation on TAP administrative costs, as need requires. However, States and counties are strongly encouraged to limit administrative costs to the extent possible to maximize available funding for services to clients.

9. For any State that administers the program directly or otherwise provides direct service to the refugee/entrant population (with the concurrence of the county), the State must provide ORR with the same information required above for review and prior approval.

G. Identification of the contracting cycle dates for targeted assistance

service contracts in each county. States with more than one qualified county are encouraged to ensure that all counties participating in TAP in the State use the same contracting cycle dates.

H. A description of the State's plan for conducting fiscal and programmatic monitoring and evaluations of the targeted assistance program, including frequency of on-site monitoring.

I. Assurance that the State will make available to the county or designated local entity not less than 95% of the amount of its formula allocation for purposes of implementing the activities proposed in its plan, except in the case of a State that administers the program locally as described in item F9 above.

J. Assurance that the State will follow or mandate that its sub-recipients will follow appropriate State procurement and contract requirements in the acquisition, administration, and management of targeted assistance service contracts.

Results or Benefits Expected

All applicants must establish proposed targeted assistance performance goals for each of the 6 ORR performance outcome measures for each impacted county's proposed service contract(s) or sub-grants for the next contracting cycle. Proposed performance goals must be included in the application for each performance measure. The 6 ORR performance measures are: entered employments, cash assistance reductions due to employment, cash assistance terminations due to employment, 90-day employment retentions, average wage at placement, and job placements with available health benefits. Targeted assistance program activity and progress achieved toward meeting performance outcome goals are to be reported quarterly on the ORR–6, the ''Quarterly Performance Report.''

States which are currently grantees for targeted assistance funds should base projected annual outcome goals on past performance. Current grantees should have adequate baseline data for all of the 6 ORR performance outcome measures based on a history of targeted assistance program experience.

States identified as new eligible targeted assistance grantees are also required to set proposed outcome goals for each of the 6 ORR performance outcome measures. New grantees may use baseline data, as available, and current data as reported on the ORR–6 for social services program activity to assist them in the goal-setting process.

New qualifying counties within States that are current grantees are also required to set proposed outcome goals for each of the 6 ORR performance outcome measures. New counties may use baseline data, as available, and current data as reported on the ORR–6 for social services program activity to assist them in the goal-setting process.

Proposed targeted assistance outcome goals should reflect improvement over past performance and strive for continuous improvement during the project period from one year to another.

Budget and Budget Justification

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form (424A). Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs. The Office of Refugee Resettlement is particularly interested in the following:

A line item budget and justification for State administrative costs limited to a maximum of 5% of the total award to the State. Each total budget period funding amount requested must be necessary, reasonable, and allocable to the project. States that administer the program locally in lieu of the county, through a mutual agreement with the qualifying county, may request administrative costs that add up to, but may not exceed, 10% of the county's TAP allocation to the State's administrative budget.

States Administering the Program Directly

States that propose to administer the program locally or provide direct service to the refugee population (with the concurrence of the county) must submit a program summary to ORR for prior review and approval. The summary must include a description of the proposed services; a justification for the projected allocation for each component including relationship of funds allocated to numbers of clients served, characteristics of clients, duration of training and services, and cost per placement. In addition, the program component summary must describe any ancillary services or subcomponents such as day care, transportation, or language training.

X. Reporting Requirements

States are required to submit quarterly reports on the outcomes of the targeted assistance program, using Schedule A and Schedule C of the new ORR–6 Quarterly Performance Report form which was sent to States in ORR State Letter 95–35 on November 6, 1995.

XI. The Paperwork Reduction Act of 1995 (Pub. L. 104–13)

Based on historical experience, ORR anticipates fewer than ten responses to this notice. An OMB control number is therefore not required.

Dated: March 5, 1999.

Lavinia Limon,

Director, Office of Refugee Resettlement.

[FR Doc. 99–5954 Filed 3–9–99; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 1999 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of funding availability.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Mental Health Services (CMHS) announces the availability of FY 1999 funds for the following activity. This activity is discussed in more detail under Section 4 of this notice. This notice is not a complete description of the activity; potential applicants *must* obtain a copy of the Guidance for Applicants (GFA) before preparing an application.

Activity	Application deadline	Estimated funds available	Estimated number of awards	Project period
School action grant	5/24/99	$5 million	33	Up to 2 yrs.

Note: SAMHSA also published notices of available funding opportunities for FY 1999 in subsequent issues of the **Federal Register**.

The actual amount available for awards and their allocation may vary, depending on unanticipated program requirements and the volume and quality of applications. Awards are usually made for grant periods from one to three years in duration. FY 1999 funds for the activity discussed in this announcement were appropriated by the Congress under Public Law No. 105–277. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The SAMHSA Centers' substance abuse and mental health services activities address issues related to Healthy People 2000 objectives of Mental Health and Mental Disorders; Alcohol and Other Drugs; Clinical Preventive Services; HIV Infection; and Surveillance and Data Systems. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017–001–00474–0) or Summary Report: Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone: 202–512–1800).

General Instructions

Applicants must use application form PHS 5161–1 (Rev. 5/96; OMB No. 0937–0189). The application kit contains the GFA (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from the organization specified for the activity covered by this notice (see Section 4).

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. This is to ensure receipt of all necessary forms and information, including any specific program review and award criteria.

The PHS 5161–1 application form and the full text of the activity (i.e., the GFA) described in Section 4 is available electronically via SAMHSA's World Wide Web Home Page (address: http://www.samhsa.gov).

Application Submission: Unless otherwise stated in the GFA, applications must be submitted to: SAMHSA Programs, Center for Scientific Review, National Institutes of Health, Suite 1040, 6701 Rockledge Drive MSC–7710, Bethesda, Maryland 20892–7710.*

(*Applicants who wish to use express mail or courier service should change the ZIP code to 20817.)

Application Deadlines: The deadline for receipt of applications is listed in the table above.

Competing applications must be received by the indicated receipt dates to be accepted for review. An application received after the deadline may be acceptable if it carries a legible proof-of-mailing date assigned by the carrier and that date is not later than one week prior to the deadline date. Private metered postmarks are not acceptable as proof of timely mailing.

Applications received after the deadline date and those sent to an address other than the address specified above will be returned to the applicant without review.

For Further Information Contact: Requests for activity-specific technical information should be directed to the program contact person identified for the activity covered by this notice (see Section 4).

Requests for information concerning business management issues should be directed to the grants management contact person identified for the activity covered by this notice (see Section 4).

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1. Program Background and Objectives

SAMHSA's mission within the Nation's health system is to improve the quality and availability of prevention, early intervention, treatment, and rehabilitation services for substance abuse and mental illnesses, including co-occurring disorders, in order to improve health and reduce illness, death, disability, and cost to society.

Reinventing government, with its emphases on redefining the role of Federal agencies and on improving customer service, has provided SAMHSA with a welcome opportunity to examine carefully its programs and activities. As a result of that process, SAMHSA moved assertively to create a renewed and strategic emphasis on using its resources to generate knowledge about ways to improve the prevention and treatment of substance abuse and mental illness and to work with State and local governments as well as providers, families, and consumers to effectively use that knowledge in everyday practice.

SAMHSA's FY 1999 Knowledge Development and Application (KD&A) agenda is the outcome of a process whereby providers, services researchers, consumers, National Advisory Council members and other interested persons participated in special meetings or responded to calls for suggestions and reactions. From this input, each SAMHSA Center developed a ''menu'' of suggested topics. The topics were discussed jointly and an agency agenda of critical topics was agreed to. The selection of topics depended heavily on policy importance and on the existence of adequate research and practitioner experience on which to base studies. While SAMHSA's FY 1999 KD&A programs will sometimes involve the evaluation of some delivery of services, they are services studies and application activities, not merely evaluation, since they are aimed at answering policy-relevant questions and putting that knowledge to use.

SAMHSA differs from other agencies in focusing on needed information at the services delivery level, and in its question-focus. Dissemination and application are integral, major features of the programs. SAMHSA believes that it is important to get the information into the hands of the public, providers, and systems administrators as effectively as possible. Technical assistance, training, preparation of special materials will be used, in addition to normal communications means.

SAMHSA also continues to fund legislatively-mandated services programs for which funds are appropriated.

2. Special Concerns

SAMHSA's legislatively-mandated services programs do provide funds for mental health and/or substance abuse treatment and prevention services. However, SAMHSA's KD&A activities do not provide funds for mental health and/or substance abuse treatment and prevention services except sometimes for costs required by the particular

activity's study design. Applicants are required to propose true knowledge application or knowledge development and application projects. Applications seeking funding for services projects under a KD&A activity will be considered nonresponsive.

Applications that are incomplete or nonresponsive to the GFA will be returned to the applicant without further consideration.

3. Criteria for Review and Funding

Consistent with the statutory mandate for SAMHSA to support activities that will improve the provision of treatment, prevention and related services, including the development of national mental health and substance abuse goals and model programs, competing applications requesting funding under the specific project activity in Section 4 will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures.

3.1 General Review Criteria

As published in the **Federal Register** on July 2, 1993 (Vol. 58, No. 126), SAMHSA's ''Peer Review and Advisory Council Review of Grant and Cooperative Agreement Applications and Contract Proposals,'' peer review groups will take into account, among other factors as may be specified in the application guidance materials, the following general criteria:

- Potential significance of the proposed project;
- Appropriateness of the applicant's proposed objectives to the goals of the specific program;
- Adequacy and appropriateness of the proposed approach and activities;
- Adequacy of available resources, such as facilities and equipment;
- Qualifications and experience of the applicant organization, the project director, and other key personnel; and
- Reasonableness of the proposed budget.

3.2 Funding Criteria for Scored Applications

Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council (if applicable) review process.

Other funding criteria will include:

- Availability of funds.

Additional funding criteria specific to the programmatic activity may be included in the application guidance materials.

4. Special FY 1999 SAMHSA Activities

4.1. Violence Prevention/Resilience Development School and Community Action Grants (Short Title: School Action Grant, GFA No. SM 99–009)

- Application Deadline: May 24, 1999
- Purpose: Grants will be awarded to approximately 33 sites. The goals of the School Action Grant Program are: (1) to obtain community level buy-in for the changes necessary to provide children with safe environments in which they can grow into competent and resilient adults; (2) to help young people develop the skills and emotional resilience necessary to maintain healthy functioning, engage in pro-social behavior, decrease suicide, prevent violent behavior, and decrease the use of alcohol and illicit drugs; (3) to increase the number of communities using evidence-based exemplary practices to address youth violence prevention and resilience development among children and adolescents; and (4) to expand efforts at youth violence prevention and resilience development beyond the traditional fields of education, law enforcement, and mental health.

Projects under this grant program will be successful if a grantee can develop consensus among key stakeholders on the adaptations of the chosen exemplary practice needed for that community and implement a plan for adopting that practice in the community.

- Priorities: None
- Eligible Applicants: Applications may be submitted by units of State or local governments and by domestic private nonprofit and for-profit organizations such as advocacy organization; community-based organizations including ethnic specific organizations, parents and teachers associations, consumer and family groups; providers, courts, local police departments, mental health organizations, and schools.
- Grants/Amounts: It is estimated that approximately $5 million will be available to support approximately 33 awards in FY 1999. These grants are for a period of up to 2 years. Award amounts will range from approximately $50,000 to not more than $150,000 in total costs (direct and indirect) each year. Actual funding levels will depend upon the availability of appropriated funds.
- Catalog of Federal Domestic Assistance Number: 93.230
- Program Contact: For programmatic or technical assistance contact: Tiffany Ho, M.D., Division of Program Development, Center for Mental Health Services, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Room 16–C–05, Rockville, MD 20857, 301–443–2892, E-Mail: tho@samhsa.gov

Questions regarding Grants Management issues may be directed to: Stephen J. Hudak, Division of Grants Management, OPS, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Room 15C–05, Rockville, MD 20857, (301) 443–4456, E-Mail: shudak@samhsa.gov

- For application kits, contact: Knowledge Exchange Network (KEN), P.O. Box 42490, Washington, DC 20015
Voice: (800) 789–2647
TTY: (301) 443–9006
FAX: (301) 984–8796

4.2 SAMHSA Technical Assistance Workshop

SAMHSA is sponsoring three technical assistance workshops for potential applicants. The workshops will be held at the following locations: March 11, 1999—Washington, DC; March 17, 1999—Chicago, IL; and March 19—Los Angeles, CA. For more information, please call Ms. Lisa Wilder, Workshop Coordinator, at 301–984–1471, extension 333.

5. Public Health System Reporting Requirements

The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements.

6. PHS Non-Use of Tobacco Policy Statement

The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

7. Executive Order 12372

Applications submitted in response to all FY 1999 activities listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR Part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Office of Extramural Activities Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: March 5, 1999.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 99–5907 Filed 3–9–99; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 1999 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of Funding Availability.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Prevention (CSAP) announces the availability of FY 1999 funds for the following activity. This activity is discussed in more detail under Section 4 of this notice. This notice is not a complete description of the activity; potential applicants must obtain a copy of the Guidance for Applicants (GFA) before preparing an application.

Activity	Application deadline	Estimated funds available	Estimated number of awards	Project period
Family Strengthening	5/24/99	$10 Million	80–100	2 yrs.

Note: SAMHSA also published notices of available funding opportunities for FY 1999 in subsequent issues of the **Federal Register**.

The actual amount available for awards and their allocation may vary, depending on unanticipated program requirements and the volume and quality of applications. Awards are usually made for grant periods from one to three years in duration. FY 1999 funds for the activity discussed in this announcement were appropriated by the Congress under Pub. L. 105–277. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The SAMHSA Centers' substance abuse and mental health services activities address issues related to Healthy People 2000 objectives of Mental Health and Mental Disorders; Alcohol and Other Drugs; Clinical Preventive Services; HIV Infection; and Surveillance and Data Systems. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017–001–00474–0) or Summary Report: Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone: 202–512–1800).

General Instructions

Applicants must use application form PHS 5161–1 (Rev. 5/96; OMB No. 0937–0189). The application kit contains the GFA (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from the organization specified for the activity covered by this notice (see Section 4).

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. This is to ensure receipt of all necessary forms and information, including any specific program review and award criteria.

The PHS 5161–1 application form and the full text of the activity (i.e., the GFA) described in Section 4 is available electronically via SAMHSA's World Wide Web Home Page (address: http://www.samhsa.gov).

Application Submission

Unless otherwise stated in the GFA, applications must be submitted to: SAMHSA Programs, Center for Scientific Review, National Institutes of Health, Suite 1040, 6701 Rockledge Drive MSC–7710, Bethesda, Maryland 20892–7710* (*Applicants who wish to use express mail or courier service should change the zip code to 20817.)

Application Deadlines

The deadlines for receipt of applications is listed in the table above.

Competing applications must be received by the indicated receipt dates to be accepted for review. An application received after the deadline may be acceptable if it carries a legible proof-of-mailing date assigned by the carrier and that date is not later than one week prior to the deadline date.

Private metered postmarks are not acceptable as proof of timely mailing.

Applications received after the deadline date and those sent to an address other than the address specified above will be returned to the applicant without review.

FOR FURTHER INFORMATION CONTACT: Requests for activity-specific technical information should be directed to the program contact person identified for the activity covered by this notice (see Section 4).

Requests for information concerning business management issues should be directed to the grants management contact person identified for the activity covered by this notice (see Section 4).

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6. PHS Non-use of Tobacco Policy Statement
7. Executive Order 12372

1. Program Background and Objectives

SAMHSA's mission within the Nation's health system is to improve the quality and availability of prevention, early intervention, treatment, and rehabilitation services for substance abuse and mental illnesses, including co-occurring disorders, in order to improve health and reduce illness, death, disability, and cost to society.

Reinventing government, with its emphases on redefining the role of Federal agencies and on improving customer service, has provided SAMHSA with a welcome opportunity to examine carefully its programs and activities. As a result of that process, SAMHSA moved assertively to create a renewed and strategic emphasis on using its resources to generate knowledge about ways to improve the prevention and treatment of substance abuse and mental illness and to work with State and local governments as well as providers, families, and consumers to effectively use that knowledge in everyday practice.

SAMHSA's FY 1999 Knowledge Development and Application (KD&A) agenda is the outcome of a process whereby providers, services researchers, consumers, National Advisory Council members and other interested persons participated in special meetings or responded to calls for suggestions and reactions. From this input, each SAMHSA Center developed a ''menu'' of suggested topics.

The topics were discussed jointly and an agency agenda of critical topics was agreed to. The selection of topics depended heavily on policy importance and on the existence of adequate research and practitioner experience on which to base studies. While SAMHSA's FY 1999 KD&A programs will sometimes involve the evaluation of some delivery of services, they are services studies and application activities, not merely evaluation, since they are aimed at answering policy-relevant questions and putting that knowledge to use.

SAMHSA differs from other agencies in focusing on needed information at the services delivery level, and in its question-focus. Dissemination and application are integral, major features of the programs. SAMHSA believes that it is important to get the information into the hands of the public, providers, and systems administrators as effectively as possible. Technical assistance, training, preparation of special materials will be used, in addition to normal communications means.

SAMHSA also continues to fund legislatively-mandated services programs for which funds are appropriated.

2. Special Concerns

SAMHSA's legislatively-mandated services programs do provide funds for mental health and/or substance abuse treatment and prevention services. However, SAMHSA's KD&A activities do not provide funds for mental health and/or substance abuse treatment and prevention services except sometimes for costs required by the particular activity's study design. Applicants are required to propose true knowledge application or knowledge development and application projects. Applications seeking funding for services projects under a KD&A activity will be considered nonresponsive.

Applications that are incomplete or nonresponsive to the GFA will be returned to the applicant without further consideration.

3. Criteria for Review and Funding

Consistent with the statutory mandate for SAMHSA to support activities that will improve the provision of treatment, prevention and related services, including the development of national mental health and substance abuse goals and model programs, competing applications requesting funding under the specific project activity in Section 4 will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures.

3.1 General Review Criteria

As published in the **Federal Register** on July 2, 1993 (Vol. 58, No. 126), SAMHSA's ''Peer Review and Advisory Council Review of Grant and Cooperative Agreement Applications and Contract Proposals,'' peer review groups will take into account, among other factors as may be specified in the application guidance materials, the following general criteria:

- Potential significance of the proposed project;
- Appropriateness of the applicant's proposed objectives to the goals of the specific program;
- Adequacy and appropriateness of the proposed approach and activities;
- Adequacy of available resources, such as facilities and equipment;
- Qualifications and experience of the applicant organization, the project director, and other key personnel; and
- Reasonableness of the proposed budget.

3.2 Funding Criteria for Scored Applications

Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council (if applicable) review process.

Other funding criteria will include:

- Availability of funds.

Additional funding criteria specific to the programmatic activity may be included in the application guidance materials.

4. Special FY 1999 SAMHSA Activities

4.1 Cooperative Agreements for Parenting and Family Strengthening Prevention Interventions: A Dissemination of Innovations Study (Short Title: Family Strengthening, GFA No. SP 99–02)

- *Application Deadline:* May 24, 1999.
- *Purpose:* Cooperative agreements will be awarded to develop and operate 80–100 Program Sites and one Program Coordinating Center. This program has three specific purposes: (1) To increase the capacity of local communities to deliver best practices in effective parenting and family programs in order to reduce or prevent substance abuse,

(2) to document the decision-making processes for the selection and testing of effective interventions in community settings, and (3) to determine the impact of the interventions on the target families within the study.

Applicants will be selected on the basis of capacity to deliver family services and will be supported to select a sound family-focused intervention that is best matched to their target population to maximize effectiveness in preventing or reducing alcohol, tobacco or other illegal drug use as well as associated social, emotional, behavioral, cognitive and physical problems of parents and their children.

- *Priorities:* None.
- *Eligible Applicants:* Applications may be submitted by public and domestic private nonprofit and for-profit entities, such as units of State or local government, community-based organizations, faith communities, local and national coalitions and civic groups, and public or private schools, universities, colleges, and hospitals.
- *Cooperative Agreements/Amounts:* Approximately $10 million is available to support approximately 80–100 Program Sites and one Program Coordinating Center under this GFA in FY 1999. The average award is expected to be $80,000–$100,000 in total costs (direct +indirect) per year. The Program Coordinating Center award is expected to be approximately $750,000 in total costs (direct + indirect) per year. Actual funding levels will depend upon the availability of funds.
- *Catalog of Federal Domestic Assistance Number:* 93.230.
- *Program Contact:* For programmatic or technical assistance contact: Soledad Sambrano, Ph.D., Division of Knowledge Development and Application Center for Substance Abuse Prevention, Substance Abuse and Mental Health Services Administration, Rockwall 11, Suite 1075, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–9110.

Grants Management Contact: For business management assistance, contact: Peggy Jones, Division of Grants Management, OPS, Substance Abuse and Mental Health Services Administration, Rockwall 11, Suite 630 5600 Fishers Lane, Rockville, MD 20857, (301) 443–3958.

Application Kits: Application kits are available from: National Clearinghouse for Alcohol and Drug Information (NCADI), P. O. Box 2345, Rockville, MD 20847–2345, 1–800/729–6686, 1–800/467–4859.

4.2 SAMHSA Technical Assistance Workshop

SAMHSA is sponsoring three technical assistance workshops for potential applicants. The workshops will be held at the following locations: March 11, 1999—Washington, DC; March 17, 1999—Chicago, IL; and March 19—Los Angeles, CA. For more information, please call Ms. Lisa Wilder, Workshop Coordinator, at 301–984–1471, extension 333.

5. Public Health System Reporting Requirements

The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements.

Application guidance materials will specify if a particular FY 1999 activity described above is/is not subject to the Public Health System Reporting Requirements.

6. PHS Non-Use of Tobacco Policy Statement

The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Pub. L. 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

7. Executive Order 12372

Applications submitted in response to all FY 1999 activities listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR Part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Office of Extramural Activities Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: March 4, 1999.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 99–5814 Filed 3–9–99; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 1999 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of Funding Availability.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Prevention (CSAP) announces the availability of FY 1999 funds for the following activity. This activity is discussed in more detail under Section 3 of this notice. This notice is not a

complete description of the activity; potential applicants *must* obtain a copy of the Guidance for Applicants (GFA) before preparing an application.

Activity	Application deadline	Estimated funds available	Estimated number of awards	Project period
Targeted SA & HIV/AIDS Prevention	6/17/99	$13.5 million	50	Up to 3 yrs.

Note: SAMHSA also published notices of available funding opportunities for FY 1999 in subsequent issues of the **Federal Register**.

The actual amount available for awards and their allocation may vary, depending on unanticipated program requirements and the volume and quality of applications. Awards are usually made for grant periods from one to three years in duration. FY 1999 funds for the activity discussed in this announcement were appropriated by the Congress under Public Law No. 105–277. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The SAMHSA Centers' substance abuse and mental health services activities address issues related to Healthy People 2000 objectives of Mental Health and Mental Disorders; Alcohol and Other Drugs; Clinical Preventive Services; HIV Infection; and Surveillance and Data Systems. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017–001-00474–0) or Summary Report: Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone: 202–512–1800).

General Instructions: Applicants must use application form PHS 5161–1 (Rev. 5/96; OMB No. 0937–0189). The application kit contains the GFA (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from the organization specified for the activity covered by this notice (see Section 3).

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. This is to ensure receipt of all necessary forms and information, including any specific program review and award criteria.

The PHS 5161–1 application form and the full text of each of the activities (i.e., the GFA) described in Section 4 are available electronically via SAMHSA's World Wide Web Home Page (address: http://www.samhsa.gov).

Application Submission: Unless otherwise stated in the GFA, applications must be submitted to: SAMHSA Programs, Center for Scientific Review, National Institutes of Health, Suite 1040, 6701 Rockledge Drive, MSC–7710, Bethesda, Maryland 20892–7710.*

(* Applicants who wish to use express mail or courier service should change the ZIP code to 20817.)

Application Deadlines: The deadline for receipt of applications is listed in the table above.

Competing applications must be received by the indicated receipt dates to be accepted for review. An application received after the deadline may be acceptable if it carries a legible proof-of-mailing date assigned by the carrier and that date is not later than one week prior to the deadline date. Private metered postmarks are not acceptable as proof of timely mailing.

Applications received after the deadline date and those sent to an address other than the address specified above will be returned to the applicant without review.

FOR FURTHER INFORMATION CONTACT: Requests for activity-specific technical information should be directed to the program contact person identified for the activity covered by this notice (see Section 3).

Requests for information concerning business management issues should be directed to the grants management contact person identified for the activity covered by this notice (see Section 3).

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4. Public Health System Reporting Requirements
5. PHS Non-Use of Tobacco Policy Statement
6. Executive Order 12372

1. Program Background and Objectives

SAMHSA's mission within the Nation's health system is to improve the quality and availability of prevention, early intervention, treatment, and rehabilitation services for substance abuse and mental illnesses, including co-occurring disorders, in order to improve health and reduce illness, death, disability, and cost to society.

Reinventing government, with its emphases on redefining the role of Federal agencies and on improving customer service, has provided SAMHSA with a welcome opportunity to examine carefully its programs and activities. As a result of that process, SAMHSA moved assertively to create a renewed and strategic emphasis on using its resources to generate knowledge about ways to improve the prevention and treatment of substance abuse and mental illness and to work with State and local governments as well as providers, families, and consumers to effectively use that knowledge in everyday practice.

SAMHSA differs from other agencies in focusing on needed information at the services delivery level, and in its question-focus. Dissemination and application are integral, major features of the programs. SAMHSA believes that it is important to get the information into the hands of the public, providers, and systems administrators as effectively as possible. Technical assistance, training, preparation of special materials will be used, in addition to normal communications means.

SAMHSA also continues to fund legislatively-mandated services programs for which funds are appropriated.

2. Criteria for Review and Funding

Consistent with the statutory mandate for SAMHSA to support activities that will improve the provision of treatment, prevention and related services,

including the development of national mental health and substance abuse goals and model programs, competing applications requesting funding under the specific project activity in Section 3 will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures.

2.1 General Review Criteria

As published in the **Federal Register** on July 2, 1993 (Vol. 58, No. 126), SAMHSA's ''Peer Review and Advisory Council Review of Grant and Cooperative Agreement Applications and Contract Proposals,'' peer review groups will take into account, among other factors as may be specified in the application guidance materials, the following general criteria:

- Potential significance of the proposed project;
- Appropriateness of the applicant's proposed objectives to the goals of the specific program;
- Adequacy and appropriateness of the proposed approach and activities;
- Adequacy of available resources, such as facilities and equipment;
- Qualifications and experience of the applicant organization, the project director, and other key personnel; and
- Reasonableness of the proposed budget.

2.2 Funding Criteria for Scored Applications

Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council (if applicable) review process.

Other funding criteria will include:

- Availability of funds.

Additional funding criteria specific to the programmatic activity may be included in the application guidance materials.

3. Special FY 1999 SAMHSA Activities

3.1. Targeted Capacity Expansion Cooperative Agreements for Substance Abuse and HIV/AIDS Prevention (Short Title: Targeted SA & HIV/AIDS Prevention, GFA No. SP 99–03)

- *Application Deadline:* June 17, 1999.
- *Purpose:* The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Prevention announces the availability of *targeted capacity expansion cooperative agreements* to increase community capacity to provide integrated substance abuse and HIV/AIDS prevention services targeted to African American, Hispanic/Latino, and other racial/ethnic minority youth (note that based on congressional report language a portion of the funds for this purpose will be reserved exclusively for African American youth); and African American, Hispanic/Latino, and other racial/ethnic minority women and their children. A Program Coordinating Center to support the efforts of the selected sites will also be funded. The program has three specific purposes: 1) Increase capacity of communities to meet the needs related to the prevention of substance abuse and HIV/AIDS; 2) Assist community-driven services to document and assess effectiveness and efficiency of the interventions implemented; and 3) Facilitate the dissemination of results from these target population appropriate intervention to improve provider practice. This strategy to increase service capacity in communities, to adapt and adopt target population specific interventions, and to disseminate results may ultimately reduce the incidence and prevalence of both HIV/AIDS disease and substance abuse. To promote appropriate services, the interventions designed, implemented, and evaluated through this cooperative agreement program must be tailored to the age, gender, culture, language, level of acculturation, literacy, and sexual orientation of the target populations. The cooperative agreement mechanism is being used because the complexity of the program requires substantive involvement of Federal staff to monitor the implementation of the interventions and a Program Coordinating Center to manage the cross-site evaluation data collection and analysis of results.
- *Priorities:* None.
- *Eligible Applicants:* Applications may be submitted by public and domestic private nonprofit and for-profit entities, such as units of State or local government, community-based organizations, faith communities, local and national coalitions and civic groups, and public or private schools, universities, colleges, and hospitals.

Eligible applicants are limited to the following types of organizations serving at risk African American, Hispanic/Latino, and other racial/ethnic minority youth; and/or African American, Hispanic/Latino, and other racial/ethnic minority women, and women and their children:

(1) Organizations which are currently providing substance abuse prevention services that plan to expand services to include HIV/AIDS prevention; or

(2) Organizations which are currently providing HIV/AIDS prevention services that plan to expand their services to substance abuse prevention; or

(3) Organizations which are currently providing integrated substance abuse and HIV/AIDS prevention services that plan to increase their program capacity and/or to validate the effectiveness of their integrated prevention intervention(s).

- *Cooperative Agreement/Amounts:* It is estimated that $13.5 million will be available to support approximately 50 awards under this GFA in FY 1999. The average award is expected to be $250,000 in total costs (direct+indirect). The Program Coordinating Center award is expected to be between $750,000 and $1,000,000 in total costs (direct + indirect).

Funding for this program is expected to be allocated in three components as follows:

—Projects targeted to African American youth: $6,000,000
(Approximately 24 awards)
—Projects targeted to African American, Hispanic/Latino, and other racial/ethnic minority youth: $2,000,000
(Approximately 8 awards)
—Projects targeted to African American, Hispanic/Latina, and other racial/ethnic minority women and their children: $4,500,000
(Approximately 18 awards)

Support may be requested for a period of up to three years. Annual awards will be made subject to continued availability of funds and progress achieved.

- *Catalog Domestic Federal Assistance:* 93.230.
- *Program Contact:* For programmatic or technical assistance (not for application kits) contact: Lucy Perez, M.D, Director, or Martha Bond, Public Health Advisor, Office of Medical and Clinical Affairs, Center for Substance Abuse Prevention, Substance Abuse and Mental Health Services Administration, Rockwall II, Suite 900, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–3652.

For grants management assistance, contact: Peggy Jones, Division of Grants Management, OPS, Substance Abuse and Mental Health Services Administration, Rockwall II, Suite 630, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3958.

- Application kits are available from: National Clearinghouse for Alcohol and Drug Information, P.O. Box 2345, Rockville, Maryland 20847–2345, 1–800–729–6686.

3.2 SAMHSA Technical Assistance Workshop

SAMHSA is sponsoring three technical assistance workshops for

potential applicants. The workshops will be held at the following locations: March 11, 1999—Washington, DC; March 17, 1999—Chicago, IL; and March 19—Los Angeles, CA. For more information, please call Ms. Lisa Wilder, Workshop Coordinator, at 301–984–1471, extension 333.

4. Public Health System Reporting Requirements

The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements.

5. PHS Non-Use of Tobacco Policy Statement

The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

6. Executive Order 12372

Applications submitted in response to all FY 1999 activities listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR Part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Office of Extramural Activities Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: March 5, 1999.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 99–5906 Filed 3–9–99; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4398–N–03]

1998 HUD Disaster Recovery Initiative Amendments

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice amends a notice published October 22, 1998, governing the allocation and use of HUD Disaster Recovery Initiative grant funds. The amendments add Indian tribes and Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa (Insular Areas) as eligible grant recipients and make technical corrections to the Allocation and Expenditure of Funds section of the original notice.

FOR FURTHER INFORMATION CONTACT: Jan C. Opper, Senior Program Officer, Office of Block Grant Assistance, Department of Housing and Urban Development, Room 7286, 451 Seventh Street, S.W., Washington, DC 20410, telephone number (202) 708–3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339. FAX inquiries may be sent to Mr. Opper at (202) 401–2044. (Except for the ''800'' number, these telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The 1998 Supplemental Appropriations and Rescissions Act (Pub. L. 105–174, 112 Stat. 58, approved May 1, 1998), required the publication of a notice governing the allocation and use of 1998 HUD Disaster Recovery Initiative grant funds. On October 22, 1998, at 63 FR 56764, HUD published a notice to address this requirement. The notice of October 22, 1998 is amended by this notice to make technical corrections and incorporate changes made by section 215 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Pub. L. 105–276, 112 Stat. 2461, approved October 21, 1998), which added Indian tribes and Insular Areas (Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa) as eligible grant recipients. The changes made by the amendments in this notice include amending the definition of ''State'' and ''State grant recipient'' for the purposes of these grants, adjusting specific elements required in the grant application and specifying certifications for Indian tribes. Technical corrections are to the Allocation and Expenditure of Funds section.

Accordingly, FR Doc. 98–28436, the 1998 HUD Disaster Recovery Initiative Notice, published in the **Federal Register** October 22, 1998, 63 FR 56764, is amended as follows:

1. On page 56765, in column 2, the definitions of *State* and *State grant recipient* in section I.D. are revised to read as follows:

State means any State of the United States, and the Commonwealth of Puerto Rico, or an instrumentality thereof approved by the Governor. Additionally, except as pertains to environmental review responsibilities under 24 CFR part 58, for these 1998 Supplemental Appropriations Act funds only, the term ''States'' also includes Indian tribes and Insular Areas (Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa).

State grant recipient means a unit of general local government that receives a DRI grant through a State. Additionally, for these 1998 Supplemental Appropriations Act funds only, the term ''State grant recipient'' also includes

Indian tribes and Insular Areas (Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa).

2. On page 56765, in column 3, paragraph c. of section I.E.2. is removed, and paragraphs d. and e. are redesignated as c. and d., paragraph e. is added as follows, and the redesignated paragraphs c. and d. are revised to read as follows:

c. HUD has set minimum grant amounts for the allocation of funds per disaster at the lesser of $1.5 million or the amount of unmet need identified by FEMA from State sources, and maximum grant amounts per disaster at $20 million.

d. HUD may calculate the allocations of funds to States for an individual declared disaster or in one or more groupings of declared disasters, as it deems appropriate.

e. If a State certifies that it has determined that the unmet needs data previously submitted to FEMA are inaccurate or significantly incomplete, within 45 days of publication of this notice, the Governor may request HUD, in consultation with FEMA, to accept, review, and identify as unmet needs, a revised State submission of such needs. Those needs must be related to a disaster declared during fiscal year 1998 or declared prior to the date of this notice during fiscal year 1999. Such request must be accompanied by the revised unmet needs data in the same format as previously prescribed by FEMA and by a justification for reconsideration.

3. On page 56765, in column 3, in section I.E.3., the date October 1, 2005, is corrected to read October 1, 2006.

4. On page 56766, in column 1, sections I.F.2. and 3. are revised to read as follows:

2. Match contributions must be made to DRI-funded recovery projects related to covered disasters.

3. Match may be provided by any public entity from non-Federal cash, real estate, or revenue resources owned or controlled by the public entity or the value of public improvements and public facilities activities, or force account work undertaken.

5. On page 56766, in column 3, a new section I.G.2A. is added to read as follows:

2A. Indian tribes and the Insular Areas (Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa), only, may omit from their Action Plans the items listed in paragraphs d. and e. of section I.G.2. of this notice, above.

6. On page 56766, in column 3, section I.G.3. is revised to read as follows:

3. A State must only distribute DRI funds to units of general local government and to Indian tribes that have the capability to carry out disaster recovery activities. Indian tribes, and Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa, may carry out activities directly.

7. On page 56766, in column 3, the introductory text of section I.G.4. is revised to read as follows:

4. Each State must describe monitoring standards and procedures pursuant to § 91.330 and include certifications pursuant to:

8. On page 56766, in column 3, a new section I.G.4A. is added to read as follows:

4A. Instead of following section I.G.4. of this notice, above, each Indian tribe must describe monitoring standards and procedures and certify that:

a. It will comply with the requirements of Title II of Public Law 90–284 (25 U.S.C. 1301) (the Indian Civil Rights Act) and any applicable anti-discrimination laws;

b. It will provide the drug-free workplace required by 24 CFR part 24, subpart F;

c. It will comply with restrictions on lobbying required by 24 CFR part 87, together with disclosure forms, if required by that part;

d. It will comply with all applicable laws;

e. It possesses the legal authority to apply for the DRI grant and execute the proposed program;

f. Except as waived, it will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, implementing regulations at 49 CFR part 24;

g. Prior to submission of its application to HUD, it has met the citizen participation requirements of section I.G.5.b. of this notice;

h. The Action Plan for Disaster Recovery has been developed so that more than 50 percent of the funds received under this grant will be used for activities that benefit low- and moderate-income persons (as the term ''activities benefiting low- and moderate-income persons'' is used at § 570.483(b)).

9. On page 56766, in column 3, paragraph I.G.5.ii. is corrected to read as follows:

ii. Publish a proposed Action Plan for Disaster Recovery in such manner to afford affected citizens and units of general local government an opportunity to examine its content and to submit comments on the proposed disaster recovery activities and on the community development performance of the grantee; and

10. On page 56768, in column 3, section I.H.9., the first sentence of the introductory text is corrected to read as follows:

9. *Reimbursement for pre-award costs.* The effective date of the grant agreement is the date HUD obligates the appropriated funds by executing the grant agreement.

11. On page 56770, in column 2, the first paragraph of the introductory text of section I.M.2. is revised to read as follows:

2. *Labor standards.* In part because Davis-Bacon requirements are not applicable to FEMA disaster grants, it is necessary to clarify the applicability of Davis-Bacon requirements in relationship to the use of DRI funds in disaster recovery efforts. This section of this Notice addresses Davis-Bacon applicability to use of DRI funds to reimburse property owners for construction work either completed or in process at the time use of those funds is contemplated. In accordance with the authority under section 107(e)(2) of the Act, the Secretary has waived the labor standards requirements for Indian tribes under this program.

12. On page 56772, in column 3, a new section II.C.3. is added to read as follows:

3. Sections II.C.1. and II.C.2. of this notice, above, do not apply to Indian tribes, which are governed instead by the requirements of Indian Civil Rights Act (25 U.S.C. 1301–1303 Title II of the Civil Rights Act of 1968).

13. On page 56773, in column 2, a new section II.D.4. is added to read as follows:

4. Sections II.D.1. and II.D.2. of this notice, above, do not apply to Indian tribes, which are governed by the Indian Civil Rights Act.

14. On page 56773, in column 2, section II.E.1. is revised to read as follows:

1. Prior to the commitment of any DRI funds, grantees must comply with the regulations in 24 CFR part 58. These regulations require: the analysis of potential environmental impacts; consultation with interested parties; and public notification of the results of the analysis and intent to request release of funds from HUD. State grant recipients must assume the responsibility for environmental reviews under the Disaster Recovery Initiative. States administering DRI funds must assume the responsibilities set forth in section 58.18 for overseeing the State grant recipients' compliance with environmental review requirements, including receiving requests for release

of funds (RROF) and environmental certifications from State grant recipients and objections from government agencies and the public in accordance with subpart H of 24 CFR part 58. Indian tribes, Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa must forward to the responsible HUD field office the environmental certification, the RROF and any objections received, and must recommend to HUD whether to approve or disapprove the certification and RROF.

Authority

1998 Supplemental Appropriations and Rescissions Act (Pub. L. 105–174, 112 Stat. 58, at 76–77, approved May 1, 1998); Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Pub. L. 105–276, 112 Stat. 2461, section 215, approved October 21, 1998).

Dated: March 4, 1999.

Cardell Cooper,

Assistant Secretary for Community Planning and Development.

[FR Doc. 99–5859 Filed 3–9–99; 8:45 am]

BILLING CODE 4210–29–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Preparation of an Environmental Impact Statement for the Proposed Restoration of a Portion of Icicle Creek Near Leavenworth National Fish Hatchery, Chelan County, WA

AGENCY: Fish and Wildlife Service, Interior. Cooperating Agency: Forest Service, U.S. Department of Agriculture.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service (Service) and U.S. Forest Service intend to gather information necessary for the preparation of an Environmental Impact Statement (EIS). The EIS will consider, analyze and disclose the potential environmental impacts of a site specific restoration project on Icicle Creek. The proposed restoration site is approximately 3 miles south of the town of Leavenworth, Washington on the grounds of the Leavenworth National Fish Hatchery. The restoration objectives include: (1) Providing passage to habitat above the hatchery to native fish, and (2) restoring the historic Icicle Creek channel within the hatchery grounds. To achieve these objectives, alternative restoration strategies may include the following actions: modification or removal of weirs in the original channel; removal of the diversion dam from Icicle Creek and restoration of streamflow in the historic channel; removal of silt that has built up in holding ponds in the historic channel; and removal of the canal and energy dispersion spillway. This notice is being furnished pursuant to the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA) Regulations (40 CFR 1501.7 and 1508.22) to obtain suggestions and information from other agencies and the public on the scope of issues and alternatives to be considered in preparation of the EIS.

DATES: Comments concerning the scope and analysis of this proposal should be received by June 1, 1999.

ADDRESSES: Comments regarding the scope of the EIS should be addressed to Greg Pratschner, National Fish Hatchery Manager, 12790 Fish Hatchery Road, Leavenworth, Washington 98826. Comments should be received on or before June 1, 1999, at the above address. Written comments may also be sent by facsimile to (509) 548–6263. Comments received will be available for public inspection by appointment during normal business hours (8:00 a.m. to 4:00 p.m., Monday through Friday) at the above office; please call for an appointment. All comments received will become part of the administrative record and may be released.

FOR FURTHER INFORMATION CONTACT: Corky Broaddus, Public Information Officer, Leavenworth National Fish Hatchery, 12790 Fish Hatchery Road, Leavenworth, Washington 98826; phone (509) 548–7641.

SUPPLEMENTARY INFORMATION: The proposed Icicle Creek Restoration Project was prompted by citizens interested in re-establishing fish passage to upper Icicle Creek. The original design of the Leavenworth National Fish Hatchery involved diverting the majority of the flow of Icicle Creek to a canal and construction of holding dams and ponds in the original channel. These structures effectively blocked upper Icicle Creek to fish passage and reduced the effective stream channel by 1.5 miles. Since these structures are no longer necessary for hatchery operation, a fish passage and stream restoration project has been proposed. The environmental analysis will examine different ways to restore this portion of Icicle Creek as well as re-establish fish passage.

A range of alternatives for stream restoration will be considered, including: a no action alternative (maintaining the current situation), an alternative that would remove all unnecessary in-stream structures, an alternative that would remove silt which has been deposited in the historic stream channel and an alternative where diversion of the main flow of Icicle Creek would be returned to the historic channel. Other alternatives may be developed in response the comments received during public scoping.

To date the following issues have been identified: hydrologic and sedimentation concerns, potential water quality changes, tribal fishing, recreational fishing, irrigation or water rights, hatchery operations, economic concerns, heritage values, and sensitive plants, animals and fish.

The decision to be made through this analysis is where, how, and to what extent should stream restoration and fish passage projects be implemented at the Leavenworth National Fish Hatchery.

The U.S. Forest Service, Department of Agriculture, has agreed to participate as a cooperating agency to evaluate potential effects to sensitive plants and animals and to recreation in upper Icicle Creek, and to provide hydrologic and planning skills. Public participation will be especially important at several points during the analysis. The U.S. Fish and Wildlife Service is seeking information, comments and assistance from federal, state, tribal, and local agencies, as well as individuals and organizations who may be interested or be affected by the proposed actions. This information will be used in preparation of the draft EIS. The scoping process includes: (1) Identifying potential issues; (2) identifying additional alternatives; and (3) identifying potential environmental effects of the proposed alternatives. The Service invites written comments on the scope of this project. In addition, the Service gives notice of this analysis so the interested and affected people are aware of how they may participate and contribute to the final decision.

Dated: March 3, 1999.

Don Weathers,

Regional Director, Region 1, Fish and Wildlife Service.

[FR Doc. 99–5935 Filed 3–9–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–360–1150–00]

Notice of Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Northwest California Resource Advisory Council, Redding, California.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Public Law 94–463) and the Federal Land Policy and Management Act (Public Law 94–579), the U.S. Bureau of Land Management's Northwest California Resource Advisory Council will meet Thursday and Friday, April 8 and 9, 1999, at the Redding Rancheria, 2000 Redding Rancheria Rd., Redding, CA.

SUPPLEMENTARY INFORMATION: The meeting begins at 10 a.m., Thursday, April 8, in the multi-purpose room of the Redding Rancheria. Agenda items include recommended changes to the council charter, land exchanges, use of subgroups, an update on acquisition of the Headwaters Forest, and updates on the Knoxville Plan and Payne Ranch acquisition. Managers of the BLM Arcata, Redding and Ukiah field offices will also present reports. Time will be reserved at 1 p.m. for public comments. Depending on the number of persons wishing to speak, a time limit may be established.

On Friday, April 9, members will convene at 8 a.m. and depart for a field tour of public lands managed by the BLM's Redding Field Office. Members of the public are welcome on the tour, but they must provide their own transportation. The field tour and meeting will adjourn by noon.

FOR FURTHER INFORMATION: Contact Joseph J. Fontana, public affairs officer, at (530) 257–5381.

Joseph J. Fontana,

Public Affairs Officer.

[FR Doc. 99–5864 Filed 3–9–99; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notification of Purchase and Conveyances of Lands and Wilderness Designation in Katmai National Park and Preserve, AK

SUMMARY: This notice contains the legal descriptions of: (1) Lands and interests in land acquired by the United States from the Heirs, Devisees and/or Assigns of Palakia Melgenak in the Brooks River area, Alaska; (2) lands conveyed by the United States to the Heirs, Devisees and/or Assigns of Palakia Melgenak in the Savonoski River area, Alaska; (3) lands designated and made part of the National Wilderness Preservation System in the Geographic Harbor area, Alaska. All the above lands lie within Katmai National Park and Preserve. The above actions are authorized by section 135 of Public Law 105–277.

SUPPLEMENTARY INFORMATION: Section 135 of Public Law 105–277 authorizes the purchase by the United States of certain lands and interests in land, a certain conveyance of land by the United States, and inclusion of certain lands in the National Wilderness Preservation System, and directs the Secretary of the Interior to publish legal descriptions of all such lands in the **Federal Register**. Such legal descriptions are provided below.

(1) Lands or interests in land acquired by the United States from the Heirs, Devisees and/or Assigns of Palakia Melgenak:

Lot (1) of Dependent Resurvey and Subdivision of U.S. Survey No. 7623, dated November 17, 1998, Third Judicial District, Kvichak Recording District, State of Alaska. Containing 47.53 acres.

Lots Two (2) and Three (3) of Dependent Resurvey and Subdivision of U.S. Survey No. 7623, dated November 17, 1998, Third Judicial District, Kvichak Recording District, State of Alaska. (Conservation Easement). Containing 20.43 acres.

(2) Land conveyed by the United States to the Heirs, Devisees and/or Assigns of Palakia Melgenak:

U.S. Survey No. 12483, Third Judicial District, Kvichak Recording District, State of Alaska. Containing 9.99 acres.

(3) Lands designated as wilderness as part of the National Wilderness Preservation System and added to the Katmai Wilderness as designated by section 701(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 1132 note):

A strip of land approximately one half mile long and 165 feet wide lying within Section 1, Township 24 South, Range 33 West, Seward Meridian, Alaska, the center line of which is the center of the unnamed stream from its mouth at Geographic Harbor to the north line of said Section 1. Said unnamed stream flows from the unnamed lake located in Sections 25 and 36, Township 23 South, Range 33 West, Seward Meridian. This strip of land contains approximately 10 acres.

Additionally, legal descriptions and maps have been made available for public inspection at the National Park Service offices in Anchorage, King Salmon and Kodiak, Alaska.

FOR FURTHER INFORMATION CONTACT: Chief, Land Resources Program Center, Alaska Region, National Park Service, 2525 Gambell Street, Room 107, Anchorage, Alaska 99503 (Phone: 907–257–2584).

Judith Gottlieb,

Acting Regional Director, Alaska Region.

[FR Doc. 99–5840 Filed 3–9–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[FES 99–9]

Development of a Wetlands Park in Las Vegas Wash in Clark County, Nevada

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability of a final environmental impact statement (FEIS).

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended, the Bureau of Reclamation (Reclamation) and the Clark County Parks and Recreation have prepared a FEIS on potential impacts from the proposed Wetlands Park in Las Vegas Wash, Clark County, Nevada. Reclamation's involvement stems from a request for a lease for the wetlands park.

ADDRESSES: Copies of the FEIS are available for public inspection and review at the following locations:

- Bureau of Reclamation, Program Analysis Office, Room 7456, 1849 C Street NW., Washington, DC 20240; telephone: (202) 208–4662.
- Bureau of Reclamation, Denver Office Library, Building 67, Room 167, Denver Federal Center, 6th and Kipling, Denver, CO 80225; telephone: (303) 236–6963.
- Bureau of Reclamation, Lower Colorado Region, Park Street and Nevada Highway, Boulder City, Nevada 89006–1470: telephone (702) 293–8698.
- Clark County Department Parks and Recreation, 2601 East Sunset Road, Las Vegas, NV 89120; telephone: (702) 455–8287.
- Copies of the FEIS will be available for inspection at local libraries All those who commented on the Draft EIS or gave presentations at the Public Hearing will receive a copy of the FEIS.

FOR FURTHER INFORMATION CONTACT: Mr. Del Kidd, Bureau of Reclamation, Lower Colorado Region, P.O. Box 61470,

Boulder City, NV 89006-1470, telephone: (702) 293–8698, or Mr. Bruce Sillitoe, Department of Parks and Recreation, 2601 East Sunset Road, Las Vegas, NV 89120, telephone: (702) 455-8287.

SUPPLEMENTARY INFORMATION: The proposed project is a Wetlands Park (Park) along a 7 mile reach of Las Vegas Wash in southeastern Nevada, in portions of Whitney and the City of Henderson, and unincorporated portions of Clark County, Nevada. The Park is proposed by the Clark County Department of Parks and Recreation. Portions of the Park will be constructed on lands administered by Reclamation. Because Reclamation lands are involved in this proposal, National Environmental Policy Act compliance is required. Also, because Reclamation lands are involved, it was agreed that Reclamation would be the lead agency for NEPA compliance.

In 1991, Nevada residents approved, by ballot, a wildlife and park bond earmarking $13.3 million for the wetlands park project in Las Vegas Wash.

A critical need for the Las Vegas Wash is to control erosion. Flows in the upper reaches of the Wash and its tributaries are intermittent and occur primarily during storms. Flows in the lower reaches are primarily from treated wastewater effluent. The water from these two areas is ultimately discharged into Lake Mead. As urban development continues throughout the Las Vegas Valley, the amount of impervious surface area and subsequent stormwater runoff will increase. The increase in wastewater flows and stormwater runoff have accelerated erosion and channelization. In the last 15 years, wetlands have been reduced by approximately 400 acres. This erosion has resulted in 4 to 5 million cubic yards of sediment being deposited in Lake Mead.

In addition to no action, four alternatives are addressed in the FEIS: Conservation, Recreation, Full Development, Integrated Alternative. The Conservation Alternative primary purpose would be to protect and enhance wildlife habitat. The Recreation Alternative primary purpose would be to create a full range of recreation activities and wildlife viewing opportunities for people of all abilities. The Full Development Alternative primary purpose would be to develop the area as a major environmental and recreational resource that emphasizes the enhancement of natural resources, recreational development, and major facilities for education and for large numbers of visitors. The Integrated Alternative (preferred alternative) primary purpose would be for an environmental and recreational resource that emphasized habitat enhancement, and recreational/educational facilities for visitors.

A variety of impacts were addressed; among these were the following: geology, air quality, hydrology, water quality, biological resources, land use, transportation, noise, cultural resources, health & safety, and visual resources.

There are two major areas of controversy: sediment quality and water use.

The Draft EIS was issued July 2, 1997. Comments received from interested organizations and individuals on the Draft EIS were addressed in the FEIS. No decision will be made on the proposed action until 30 days after the release of the FEIS. After the 30-day waiting period, Reclamation will complete a Record of Decision. This document will present the action that will be implemented and will discuss all factors leading to the decision.

Dated: February 18, 1999.

Deanna Miller,

Director, Resource Management Office.

[FR Doc. 99–5936 Filed 3–9–99; 8:45 am]

BILLING CODE 4310–94–P

INTERNATIONAL TRADE COMMISSION

Agency Form Submitted for OMB Review

AGENCY: United States International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Commission has submitted a request for approval of questionnaires to the Office of Management and Budget for review.

EFFECTIVE DATE: February 26, 1999.

PURPOSE OF INFORMATION COLLECTION: The forms are for use by the Commission in connection with investigation No. 332–404, Methyl Tertiary Butyl Ether (MTBE): Conditions Affecting the Domestic Industry, instituted under the authority of section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). This investigation was requested by the United States Trade Representative (USTR). The Commission expects to deliver the results of its investigation to the USTR by September 23, 1999.

Summary of Proposal

(1) *Number of forms submitted:* one.

(2) *Title of form:* Methyl Tertiary Butyl Ether (MTBE): Conditions Affecting the Domestic Industry—Questionnaire for U.S. Producers and Purchasers/Importers.

(3) *Type of request:* new.

(4) *Frequency of use:* Producer/Purchaser questionnaire, single data gathering, scheduled for 1999.

(5) *Description of respondents:* U.S. firms which produce or purchase/import MTBE.

(6) *Estimated number of respondents:* 32 (Producers and/or purchasers).

(7) *Estimated total number of hours to complete the forms:* 6 hours.

(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

FOR FURTHER INFORMATION CONTACT: Copies of the forms and supporting documents may be obtained from Elizabeth R. Nesbitt, Project Leader (telephone no. 202–205–3355), or Christopher Robinson, Deputy Project Leader (telephone no. 202–205–2334). Comments about the proposals should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Room 10102 (Docket Library), Washington, DC 20503, ATTENTION: Docket Librarian. All comments should be specific, indicating which part of the questionnaire is objectionable, describing the concern in detail, and including specific suggested revisions or language changes. Copies of any comments should be provided to Robert Rogowsky, Director, Office of Operations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, who is the Commission's designated Senior Official under the Paperwork Reduction Act.

Hearing impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal (telephone no. 202–205–1810). General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

Issued: March 4, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–5932 Filed 3–9–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–334 (Advisory Opinion Proceedings)]

Certain Condensers, Parts Thereof and Products Containing Same, Including Air Conditioners for Automobiles; Notice of Commission Determination To Institute Advisory Opinion Proceedings

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to institute advisory opinion proceedings in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3104. Hearing impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION: This investigation was instituted on January 23, 1992, based on a complaint filed by Modine Manufacturing Company (Modine). 57 Fed. Reg. 2784. The investigation terminated with a finding of no violation of section 337. The U.S. Court of Appeals for the Federal Circuit, however, reversed that determination in *Modine Manufacturing Co.* v. *USITC*, 75 F.3d 1545 (Fed. Cir. 1996), and remanded the investigation to the Commission to redetermine various issues involving claim construction and infringement. The Commission, in turn, remanded the investigation to an administrative law judge (ALJ). On December 2, 1996, the ALJ issued an ID finding a violation of section 337 by respondents. The Commission modified the ALJ's ID slightly, but adopted its finding of violation and issued a limited exclusion order against respondents Showa Aluminum Corporation of Japan and Showa Aluminum Corporation of America (collectively, Showa) on August 20, 1997. The Commission's limited exclusion order was based on a finding that Showa's imported ''SC'' models of condensers for automobile air conditioning systems infringed claims 9 and 10 of U.S. Letters Patent 4,998,580 (the '580 patent), held by complainant Modine.

On December 22, 1998, Showa filed a petition for an advisory opinion under Commission rule 210.79(a) that would declare that a new condenser model that Showa has developed does not infringe the claims in controversy of the '580 patent. On January 12, 1999, Showa filed a corrected petition. The Commission examined Showa's petition for an advisory opinion and has determined that it complies with the requirements for institution of an advisory opinion proceeding under Commission rule 210.79(a). Accordingly, the Commission determined to institute an advisory opinion proceeding and referred Showa's petition to the presiding ALJ for issuance of an initial advisory opinion.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and Commission rule 210.79(a), 19 CFR 210.79(a).

Copies of the public version of Showa's petition, and all other 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 S.W., Washington, D.C. 20436, telephone 202–205–2000.

By order of the Commission.

Issued: March 4, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–5933 Filed 3–9–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–44 (Review)]

Sorbitol From France

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission determines,[2] pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act), that revocation of the antidumping duty order on sorbitol from France would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted this review on October 1, 1998, (63 FR 52757) and determined on January 7, 1999, that it would conduct an expedited review (64 FR 5075, Feb. 2, 1999).

The Commission is scheduled to transmit its determination in this investigation to the Secretary of Commerce on March 11, 1999. The views of the Commission will be contained in USITC Publication 3165 (March 1999), entitled Sorbitol from France: Investigation No. 731–TA–44 (Review).

By order of the Commission.

Issued: March 4, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–5934 Filed 3–9–99; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services; Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review; problem solving partnerships: Analysis and assessment surveys.

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until May 10, 1999. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are requested. Comments should address one or more of the following of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, 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 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,

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Chairman Bragg and Commissioner Askey dissenting.

e.g., permitting electronic submission of responses. Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the COPS Office, PPSE Division, 1100 Vermont Ave, NW, Washington, DC 20530–0001. Comments also may be submitted to the COPS Office via facsimile to 202–633–1386. In addition, comments may be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW, Washington, DC, 20530. Comments may be submitted to DOJ via facsimile to 202–514–1534.

Overview of this information collection:

(1) *Type of Information Collection:* New collection.

(2) *Title of the Form/Collection:* Problem Solving Partnerships: Analysis and Assessment Surveys.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form: COPS 29/01. Office of Community Oriented Policing Services, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Local law enforcement agencies that received grant funding for the Problem Solving Partnerships (PSP) grant from the COPS Office will be surveyed regarding the activities and outcomes of the analysis and assessment phases of their grant project.

The agencies implementing the problem-solving process through their PSP grants vary significantly in terms of population size, primary problems, location, partners, evaluators, and demographics. The agencies and their partners are working together to target either specific property crimes, violent crimes, problems associated with drugs and/or alcohol, or crimes related to public disorder.

The COPS Office is looking to provide documentation that may stimulate the promotion of problem solving as a way of addressing crime/disorder problems for both current and future grantees looking to implement the problem-solving approach. Copies of the survey instruments to be used by the contractor to obtain information from the PSP grantees are attached. The Analysis Survey will be distributed to grantees once OMB approval is obtained. The Assessment Survey will be distributed to grantees at a later date, once agencies have completed evaluating the impact of their tailor-made responses. Information obtained from these surveys will be disseminated to other departments to promote the adoption of problem-solving approaches.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Each survey, the Analysis Survey and the Assessment Survey, will be administered one time: Approximately 470 respondents per survey administration, at 55 minutes per respondent per survey (including record-keeping).

(6) *An estimate of the total public burden (in hours) associated with the collection:* Approximately 861.6 hours.

IF ADDITIONAL INFORMATION IS REQUIRED CONTACT: Ms. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington, Center, 1001 G Street NW, Washington, DC 20530.

Dated: March 4, 1999.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 99–5857 Filed 3–9–99; 8:45 am]

BILLING CODE 4410–AT–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service Agency Information Collection Activities

ACTION: Notice of information collection under review; Application for Certificate of Citizenship.

The Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on August 13, 1998 at 63 FR 43419, allowing for a 60-day public comment period. No comments were received by the Immigration and Naturalization Service. The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until; April 9, 1999. This process is conducted in accordance with 5 CFR Part 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Stuart Shapiro, 202–395–7316, Department of Justice Desk Officer, Washington, DC 20503.

Additionally, comments may be submitted to OMB via facsimile to 202–395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW., Washington, DC 20530. Comments may also be submitted to DOJ via facsimile to 202–514–1534.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, 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 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.

Overview of This Information Collection

(1) *Type of Information Collection:* Reinstatement without change of previously approved information collection.

(2) *Title of the Form/Collection:* Application for Certificate of Citizenship.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N–600. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This form is provided by the Service as a uniform format for obtaining essential data necessary to determine the applicant's eligibility for the requested immigration benefit.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 67,936 responses at 1 hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 67,936 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Mr. Richard A. Sloan, 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: March 3, 1999.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 99–5839 Filed 3–9–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities

ACTION: Notice of Information Collection Under Review; Request for Information from Selective Service Files.

The Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on August 13, 1998 at 63 FR 43418, allowing for a 60-day public comment period. No comments were received by the Immigration and Naturalization Service. The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until April 9, 1999. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Stuart Shapiro, 202–395–7316, Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to 202–395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW, Washington, DC 20530. Comments may also be submitted to DOJ via facsimile to 202–514–1534.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, 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 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.

Overview of This Information Collection

(1) *Type of Information Collection:* Reinstatement without change of previously approved information collection.

(2) *Title of the Form/Collection:* Request for Information from Selective Service Files.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N–422. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This form is necessary to obtain information from Selective Service to determine eligibility for naturalization as provided in the Immigration and Nationality Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 2,000 responses at 10 minutes (.166 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 332 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Mr. Richard A. Sloan, 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW, Washington, DC 20536.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: March 5, 1999.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 99–5967 Filed 3–9–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities

ACTION: Notice of Information Collection Under Review; Request for Hearing on a Decision in Naturalization Proceedings Under Section 336.

The Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on August 13, 1998 at 63 FR 43420, allowing for a 60-day public comment period. No comments were received by the Immigration and Naturalization Service. The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until; April 9, 1999. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Stuart Shapiro, 202–395–7316, Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to 202–395–7285. Comments may also be

submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW., Washington, DC 20530. Comments may also be submitted to DOJ via facsimile to 202–514–1534.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, 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 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.

Overview of This Information Collection

(1) *Type of Information Collection:* Reinstatement without change of previously approved information collection.

(2) *Title of the Form/Collection:* Request for Hearing on a Decision in Naturalization Proceedings Under Section 336.

(3) *Agency from number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N–336. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract;* Primary: Individuals or Households. This form will be used by applicants for naturalization to pursue the only avenue available to them in the appeal process.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 7,669 responses at 165 minutes (2.75 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 21,090 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Mr. Richard A. Sloan, 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536.

If additional information is required contact; Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: March 5, 1999.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 99–5968 Filed 3–9–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities

ACTION: Notice of Information Collection Under Review; Request for Verification of Naturalization.

The Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on August 13, 1998 at 63 FR 43419, allowing for a 60-day public comment period. No comments were received by the Immigration and Naturalization Service. The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until; April 9, 1999. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Stuart Shapiro, 202–395–7316, Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to 202–395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW., Washington, DC 20530. Comments may also be submitted to DOJ via facsimile to 202–514–1534.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, 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 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.

OVERVIEW OF THIS INFORMATION COLLECTION

(1) *Type of Information Collection:* Reinstatement without change of previously approved information collection.

(2) *Title of the Form/Collection:* Request for Verification of Naturalization.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N–25. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This form is used to obtain information from the records of a clerk of court which may be needed by a person applying for benefits under various provisions of the Immigration and Nationality Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 1,000 responses at 15 minutes (.25 hours) per response.

(6) *An estimate of the total burden (in hours) associated with the collection:* 250 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or

additional information, please contact Mr. Richard A. Sloan, 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: March 5, 1999.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 99–5969 Filed 3–9–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities

ACTION: Notice of Information Collection Under Review; Change of Address Card.

The Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on August 13, 1998 at 63 FR 43418, allowing for a 60-day public comment period. No comments were received by the Immigration and Naturalization Service. The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until April 9, 1999. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Stuart Shapiro, 202–395–7316, Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to 202–395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW., Washington, DC 20530. Comments may also be submitted to DOJ via fascsimile to 202–514–1534.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, 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 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.

Overview of This Information Collection

(1) *Type of Information Collection :* Reinstatement without change of previously approved information collection.

(2) *Title of the Form/Collection:* Change of Address Card.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–697A. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The Service uses the information to update an applicant's address in the Legalization Automated Database.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 200,000 responses at 5 minutes (.083) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 16,600 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Mr. Richard A. Sloan, 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, N.W., Washington, DC 20536.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: March 5, 1999.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 99–5970 Filed 3–9–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection; Revision of a currently approved collection; Arrestee Drug Abuse Monitoring (ADAM, formerly Drug Use Forecasting) Program.

The Department of Justice, Office of Justice Programs, has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on November 19, 1998 (Volume 63, Number 223, pages 64285–64286), allowing for a 60-day public comment period. No comments were received by the Office of Justice Programs on this proposed revision of a currently approved collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until April 9, 1999. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Room 10235, Washington, DC 20530; 202–395–7316.

Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have any practical utility;

(2) 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;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of 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.

Overview of this information collection:

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Arrestee Drug Abuse Monitoring (ADAM, formerly Drug Use Forecasting) Program.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* No agency form number. Office of Research and Evaluation, National Institute of Justice, Office of Justice Programs.

(4) *Affected public who will be asked to respond, as well as a brief abstract:* Misdemeanor and felony arrestees in city and county jails and detainees in juvenile detention facilities. The ADAM program monitors the extent and types of drug use among arrestees. By the end of FY 1998 the program will operate in 35 cities. An additional 15 sites are proposed for 1999, to bring the total to 50 cities, and 25 additional cities in the year 2000, to bring to total number of data collection sites to 75. Data are collected in each site every three months from a new sample of arrestees. Participation is voluntary and confidential and data collected include a personal interview and urine specimen.

(5) *An estimate of total number of respondents and amount of time estimated for an average respondent to respond:* Following is the maximum number of responses expected for the main ADAM questionnaire in Fiscal Years 2000 and 20001. The estimate here is revised from the estimate provided in the previously published 60-day notice which did not apply the correct assumption for number of supplemental (or ''addendum'') surveys to be fielded. The estimate assumes that 50 sites are in operation all quarters of FY 1999 and 75 sites are in operation all quarters of FY 2000. In FY 1999, 50000 adult male arrestees, 20000 adult female arrestees, 20000 juvenile male detainees, and 10000 juvenile female detainees will be interviewed (total = 100,000 at 30 minutes a response). In FY 2000, 75000 adult male arrestees, 30000 adult female arrestees, 30000 juvenile male detainees, and 15000 juvenile female detainees will be interviewed. (total = 150,000 at 30 minutes a response). Additionally, ''addendum'' questionnaires will be administered to the same respondents at some number of sites for some number of quarters over the year. The estimate provided here is the maximum number of responses that will be obtained: it is assumed that all sites will field one addendum questionnaire in 3 out of the 4 quarters of the year. In FY 1999, the maximum number of addendum questionnaires administered across all respondent types will be 75,000 at 10 minutes per response; and in FY 2000 the maximum number of addendum questionnaires administered will be 112,500 at 10 minutes a response.

(6) An estimate of the total public burden (in hours) associated with the collection: 62,500 hours in FY 1999 and 93,750 hours in FY 2000.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Dr. K. Jack Riley 202–616–9030, Director, Arrestee Drug Abuse Monitoring (ADAM) Program, National Institute of Justice, room 7344, 810 7th Street NW, Washington, DC, 20531. Additionally, comments and/or suggestions regarding the items(s) contained in this notice, especially regarding the estimated public burden and associated response time, may also be directed to Dr. K. Jack Riley.

If additional information is required, contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: March 3, 1999.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 99–5856 Filed 3–9–99; 8:45 am]

BILLING CODE 4410–18–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (99–042)]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Availability of Inventions for Licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: March 10, 1999.

FOR FURTHER INFORMATON CONTACT: Patent Counsel, Ames Research Center, Mail Code 202A–3, Moffett Field, CA 94035; telephone (650) 604-5104; fax (650) 604–1592. NASA Case No. ARC–14281–2GE: Neural Network-Based Redesign of Transonic Turbines for Improved Unsteady Aerodynamic Performance; NASA Case No. ARC–14353–1LE: A Coupled Aero-Structural Optimization Method; NASA Case No. ARC–14359–1LE: Direct-To Controller Tool; NASA Case No. ARC–14275–1CU: Triangle Geometry Processing for Surface Modeling and Cartesian Grid Generation; NASA Case No. ARC–14198–1GE: Optical Writing System.

Dated: March 3, 1999.

Edward A. Frankle,

General Counsel.

[FR Doc. 99–5877 Filed 3–9–99; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (99–043)]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Availability of Inventions for Licensing

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: March 10, 1999.

FOR FURTHER INFORMATON CONTACT: Mr. Guy M. Miller, Patent Counsel, Goddard Space Flight Center, Mail Code 750.2, Greenbelt, MD 20771; tel. 301–286–7351. NASA Case No. GSC 13,791–1:

Eddy Current Method for Current Stress Mapping of Surface Treated Components; NASA Case No. GSC 14,205–1: Continuously Variable Planetary Transmission.

Dated: March 3, 1999.

Edward A. Frankle,

General Counsel.

[FR Doc. 99–5878 Filed 3–9–99; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL LABOR RELATIONS BOARD

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: National Labor Relations Board.

TIME AND DATE: 3:30 p.m., Monday, February 22, 1999.

PLACE: Board Conference Room Eleventh Floor, 1099 Fourteenth St., N.W., Washington, D.C. 20570.

STATUS: Closed to public observation pursuant to 5 U.S.C. Section 552b(c)(2), (internal personnel rules and practices); and (9(B) (disclosure would significantly frustrate implementation of a proposed Agency action . . .).

MATTERS TO BE CONSIDERED: Personnel Matters.

CONTACT PERSON FOR MORE INFORMATION: John J. Toner, Executive Secretary, Washington, D.C. 20570, Telephone: (202) 273–1940.

Dated: Washington, D.C., March 8, 1999.

By direction of the Board.

John J. Toner,

Executive Secretary, National Labor Relations Board.

[FR Doc. 99–6025 Filed 3–8–99; 11:30 am]

BILLING CODE 7545–01–M

NATIONAL LABOR RELATIONS BOARD

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: National Labor Relations Board.

TIME AND DATE: 10:00 a.m., Wednesday, February 24, 1999.

PLACE: Board Conference Room, Eleventh Floor, 1099 Fourteenth St., NW., Washington, DC 20570.

STATUS: Closed to public observation pursuant to 5 U.S.C. Section 552b(c)(2), (internal personnel rules and practices); and 9(B) (disclosure would significantly frustrate implementation of a proposed Agency action . . .).

MATTERS TO BE CONSIDERED: Personnel Matters.

CONTACT PERSON FOR MORE INFORMATION: John J. Toner, Executive Secretary, Washington, DC 20570, Telephone: (202) 273–1940.

Dated: Washington, DC, March 8, 1999.

By direction of the Board.

John J. Toner,

Executive Secretary, National Labor Relations Board.

[FR Doc. 99–6026 Filed 3–8–99; 11:32 am]

BILLING CODE 7545–01–M

NUCLEAR REGULATORY COMMISSION

[IA 98–006]

Gary Isakoff; Order Prohibiting Involvement in NRC-Licensed Activities

I

Mr. Gary Isakoff (Mr. Isakoff) was the Assistant Chief Nuclear Medicine Technologist in the Nuclear Medicine Department (NMD) of Temple University Hospital (TUH or licensee) between December 1990 and February 13, 1997. TUH holds Facility License No. 37–00697–31, issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Parts 30 and 35, which authorizes TUH to use byproduct material for medical use and research and development.

II

Between January 15 and September 30, 1997, an investigation was conducted by the NRC Office of Investigations (OI) to determine if Mr. Isakoff, while functioning as the Assistant Chief Nuclear Medicine Technologist (a first line supervisor), deliberately falsified a record of a weekly wipe test survey for removable contamination of the hot lab. A second OI investigation was conducted between January 20 and August 31, 1998, to determine whether Mr. Isakoff routinely failed to record or to accurately record on Dose Dispensing Forms (DDFs) information required by 10 CFR 35.53, pertaining to the administration of radiopharmaceutical doses to patients, and whether Mr. Isakoff boosted doses of radiopharmaceuticals to patients above the prescribed dosages without authorization from an authorized user. A predecisional enforcement conference was held with Mr. Isakoff on November 19, 1998.

TUH is required to conduct surveys for removable contamination once each week of all areas where radiopharmaceuticals are routinely prepared for use, administered or stored, and to retain a record of each such survey for three years. 10 CFR 35.70 (e) and (h). Mr. Isakoff maintained at the predecisional enforcement conference that he did in fact perform a weekly wipe test survey of the hot lab for removable contamination on Saturday, September 28, 1996, and that he accurately recorded the results of that survey. Based upon all the evidence, the NRC staff concludes, for reasons explained below, that Mr. Isakoff did not perform a wipe test survey of the hot lab for the week ending September 28, 1996, and that he deliberately created licensee records to falsely indicate that he had performed a weekly wipe test survey of the hot lab on September 28, 1996.

Due to a boil-over, a spill of a Technetium-99m sulfur colloid had occurred in the hot lab on Thursday, September 26, 1996. A Nuclear Medicine Technologist (NMT) stated to investigators that on Monday, September 30, 1996, Mr. Isakoff instructed her to tell anyone who asked that she had performed a wipe test survey of the hot lab on September 28. That NMT had not performed such a survey on September 28, 1996. A second NMT overheard Mr. Isakoff's instruction. On Tuesday, October 1, Mr. Isakoff asked the first NMT if the NRC, which was at the facility conducting an inspection on that date, had inquired about the weekly wipe test survey during its visit. The NMT told Mr. Isakoff that she would not lie if asked about the weekly wipe test survey. On Wednesday, October 2, Mr. Isakoff told the NMT that he ''forgot'' that he did come in on Saturday, September 28, and that he had in fact performed a wipe test survey of the hot lab on that date. Mr. Isakoff stated at the enforcement conference that because of the spill, he and others expected that the NRC would come to TUH the following week, and as a result, he worked on Saturday, September 28, to ensure that everything was perfect, and is certain he performed the weekly wipe test survey that day.

There is no reliable documentary evidence to corroborate Mr. Isakoff's statement that he was in the NMD on Saturday, September 28, and no witness to his presence. Mr. Isakoff did not have on-call responsibilities and thus was not scheduled to work on weekends. He stated that, nonetheless, he frequently worked evenings during the week, and on Saturdays or Sundays approximately once or twice per month, in order to complete paperwork and make sure tests such as wipe surveys and bar phantom tests had been performed, and that he made a point of informing his supervisors when he did so. The Chief NMT, however, stated that Mr. Isakoff did not mention working on Saturdays

or on September 28, 1996, until several weeks later, after the licensee became aware that the September 28, 1996, wipe test record might have been falsified.

Although the wipe test instrument register automatically prints the date and time of a wipe test on the instrument register strip, that portion of the strip showing the date and time of the wipe test, which Mr. Isakoff claims to have performed on September 28, 1996, was missing and appears to have been deliberately torn off. The register strip was stapled to a department wipe test form dated September 28 and signed by Mr. Isakoff.

The only other documentary evidence of Mr. Isakoff's presence in the NMD on September 28, 1996, consists of a bar phantom test record which, as explained below, was falsely dated September 28. Mr. Isakoff stated during the enforcement conference that when he came in on weekends, he generally completed paperwork and sometimes performed bar phantom tests for the NMD cameras. Bar phantom tests are quality assurance tests performed to ensure that resolution of the cameras is adequate, and although not an NRC requirement, are required by licensee procedures to be performed on a weekly basis. On November 19, 1996, Mr. Isakoff stated during an interview with an investigator for TUH concerning possible falsification of the weekly wipe test survey for September 28, 1996, that he had performed one or two bar phantom tests on September 28, 1996. Such test records would presumably provide an indication of Mr. Isakoff's presence in the NMD on September 28, 1996. However, the licensee examined its bar phantom test and computer records because on November 21, 1996, the Director of the NMD found a record of a bar phantom test, dated September 28, 1996, which had not been present during the Director's review of bar phantom test records on November 20, 1996. The licensee subsequently determined, during an internal investigation, that the bar phantom test record dated September 28, 1996, was in fact a copy of a record of a bar phantom test performed on August 23, 1996, and that the September 28 date had been inserted sometime between November 20 and 21, 1996, through computer manipulation. As such, this bar phantom test record, although not an NRC requirement, was also falsified and cannot be used as evidence of Mr. Isakoff's presence in the NMD on September 28, 1996.

Based on the above, the NRC concludes that Mr. Isakoff did not perform a weekly wipe test of the hot lab for removable contamination for the week ending Saturday, September 28, 1996; that he deliberately falsified licensee weekly wipe test survey records after an NMT refused his September 30 request to falsely claim that she had performed a wipe test of the hot lab on September 28; and that he deliberately created a bar phantom test record falsely dated September 28, to conceal the fact that he had falsified a record required by the NRC. The Chief NMT stated that it was the responsibility of Mr. Isakoff and the Clinical Chief NMT to ensure that the weekly wipe test survey was performed. Mr. Isakoff acknowledged that he was aware of the requirement to perform a weekly wipe test survey of the hot lab, and admitted that he, among others, had responsibility, as Assistant Chief NMT for ensuring that such surveys were performed. Accordingly, the NRC concludes that, in violation of 10 C.F.R. 30.10(a)(2), Mr. Isakoff deliberately submitted materially inaccurate information to the licensee.[1]

Additionally, based on all the evidence, the NRC staff concludes that Mr. Isakoff willfully recorded inaccurate information pertaining to dose administration on numerous DDF records and failed to record such information at all on multiple DDFs, thus putting the licensee in violation of 10 C.F.R. 30.9 and 35.53, respectively. Licensees are required to measure the activity of each dosage of photon-emitting radionuclides prior to medical use, and to retain a record of the measurement for three years, in accordance with 10 C.F.R. 35.53. TUH used the DDF to satisfy Section 35.53.

A comparison of DDFs to patient records for July and October 1995 reveals that numerous DDFs completed by Mr. Isakoff for specific patients reported syringe assay amounts different from doses reported for the same patients on the NMC–1 Form.[2] A review of DDFs for the period January 1995 through December 1997 revealed multiple incomplete DDFs due to Mr. Isakoff's failure to record the assayed dose. During the course of one day in October 1995, Mr. Isakoff failed to record the assayed dose on DDFs for four patients, which was documented in two memoranda dated October 3, 1995, created by the Chief NMT and the Administrative Chief NMT. Two former supervisors of Mr. Isakoff stated that he consistently failed to record information pertaining to dose administration on DDFs. Three NMTs stated that Mr. Isakoff, when confronted with DDFs which had not been completed for patients, would complete the forms without verifying the numbers or by pulling numbers out of the air. During the enforcement conference, Mr. Isakoff admitted that sometimes he did not record the syringe assay of the dose as soon as it was assayed, or did not record the dose assay at all until it was brought to his attention during monthly reviews of the DDFs by others. Mr. Isakoff also stated that he was aware of the NRC requirement to record administration of radioisotopes to patients, that he had been admonished by the Chief NMT for failure to complete DDFs, and that he himself had admonished NMTs for failure to complete DDFs.

Based on the above, the NRC concludes that Mr. Isakoff willfully failed to record the activity of each dosage prior to administration on multiple occasions in violation of 10 C.F.R. 35.53, and willfully failed to accurately record the activity of each dosage on numerous DDFs in violation of 10 C.F.R. 30.9.

III

Based on the above, it appears that Gary Isakoff, when involved in licensed activities in a supervisory capacity, deliberately submitted information to TUH which was inaccurate in respects material to the NRC, in violation of 10 C.F.R. 30.10(a)(2), specifically: (1) a wipe test survey instrument register strip and a department wipe test form, both documenting a survey Mr. Isakoff claimed to have performed for removable contamination in the hot lab on September 28, 1996, was submitted notwithstanding that Mr. Isakoff in fact did not perform the survey; and (2) a bar phantom test record dated September 28, 1996, which was in fact conducted on August 23, 1996, and not on September 28, 1996, was provided by Mr. Isakoff as evidence that he was in the hot lab on September 28, 1996. In addition, Mr. Isakoff caused the Licensee to be in violation of 10 C.F.R. 30.9 by willfully failing to accurately record information pertaining to dose administration on numerous DDFs, and caused the licensee to be in violation of 10 C.F.R. 35.53 by willfully failing to record the assayed dose at all on multiple DDFs.

The NRC must be able to rely on the Licensee and its employees to comply with NRC requirements, including the

[1] On February 20, 1998, the NRC issued a Notice of Violation to TUH for its violation of 10 C.F.R. §§ 35.70 and 30.9, caused by Mr. Isakoff's failure to conduct the weekly wipe test survey and his falsification of wipe test records.

[2] The NMC–1 Form (Nuclear Medicine Consultation Form) is an internal document of TUH's NMD which is used to record the technologist name, administered dose, and route of administration for a radiopharmaceutical. The form also contains pertinent clinical history and details of the examination being performed.

requirement to maintain records that are complete and accurate in all material respects. Mr. Isakoff's actions in deliberately submitting materially inaccurate information to the licensee, in willfully causing the licensee to violate Commission requirements, and in his request to a subordinate to falsely claim that she had conducted surveys pursuant to NRC requirements, have raised serious doubt as to whether he can be relied upon to comply with NRC requirements and to submit and maintain complete and accurate information and records.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public would be protected if Mr. Isakoff were permitted at this time to be involved in NRC-licensed activities. Therefore, the NRC has determined that the public health, safety and interest require that Mr. Isakoff be prohibited from any involvement in NRC-licensed activities for a period of one year. If, on the effective date of this Order, Mr. Isakoff is involved in NRC-licensed activities, he must immediately cease such activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this Order to the employer. Additionally, Mr. Isakoff is required to notify the NRC of his first employment in NRC-licensed activities following the prohibition period.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 30.10, and 10 CFR 150.20, *it is hereby ordered* that:

1. Gary Isakoff is prohibited from engaging in NRC-licensed activities for one year from the effective date of this Order. NRC-licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20.

2. If, on the effective date of this Order, Mr. Isakoff is involved in NRC-licensed activities, he must, on the effective date of this Order, immediately cease those activities, provide a copy of this Order to the employer, and inform the NRC of the name, address and telephone number of the employer.

3. For a period of one year after the one year period of prohibition has expired, Mr. Isakoff shall, within 20 days of his acceptance of each employment offer involving NRC-licensed activities, as defined in Paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Washington, DC 20555, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in the NRC-licensed activities. In the first such notification, Mr. Isakoff shall include a statement of his commitment to compliance with regulatory requirements and the basis why the Commission should have confidence that he will now comply with applicable NRC requirements.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Isakoff of good cause.

V

In accordance with 10 CFR 2.202, Mr. Isakoff must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Mr. Isakoff or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Chief, Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Deputy Assistant General Counsel for Enforcement at the same address, to the Regional Administrator, NRC Region I, U.S. Nuclear Regulatory, 475 Allendale Road, King of Prussia, Pennsylvania 19406, and to Mr. Isakoff if the answer or hearing request is by a person other than Mr. Isakoff. If a person other than Mr. Isakoff requests a hearing, that person shall set forth with particularity the manner in which that person's interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Mr. Isakoff or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received.

Dated at Rockville, Maryland this 24th day of February, 1999.

For the Nuclear Regulatory Commission.

Malcolm R. Knapp,

Deputy Executive Director for Regulatory Effectiveness.

[FR Doc. 99–5872 Filed 3–9–99; 8:45 am]

BILLING CODE 7590–01–U

NUCLEAR REGULATORY COMMISSION

[IA 99–001]

Peter Kint; Order Prohibiting Involvement in NRC-Licensed Activities

I

Mr. Peter Kint (Mr. Kint) was employed as a radiographer by XRI Testing (Licensee). The Licensee is the holder of License No. 21–05472–01 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Parts 30 and 34 and last renewed on January 28, 1998. The license authorizes possession and use of sealed sources in the conduct of industrial radiography in accordance with the conditions specified therein.

II

On August 24 through 27, 1998, a special inspection of licensed activities was conducted in response to the Licensee's notification to the NRC on August 21, 1998, of a potential overexposure which had occurred during radiographic operations on August 21, 1998. The inspection disclosed that Mr. Kint was not wearing an alarming ratemeter as required. An investigation of this event was conducted by the NRC Office of

Investigations (OI) from August 30 to October 8, 1998.

During the week of August 17, 1998, Mr. Kint and another radiographer conducted radiographic operations at a temporary jobsite in Mishawaka, Indiana. Both individuals were certified in 1995 as radiographers by the State of Illinois and had received instruction in the Licensee's procedures and NRC regulations.

NRC regulations require, in part, that the licensee may not permit any individual to act as radiographer at a temporary jobsite unless at all times during radiographic operations each individual wears on the trunk of the body an alarming ratemeter (10 CFR 34.47).

On August 21, 1998, while at the Mishawaka temporary jobsite, Mr. Kint was exposed to a radiography source (92 curies of iridium-192) when he entered the area of operations and manipulated the collimator. Mr. Kint apparently did not realize that the source was unshielded until he returned to the radiographic exposure device. Mr. Kint was not wearing his alarming ratemeter and he received a radiation dose (shallow dose equivalent) of 20 rems to his extremities (hand). Had he worn the alarm ratemeter as required, Mr. Kint most probably would have been alerted to the unshielded source before receiving the 20 rems shallow dose equivalent. Mr. Kint stated to OI that he intentionally failed to wear his alarm ratemeter on that occasion, stating that he wore it only about 25 percent of the time that it was required to be worn. In addition, (1) Mr. Kint was trained on using the alarm ratemeter; (2) Mr. Kint was provided with an alarming ratemeter which he had with him at the jobsite; and (3) in his September 11, 1998, testimony to the OI investigators, Mr. Kint stated that he deliberately did not wear the alarm ratemeter because it was inconvenient, uncomfortable, and required a belt which he did not normally wear. In addition, Mr. Kint did not perform a radiation survey as required by 10 CFR Section 34.49 or maintain continuous direct visual surveillance of the operation as required by 10 CFR Section 34.51.

III

Based on the above, the NRC has determined that Mr. Kint, an employee of the Licensee, engaged in deliberate misconduct in violation of 10 CFR 30.10 (a)(1), causing the Licensee to be in violation of 10 CFR 34.47 (a). Specifically, the NRC has concluded that Mr. Kint deliberately failed to wear his alarming ratemeter while conducting radiography at a temporary jobsite during the week of August 17, 1998. As a result of not wearing his alarm ratemeter on August 21, 1998, Mr. Kint received an unnecessary radiation exposure to his hand during an incident when he handled a collimator while the iridium source was in the unshielded position.

The NRC must be able to rely on the Licensee and its employees to comply with NRC requirements, including the requirement to wear appropriate personal radiation monitoring devices during radiographic operations at a temporary jobsite. This deliberate act is significant because Mr. Kint, an experienced radiographer, failed to observe the safeguards designed to protect him from potentially dangerous radiation exposures. In addition, there were violations caused by Mr. Kint which do not appear to be wilful and which include Mr. Kint's failure to perform a radiation survey and failure to maintain direct visual surveillance of the radiographic operations. Mr. Kint's actions during this incident have raised serious doubt as to whether he can be relied upon to comply with NRC requirements.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public will be protected if Mr. Kint were permitted at this time to be involved in NRC-licensed activities. Therefore, the NRC has determined that the public health, safety and interest require that Mr. Kint be prohibited from any involvement in NRC-licensed activities for a period of one year from the effective date of this Order. If Mr. Kint is involved in NRC-licensed activities on the effective date of this Order, he must immediately cease such activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this Order to the employer. Additionally, Mr. Kint is required to notify the NRC of his first employment in NRC-licensed activities following the prohibition period.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 30.10, and 10 CFR 150.20, it is hereby ordered, that:

1. Mr. Kint is prohibited from engaging in NRC-licensed activities for one year from the effective date of this Order. NRC-licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20.

2. If Mr. Kint is involved in NRC-licensed activities on the effective date of this Order, he must immediately cease such activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this Order to the employer.

3. For a period of one year after the one year period of prohibition has expired, Mr. Kint shall, within 20 days of his acceptance of each employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities as defined in Paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Washington, DC 20555, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in the NRC-licensed activities. In the first such notification, Mr. Kint shall include a statement of his commitment to compliance with regulatory requirements and the basis why the Commission should have confidence that he will now comply with applicable NRC requirements.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Kint of good cause.

V

In accordance with 10 CFR 2.202, Mr. Kint must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Mr. Kint or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also

shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region III, 801 Warrenville Road, Lisle, Illinois 60532, and to Mr. Kint if the answer or hearing request is by a person other than Mr. Kint. If a person other than Mr. Kint requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Mr. Kint or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be effective and final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received.

Dated at Rockville, Maryland this 1st day of March 1999.

For the Nuclear Regulatory Commission.

Malcolm R. Knapp,

Deputy Executive Director for Regulatory Effectiveness.

[FR Doc. 99–5734 Filed 3–9–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[IA 98–065]

Lee Larocque; Order Prohibiting Involvement in NRC-Licensed Activities

I

Mr. Lee LaRocque (Mr. LaRocque) was the Chief Nuclear Medicine Technologist (CNMT) in the Nuclear Medicine Department (NMD) of Windham Community Memorial Hospital, Inc. (Windham or Licensee), Willimantic, Connecticut, from September 1991 until August 1997, when he was demoted to the position of Nuclear Medicine Technologist (NMT). Mr. LaRocque was employed as an NMT in the NMD at the facility from August 1997 to May 14, 1998, when his employment was terminated. Windham holds Facility License No. 06–15203–01 (License), issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Parts 30 and 35, which authorizes Windham to use byproduct material for medical use.

II

On May 21, 1998, an investigation was initiated by the NRC Office of Investigations (OI), to determine if Mr. LaRocque, while functioning as the NMT at Windham, administered a dose of iodine-131 (I–131) greater than permitted by the License and created an inaccurate record of the dose. Based upon all the evidence, including an admission by Mr. LaRocque during an interview with OI on October 8, 1998, the NRC concludes that Mr. LaRocque deliberately altered a dose calibrator reading for an I–131 capsule, thereby misleading the Authorized User regarding the assayed dose, administered the capsule to the patient knowing that the dose exceeded the License limits, and deliberately created inaccurate records of the dose.

Specifically, on the morning of May 11, 1998, when a patient arrived at Windham to be given a dose of 29.5 millicuries of I–131 in capsule form, Mr. LaRocque assayed the dose and found that it contained more than 30 millicuries (mCi) activity. The License limits doses administered to patients to 30 mCi of I–131. As a result, the patient was instructed to return to the hospital at 4:30 p.m., the time at which the dose was expected to have decayed to the prescribed dose.

When the patient returned to the hospital at about 4:15 p.m., Mr. LaRocque measured the dose and found that it was slightly greater than 30 mCi. Rather than waiting until 4:30 p.m., Mr. LaRocque retrieved two lead strips from a nearby closet and inserted them into the dose calibrator in order to lower the reading. With the lead strips inside the dose calibrator, the dose measured 29.2 mCi. Mr. LaRocque then informed the AU that the dose was ready for administration to the patient. Pursuant to the Licensee's Quality Management Program, the AU is required to observe the dose calibrator display before the dose is actually given to the patient. At the request of Mr. LaRocque, the AU observed the dose calibrator readout and approved administration of the dose to the patient. Mr. LaRocque then administered the dose.

Mr. LaRocque also completed a radiopharmaceutical written directive and patient verification form stating that the assayed dose was 29.2 mCi. This record is required to be maintained by the Licensee by 10 C.F.R. 35.53(a) and (c). In his interview with OI, Mr. LaRocque admitted that he knowingly misled the AU as to the activity of the dose, and knowingly created inaccurate Licensee records, which stated that the assayed dose and the dose administered to the patient was 29.2 mCi, when Mr. LaRocque knew that the dose was in fact slightly greater than 30 mCi and that the License prohibited the administration of I–131 in doses greater than 30 mCi to patients.

Mr. LaRocque's actions are of particular concern given that on December 10, 1997, only six months before the above-described deliberate misconduct occurred, the NRC had issued a letter to him, explaining that any future deliberate misconduct could subject him to significant enforcement action. Previously, when Mr. LaRocque was the Chief NMT at Windham: (1) after the fact and without first-hand knowledge, he created inaccurate records associated with the disposal of technetium-99m labeled DTPA aerosol kits; and (2) he failed to promptly report that dose calibrator constancy records had been falsified by another NMT. The NRC issued a Notice of Violation to Windham on February 6, 1998, based, in part, on Mr. LaRocque's deliberate misconduct while employed as the Chief NMT.

In a telephone call on December 23, 1998, the NRC discussed its conclusions with Mr. LaRocque and offered Mr. LaRocque an opportunity to attend a predecisional enforcement conference. Mr. LaRocque declined the opportunity, noting that he did not believe he could provide any additional information from what he had already provided to OI. In a letter to Mr. LaRocque dated January 11, 1999, the NRC confirmed that he had declined the opportunity for a conference and offered Mr. LaRocque a second opportunity to attend a conference. Mr. LaRocque did not request a conference.

III

Based on the above, Mr. LaRocque engaged in deliberate misconduct in that: (1) in violation of 10 C.F.R. 30.10(a)(1), he deliberately administered a dose of I–131 to a patient in excess of the 30 mCi limit of Condition 15 the License, thereby putting the Licensee in violation of its License; and (2) in violation of 10 C.F.R. 30.10(a)(2), he deliberately created materially inaccurate Licensee dose records, required to be maintained by 10 C.F.R. 35.53(a) and (c), thereby causing the Licensee to be in violation of 10 C.F.R. 30.9(a).

The NRC must be able to rely on the Licensee and its employees to comply with NRC requirements, including the requirement to provide and maintain information that is complete and accurate in all material respects. Mr. LaRocque's action in causing the Licensee to violate its License and the Commission's regulations, his misrepresentations to the Licensee, and his prior actions as set forth in Section II of this Order, have raised serious doubt as to whether he can be relied upon to comply with NRC requirements, and to provide complete and accurate information to the NRC and its Licensees.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public would be protected if Mr. LaRocque were permitted at this time to be involved in NRC-licensed activities. Therefore, the public health, safety and interest require that Mr. LaRocque be prohibited from any involvement in NRC-licensed activities for a period of one year from the effective date of this Order. If Mr. LaRocque is involved in NRC-licensed activities on the effective date of the Order, Mr. LaRocque must immediately cease such activities, and inform the NRC of the name, address, and telephone number of the employer, and provide a copy of this Order to the employer. Additionally, Mr. LaRocque is required to notify the NRC of his first employment in NRC-licensed activities following the prohibition period.

IV

Accordingly, pursuant to Sections 81, 161b, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 C.F.R. 2.202, 10 C.F.R. 30.10, and 10 C.F.R. 150.20, *it is hereby ordered* That:

1. Mr. Lee LaRocque is prohibited for one year from the effective date of this Order from engaging in NRC-licensed activities. NRC-licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 C.F.R. 150.20.

2. If, on the effective date of this Order, Mr. LaRocque is involved in NRC-licensed activities, he must immediately cease those activities, and inform the NRC of the name, address, and telephone number of the employer, and provide a copy of this Order to the employer.

3. For a period of one year after the one-year period of prohibition has expired, Mr. LaRocque shall, within 20 days of his acceptance of each employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities, as defined in Paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in the NRC-licensed activities. In the first notification, Mr. LaRocque shall include a statement of his commitment to compliance with regulatory requirements and the basis why the Commission should have confidence that he will now comply with applicable NRC requirements.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. LaRocque of good cause.

V

In accordance with 10 C.F.R. 2.202, Mr. LaRocque must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission Washington, D.C. 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Mr. LaRocque or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Chief, Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Deputy Assistant General Counsel for Enforcement at the same address, to the Regional Administrator, NRC Region I, U.S. Nuclear Regulatory Commission, 475 Allendale Road, King of Prussia, Pennsylvania 19406, and to Mr. LaRocque if the answer or hearing request is by a person other than Mr. LaRocque. If a person other than Mr. LaRocque requests a hearing, that person shall set forth with particularity the manner in which that person's interest is adversely affected by this Order and shall address the criteria set forth in 10 C.F.R. 2.714(d).

If a hearing is requested by Mr. LaRocque or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received.

Dated at Rockville, Maryland this 24th day of February 1999.

For the Nuclear Regulatory Commission.

Malcolm R. Knapp,

Deputy Executive Director for Regulatory Effectiveness.

[FR Doc. 99–5871 Filed 3–9–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from February 12, 1999, through February 26, 1999. The last biweekly notice was published on February 24, 1999 (FR 64 PR 9183).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administration Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By April 9, 1999, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with

the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Commonwealth Edison Company, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of amendment request: January 29, 1999.

Description of amendment request: The amendments would allow credit for containment overpressure to assist in providing net positive suction head (NPSH) for the emergency core cooling system pumps for a period of greater than 8 hours. The current licensing basis recognizes credit given only to 8 hours after a design-basis loss-of-coolant accident and the licensee has determined this to be an unreviewed safety question.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Does the change involve a significant increase in the probability or consequences of an accident as previously evaluated?

The proposed amendment involves the available containment overpressure (COP) following a design basis loss of coolant accident (DBA–LOCA) and the resulting NPSH available to the RHR [residual heat removal] and CS [core spray] pumps. While this change affects the ability of these pumps to perform their required functions following a DBA–LOCA, it does not affect the reactor recirculation piping or the reactor coolant pressure boundary, which are the initiators of the DBA–LOCA. Therefore, the proposed amendment does not involve a significant increase in the probability of an accident previously evaluated.

The consequences of a previously analyzed event are dependent on the initial conditions assumed for the analysis, the availability and successful functioning of the equipment assumed to operate in response to the analyzed event, and the set points at which these actions are initiated. The proposed change permits limited COP to be credited in the calculation of available NPSH for the RHR and CS pumps following a DBA–LOCA.

The proposed change is supported by calculations, which demonstrates that adequate COP will be available to ensure the RHR and CS systems will be capable of performing their required safety functions. Therefore, the proposed amendment does not involve a significant increase in the consequences of an accident previously evaluated.

Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed amendment permits limited COP to be credited in the calculation of available NPSH for the RHR and CS pumps following a DBA–LOCA. This amendment does not involve a physical alteration of the plant. The proposed amendment is supported by calculations, which demonstrate that adequate COP will be available to ensure the RHR and CS systems will be capable of performing their required safety functions. This amendment will not alter the manner in which the RHR and CS systems are initiated, nor will the function demands on the RHR or CS system be changed. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated.

Does the change involve a significant reduction in a margin of safety?

The proposed amendment permits limited COP to be credited in the calculation of available NPSH for the RHR and CS pumps following a DBA–LOCA. Crediting an incremental amount of overpressure does not result in a significant reduction in the margin of safety, because conservative analyses demonstrate that adequate COP will be available to ensure the RHR and CS systems will be capable of performing their required safety functions. Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Attorney for licensee: Ms. Pamela B. Stroebel, Senior Vice President and General Counsel, Commonwealth Edison Company, P.O. Box 767, Chicago, Illinois 60690–0767.

NRC Project Director: Stuart A. Richards.

Duke Energy Corporation (DEC), et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: February 18, 1999.

Description of amendment request: The proposed amendments would revise the joint Technical Specifications (TSs): (1) Surveillance Requirement (SR) 3.6.16.1—This SR incorrectly characterizes the access openings (there are five of them) to the reactor building as each having a double-door design, when in reality there is a single door for each opening; the proposed revision would change the wording to correctly characterize the actual design. (2) SR 3.6.16.3—This SR specifies that the reactor building structural integrity inspection be performed every 40 months to 50 months and during shutdown; the proposed revision would change this frequency to three times every 10 years coinciding with containment visual examinations required by SR 3.6.1.1. (3) Administrative Control 5.5.2—The proposed revision would add wording to specify that containment visual examinations required by Regulatory Guide c.3 will be conducted three times every 10 years including during each shutdown for SR 3.6.1.1.

The proposed amendments would only revise the SRs and Administrative Controls specified above; no physical change to any plant design is involved.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

First Standard

Implementation of this amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated. Approval of this amendment will have no significant effect on accident probabilities or consequences. The containment and reactor building are not accident initiating systems or structures; therefore, there will be no impact on any accident probabilities by the approval of this amendment. The containment and reactor buildings serve an important function to mitigate consequences of postulated accidents previously evaluated and the examination frequencies proposed in this amendment will not result in a reduction in

their capacity to meet their intended function. Therefore, there will be no impact on the consequences of any accident previously evaluated.

Second Standard

Implementation of this amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated. No new accident causal mechanisms are created as a result of NRC approval of this amendment request. No changes are being made to the plant that will introduce any new accident causal mechanisms. This amendment request does not impact any plant systems that are accident initiators, since the containment and reactor building function primarily as accident mitigators.

Third Standard

Implementation of this amendment would not involve a significant reduction in a margin of safety. Margin of safety is related to the confidence in the ability of the fission product barriers to perform their design functions during and following an accident situation, including the performance of the containment and reactor building. These components are already capable of performing as designed, and their functions are verified by visual examination and leakage rate testing. The ability of the containment and reactor building to perform their design function will not be impaired by the implementation of this amendment at Catawba Nuclear Station. Consequently, no safety margin will be impacted.

The NRC staff reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina

Attorney for licensee: Ms. Lisa F. Vaughn, Legal Department (PB05E), Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina.

NRC Project Director: Herbert N. Berkow.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Nuclear Generating Plant, Unit No. 3 (CR–3), Citrus County, Florida

Date of amendment request: January 27, 1999.

Description of amendment request: The proposed amendment would provide a one-time extension of the inspection interval for the Once Through Steam Generator (OTSG) tubes specified in the Crystal River Unit 3 (CR–3) Improved Technical Specifications (ITS) to coincide with the planned operating cycle. CR–3 ITS 5.6.2.10 requires the OTSG inspection interval to be 24 calendar months for Category C–2 inspection results. However, due to a previous extended maintenance outage, the next OTSG inspection at CR–3, which is planned for the October 1999 refueling and maintenance outage, will be approximately 26 calendar months since the last inspection. Florida Power Corporation indicated that the total interval between inspections would correspond to less than 21.6 months of plant operation at a temperature of 500°F or above (measured at the hot leg side of the OTSG). The licensee stated that the conclusions reached in the operational assessments for the OTSGs show leakage and structural integrity are maintained by substantial margins until the end of the planned operating cycle.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below.

1. Involve a significant increase in the probability or consequences of an accident previously evaluated?

The last Crystal River Unit 3 (CR–3) Once Through Steam Generator (OTSG) tube surveillance was completed in August 1997. Both standard and enhanced eddy current techniques were used to inspect 100% of the OTSG tubes. Operational assessments performed for CR–3 provide reasonable assurance that the OTSG performance criteria meet the leakage and structural requirements in Draft Regulatory Guide-1074. These performance criteria will be maintained until the end of the planned operating cycle. These operational assessments demonstrate that operation is acceptable for an operating cycle length of up to 21.6 months of operating time at a temperature of 500°F or above (measured at the hot leg side).

The operational assessments concluded that the projected cumulative leakage for the limiting OTSG would be less than 1 gallon per minute (gpm) under the limiting accident conditions at the end of the planned operating cycle. Thus, the accident analysis assumptions bound the condition of the OTSGs, and structural and leakage integrity will be maintained for the proposed operating cycle. Therefore, the proposed one-time change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Create the possibility of a new or different kind of accident from previously evaluated accidents?

No new failure modes or accident scenarios are created by changing the inspection from a frequency based on calendar months, to a one-time interval based on up to 21.6 months of operating time at a temperature of 500'F or above (measured at the hot leg side). Plant systems and components will not be operated in a different manner as a result of this change. Thus, this change does not increase the risk of a plant trip or present a challenge to any other safety system. For all known degradation mechanisms in the CR–3 OTSGs, the most recent operational assessments bound the probability of tube burst and project primary-to-secondary leakage at accident conditions for the end of Operating Cycle 11 to be less than 1 gpm. Therefore, the proposed one-time change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Involve a significant reduction in a margin of safety?

Improved Technical Specification (ITS) Bases 3.4.12 contains relevant information pertaining to the limitations on reactor coolant system (RCS) leakage. The ITS Bases discuss the 1 gpm primary-to-secondary leakage assumed for a main steam line break accident, as well as for a steam generator tube rupture accident. The evaluation provided by this license amendment request shows that tube structural integrity is maintained, thus the required structural margins specified in NRC Regulatory Guide 1.121 are satisfied. The operational assessments performed show the maximum accident leakage, assuming all these indications leak, is less than 1 gpm. Therefore, all known OTSG tube degradation mechanisms have been assessed, and the proposed one-time change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied.

Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 34428

Attorney for licensee: R. Alexander Glenn, General Counsel, Florida Power Corporation, MAC—A5A, P. O. Box 14042, St. Petersburg, Florida 33733–4042.

NRC Project Director: Cecil O. Thomas.

Northeast Nuclear Energy Company (NNECo), et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: January 18, 1999.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) Table 3.7–6, ''Area Temperature Monitoring,'' by increasing the temperature limits for the fuel building fuel pool pump cubicles and fuel building general area. The amendment would also change the Millstone Unit 3 licensing basis by incorporating into the Millstone Unit 3 Final Safety Analysis Report (FSAR) a revision to describe the full core off-load condition as a normal evolution. In

addition, the amendment would increase the maximum bulk spent fuel pool (SFP) temperature from 140° F to 150° F, allow the crediting of evaporative cooling as a decay heat removal mechanism for the SFP (use of the ONEPOOL computer code), and allow the use of Holtec's quality assurance validated DECOR computer code as a method for predicting decay heat loads in the SFP pool.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

In accordance with 10 CFR 50.92, NNECo has reviewed the proposed changes and has concluded that the changes do not involve a significant hazards consideration (SHC). The basis for this conclusion is that the three criteria of 10 CFR 50.92(c) are not [satisfied]. The proposed changes do not involve an SHC because the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed.

The proposed license amendment will permit NNECo to conduct full core off-loads as a normal evolution through the end of plant life. This amendment request does not affect: (1) the number of spent fuel assemblies allowed in the spent fuel pool, (2) Spent Fuel Pool (SFP) criticality analysis, (3) structural analysis of the spent fuel pool or (4) radiological release scenarios.

The proposed license amendment permits the use of ORIGEN2 based DECOR and ONEPOOL codes for the analysis of the Unit 3 SFP. The ORIGEN2 based DECOR code more accurately predicts decay heat loads from the spent fuel in the SFP. The ONEPOOL code credits the effect of evaporative cooling on the SFP bulk temperature. The use of these codes improves the accuracy of predicting SFP bulk temperatures during normal and abnormal refueling scenarios.

The analysis of decay heat removal permits the discharge of fuel from the reactor vessel to the SFP [to] start as early as 132 hours (depending on cooling water temperature) after reactor shutdown at a rate of 3 assemblies per hour. The existing accident analysis for a dropped spent fuel bundle during refueling bounds this situation as the analysis assumed a decay time of 100 hours after reactor shutdown.

The increase in pool temperature from 140° F to 150° F does not significantly impact the structural integrity of the fuel handling equipment. The temperature increase does not create a new failure of the fuel handling equipment that has not been previously analyzed.

The increased SFP temperature results in higher ambient temperatures in the Fuel Building. However, the duration of an increased pool temperature event is limited. The effect on the environmental qualification (EQ) of electrical equipment is an increase in the Maximum Normal and Abnormal Excursion temperatures, which are based on short duration excursions from the predicted summer maximum temperatures. This is reflected in the proposed Technical Specification (TS) temperature changes. The temperature limits within TS, 3.7.14, ''Plant Systems: Area Temperature Monitoring,'' Table 3.7–6, for the Fuel Pool Pump Cubicles and Fuel Pool General Area increase from 110° F to 119° F, and from 104° F to 108° F respectively, based upon the revised environmental conditions. The proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously analyzed as the Fuel Building Ventilation System is qualified for the increased temperature and humidity conditions. There are no changes in the EQ of equipment.

A comprehensive review of the design of the SFP, Spent Fuel Pool Cooling and Purification system and other associated systems, structures and components has been completed. All systems, structures and components are fully qualified at the higher SFP temperature of 150° F for a full core off-load as a normal operation.

Therefore, based on the above, this change will not involve a significant increase in the probability or consequence of an accident previously analyzed.

2. Create the possibility of a new or different kind of accident from any previously evaluated.

The proposed license amendment will permit NNECo to conduct full core off-loads as a normal evolution through the end of plant life. There are no physical plant changes. The SSCs [systems, structures, and components] supporting the SFP and Spent Fuel Pool Cooling are fully qualified for operation at 150° F. The higher Fuel Pool Pump Cubicles and Fuel Pool General Area temperatures do not create the possibility of a new or different kind of accident from any previously evaluated. Thus the changes do not create the possibility of an accident of a different type than previously evaluated.

3. Involve a significant reduction in the margin of safety.

The proposed license amendment will permit NNECo to conduct full core off-loads as a normal evolution through the end of plant life. The proposed changes allow a higher heat load in the SFP which results in a higher calculated maximum temperatures than the current analysis. In addition, several changes have been made with respect to the analysis methods used in calculating the maximum temperatures.

The new analysis demonstrates that the SFP cooling configuration will maintain the SFP pool bulk temperature at or below 150° F with a single train of spent fuel pool cooling. This temperature is above the SRP [Standard Review Plan] guidance of 140° F but is well below the 212° F limit permitted for abnormal core off-loads as defined in the Standard Review Plan (NUREG -0800). This temperature guideline of 140° F was one of the acceptance criteria credited by the NRC staff during their review of the adequacy of the design of the SFP Cooling System within the NRC Safety Evaluation Report (SER) for Millstone Unit 3 (NUREG–1031) and consequently requires prior review and approval.

A single active failure will cause the loss of one of the two trains of spent fuel pool cooling. The complete loss of cooling to the Spent Fuel Pool is not a creditable occurrence in that the Fuel Pool Cooling System is designed to be able to withstand the worst single failure and still be able to perform its intended function. However, a loss of cooling analysis indicates that several hours are available during a refueling, and over thirteen hours are available during normal operations for operators to respond to the loss of cooling prior to the Spent Fuel Pool reaching its structural design temperature of 200° F.

A comprehensive review of the design of the SFP, Spent Fuel Pool Cooling and Purification System and other associated systems, structures and components has been completed for qualification at the higher pool temperature of 150° F. All systems, structures and components are fully qualified at the higher Technical Specification Fuel Pool Pump Cubicles and Fuel Pool General Area temperatures, and at the increased SFP temperature, and are therefore qualified for a full core off-load as a normal operation.

The ORIGEN2 based DECOR code more accurately predicts decay heat loads from the spent fuel in the SFP. The ONEPOOL code credits the effect of evaporative cooling on the SFP bulk temperature. The use of these codes improves the accuracy of predicting SFP bulk temperatures during normal and abnormal refueling scenarios. The use of these computer codes as a method for predicting decay heat loads and crediting evaporative cooling as a decay heat removal mechanism have not previously been evaluated for Unit 3, and therefore, require[s] prior NRC review and approval.

Therefore, based on the above, this license amendment to permit NNECo to conduct full core off-loads as a normal evolution, increase the maximum SFP pool bulk temperature from 140° F to 150° F, use the ORIGEN2 based DECOR and ONEPOOL computer codes to calculate the decay heat load and determine the effects of evaporative cooling respectively, and increase the TS Fuel Pool Pump Cubicles and General Area temperatures, does not involve a significant reduction in the margin of safety.

Thus, it is concluded that the proposed amendment does not involve a significant reduction in the margin of safety.

In conclusion, based on the information provided, it is determined that the proposed amendment does not involve an SHC.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, Connecticut.

NRC Project Director: William M. Dean.

Northeast Nuclear Energy Company (NNECO), et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: February 10, 1999.

Description of amendment request: The proposed amendment would incorporate alternative inspection requirements into Technical Specification Surveillance Requirement 3/4.4.10, ''Structural Integrity,'' for the reactor coolant pump flywheel.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

NNECO has reviewed the proposed revision in accordance with 10 CFR 50.92 and has concluded that the revision does not involve a Significant Hazards Consideration (SHC). The basis for this conclusion is that the three criteria of 10 CFR 50.92(c) are not satisfied. The proposed revision does not involve a SHC because the revision would not:

1. Involve a significant increase in the probability or consequence of an accident previously evaluated.

This proposed revision to the Millstone Unit No. 3 Technical Specifications incorporates alternative reactor coolant pump flywheel inspection requirements into Surveillance 4.4.10 based on Topical Report WCAP–14535A. WCAP–14535A provided a technical basis for the elimination of inspection requirements for reactor coolant pump flywheels based on industry data. The industry data indicated that no indications that would affect the integrity of flywheels was [sic] revealed during 729 examinations of 217 flywheels at 57 plants (including Millstone Unit No. 3). The NRC, during their review and approval of the WCAP required continued inspections on a ten year interval to protect against events and degradation that were not anticipated and had not been considered in the WCAP analysis. The proposed alternate inspection requirements are consistent with the conclusions of an NRC review and generic approval of Topical Report WCAP–14535A. Thus, it is concluded that the proposed revision does not significantly increase the probability of an accident.

Additionally, the performance of reactor coolant pump flywheel surveillances does not increase the consequence of an accident previously evaluated.

Therefore, it is concluded that the proposed revision does not involve a significant increase in the probability or consequence of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

This proposed revision to the surveillance does not change the operation of any plant system or component during normal or accident conditions. The proposed change incorporates alternate inspection requirements for the reactor coolant pump flywheels that were generically approved for use by licensees by the NRC. This change does not include any physical changes to the plant.

Thus, this proposed revision does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

This proposed revision to the Millstone Unit No. 3 Technical Specifications incorporates alternative reactor coolant pump flywheel inspection requirements into Surveillance 4.4.10 that are consistent with the conclusions of an NRC review and generic approval of Topical Report WCAP–14535A. The current inspection requirements of Surveillance 4.4.10 and the NRC review of WCAP–14535A were both based on the recommendations of Regulatory Guide 1.14.

Thus, it is concluded that the proposed revision does not involve a significant reduction in a margin of safety.

In conclusion, based on the information provided, it is determined that the proposed revision does not involve an SHC.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, Connecticut.

NRC Project Director: Elinor G. Adensam.

Northern States Power Company, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Units 1 and 2, Goodhue County, Minnesota

Date of amendment requests: February 5, 1999.

Description of amendment requests: The proposed amendments would modify the technical specifications (TS) to incorporate Revision 3 of the ABB Combustion Engineering, Inc.'s topical report, CEN–629–P, ''Repair of Westinghouse Series 44 and 51 Steam Generator Tubes Using Leaktight Sleeves'', dated September 1998 (proprietary and nonproprietary documents available). The current TS requires that steam generator tube repair using the Combustion Engineering Inc.'s welded sleeves shall be in accordance with the methods and criteria described in Revision 2 of CEN–629–P and Addendum 1, Revision 1 of CEN–629–P. Incorporation of Revision 3 of CEN–629–P would involve the following TS changes: (1) editorial/administrative change to TS.4.12.D.3 to reflect adoption of Revision 3 of CEN–629–P, and deletion of reference to Addendum 1, Revision 1 of CEN–629–P since Revision 3 incorporates Addendum 1, Revision 1 of CEN–629–P; (2) changes in sleeve installation practices that incorporate improvements gained by prior experiences; and (3) more restrictive change to the sleeve repair limit as specified in TS.4.12.D.1.(f) from 31 percent of the nominal sleeve wall thickness to 25 percent.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment[s] will not involve a significant increase in the probability or consequences of an accident evaluated.

Editorial changes have no effect on probability or consequences of accidents previously evaluated. Changes in installation practices incorporate improvements gained by experience in installing sleeves. Further, the changes in the installation practices will change neither the final configuration of installed sleeves nor the post-installation NDE [nondestructive examination] from that which is already approved. Accident induced steam generator tube leakage is not [a]ffected by these changes. Post installation non-destructive examination will be conducted using VT, UT, and ET as previously licensed. The changes in repair limits have [led] to repair limits that are more conservative than those which have been previously approved. Thus, none of these changes will create the possibility of a new or different kind of accident from any accident previously analyzed.

2. The proposed amendment[s] will not create the possibility of a new or different kind of accident previously analyzed.

Editorial changes cannot create the possibility of a new or different kind of accident. Changes in installation practices incorporate improvements gained by experience in installing sleeves. Further, changes in installation practices do not change the final configuration of installed sleeves from that which is already approved. The changes in repair limits have [led] to repair limits that are more conservative than those which have been previously approved.

Thus, none of these changes will create the possibility of a new or different kind of accident from any accident previously analyzed.

3. The proposed amendment[s] will not involve a significant reduction in the margin of safety.

Editorial changes have no effect on the margin of safety. Changes in installation practices incorporate improvements gained by experience in installing sleeves. Further, changes in installation practices do not change the final configuration of installed sleeves from that which is already approved. The changes in repair limits have [led] to repair limits that are more conservative than those which have been previously approved. None of these changes will affect the tube plugging assumptions used in the PINGP [Prairie Island Nuclear Generating Plant] accident analyses. Thus, none of these changes will reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW, Washington, DC 20037.

NRC Project Director: Cynthia A. Carpenter.

Power Authority of the State of New York, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: January 15, 1999.

Description of amendment request: The proposed changes revise calibration requirements for the local power range monitors (LPRM).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Operation of the FitzPatrick plant in accordance with the proposed amendment would not involve a significant hazards consideration as defined in 10 CFR 50.92, since it would not:

1. involve a significant increase in the probability or consequences of an accident previously evaluated.

This change proposes to remove the listed requirement for the method of calibration of the LPRM Signal from TS Table 4.1–2 because the definition for Instrument Channel Calibration provides the necessary guidance.

Other changes to the bases and adopting signal calibration frequency units of MWD/T [Megawatt Days per Ton] vice effective full power hours is consistent with STS [Standard Technical Specification].

The proposed changes do not increase the probability of an accident because the proposed surveillance requirements still ensure that the LPRM signal is adequately calibrated. The proposed change provides assurance that the associated Reactor Protection System (RPS) functions are tested consistent with the analysis assumptions. As a result, the consequences of an accident are not affected by this change. This change will not alter assumptions relative to the mitigation of an accident or transient event. Therefore, this change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes will not physically alter the plant. As such, no new or different types of equipment will be installed. The methods governing normal plant operation and testing are consistent with current safety analysis assumptions. Therefore, this change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. involve a significant reduction in a margin of safety.

The proposed change removes specific calibration method information in Table 4.1–2 regarding the LPRM signal which is adequately addressed in the definition for Instrument Channel Calibration.

Other changes to the Bases and adopting a signal calibration Frequency units of MWD/T vice effective full power hours is consistent with STS.

The proposed changes still provide the necessary control of testing to ensure operability of the RPS instrumentation. The safety analysis assumptions will still be maintained, thus no question of safety exists. Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mr. David E. Blabey, 1633 Broadway, New York, New York 10019.

NRC Project Director: S. Singh Bajwa, Director.

Public Service Electric & Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: February 2, 1999.

Description of amendment request: The proposed amendments would revise Technical Specification (TS) 5.6, ''Fuel Storage, Criticality,'' to change the maximum unirradiated fuel assembly enrichment value for new fuel storage from 4.5 to 5.0 weight percent Uranium-235 and to allow the use of equivalent criticality control to that provided by the current TS requirement of 2.35 mg of Boron-10 per linear inch loading in the Integral Fuel Burnable Absorber (IFBA) pins.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will not involve a significant increase in the probability or consequences of an accident previously evaluated.

(a) Fuel Assembly Drop.

There is no increase in the probability of a fuel assembly drop accident because the mass of a fuel assembly does not increase when the fuel enrichment is increased. This amendment affects only the isotopic composition within the fuel pellets of a fuel assembly without involving any changes to the outward physical characteristics or structural integrity of the assembly.

The radiological consequences of a new fuel assembly drop accident do not increase as a consequence of the proposed change to new fuel enrichment. Because it has not been irradiated, there are no significant radiological consequences associated with fresh fuel. The radiological consequences of an irradiated fuel assembly drop were previously evaluated and approved in the Spent Fuel license amendment numbers 151/131 (Units 1 & 2 respectively).

(b) Misplaced Fuel Assembly in New Fuel Storage Vault or Spent Fuel Storage Racks.

There is no increase in the probability of a misplaced fuel assembly in the New Fuel Storage Vault or Spent Fuel Storage Racks. The proposed change does not alter the physical structure of the New Fuel Storage Vault or the Spent Fuel Storage Racks. All new fuel assembly movements will continue to be made in accordance with approved procedures.

There is no increase in the consequences of misplacing a fuel assembly in the new fuel storage racks. The normally-dry new fuel vault K_{eff} is very small (approximately 0.65), as such, there is sufficient reactivity margin to the 0.95 limit to bound any possible misplacement. The double contingency principle does not require consideration of a second unlikely event. Since a misplaced bundle constitutes the first unlikely event, presence of moderator in the normally dry

new fuel storage racks (a second unlikely event) is not assumed in evaluating the event.

The inadvertent misplacement of a fresh fuel assembly in the spent fuel storage racks has the potential for exceeding the limiting reactivity, should there be a concurrent and independent accident condition resulting in the loss of all soluble boron. Administrative procedures to assure the presence of soluble boron during fuel handling operations will preclude the possibility of the simultaneous occurrence of the two independent accident conditions. The analyses supporting Amendments 151/131 demonstrated that 600 ppm of soluble boron is adequate to compensate for a mis-loaded fuel event, while plant procedures require the concentration to be maintained at least 2300 ppm. The proposed change to allow reduced IFBA B–10 loading does not invalidate these prior analyses since equivalent reactivity hold down to the 2.35 mg/linear inch B–10 loading will be maintained.

(c) Introduction of Moderator to the New Fuel Vault

There is no increase in the probability of any accident involving moderator introduction to the new fuel storage vault. The proposed change affects only the enrichment within the fuel assemblies. No other plant systems or components are affected by this change.

There is no increase in the consequences of introducing a moderator to the new fuel storage vault resulting from increased fuel enrichment. The new fuel storage vault has been analyzed for storage of fuel assemblies with nominal enrichments of 4.65 w/o U^{235} at the fully flooded condition and 5.00 w/o U^{235} at the optimum moderation condition, as described in the attached Criticality Analysis (Attachment 2). As long as the requirement for the number of IFBA pins versus assembly enrichment is met, calculated K_{eff} (including uncertainties and biases) does not exceed 0.95 under full density conditions and does not exceed 0.98 under optimum moderation conditions.

These analyses demonstrate that 5.0 w/o enrichment fuel storage in the New Fuel Storage Vault complies with criticality acceptance criteria for all moderation conditions. Therefore, based on the conclusions of the above analyses, the proposed changes will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do not create the possibility of a new or different kind of accident from any accident previously analyzed.

The proposed Technical specification changes do not involve any physical changes to the plant or any changes to the method in which the plant is operated. No physical changes to the new fuel or spent fuel storage racks are required, nor any changes in the process or procedures to place fuel in the racks. The enrichment limits and reactivity hold-down requirements ensure that the assumptions used in the criticality analyses remain bounding. As such, these changes do not affect the performance or qualification of safety-related equipment. Therefore, the possibility of a new or different type of accident than previously considered i[s] not created.

3. Do not involve a significant reduction in a margin of safety.

The new fuel storage vault has been analyzed for storage of fuel assemblies with nominal enrichments of 4.65 w/o U^{235} at the fully flooded condition and 5.00 w/o U^{235} at the optimum moderation condition, as described in the attached Criticality Analysis (Attachment 2). As long as the requirement for the number of IFBA pins versus assembly enrichment in Equation 1 is met, calculated K_{eff} (including uncertainties and biases) does not exceed 0.95 under full density conditions and does not exceed 0.98 under optimum moderation conditions.

For the 5.00 w/o U^{235} enrichment requested, Equation 2, which bounds Equation 1, will be used in the Technical Specifications related to new fuel storage.

Therefore, since the calculated values of K_{eff} have been shown to be below the regulatory limits (including uncertainties and biases) and because they reflect a substantial subcritical configuration under adverse conditions, the proposed changes will not result in a significant reduction in the plant's margin of safety.

Previous analyses provided in support of Amendments 151/131 demonstrate that the addition of new fuel having IFBA pins with a loading of 2.35 mg B–10 per linear inch to the spent fuel racks does not result in a reduction in the margin of safety. Thus, providing for reactivity hold down for IFBA pins which is equivalent to a nominal 2.35 mg B–10/linear inch loading in fresh fuel in the spent fuel storage racks maintains the current margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, NJ 08079.

Attorney for licensee: Jeffrie J. Keenan, Esquire, Nuclear Business Unit—N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Project Director: Elinor G. Adensam.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of amendment request: February 5, 1999.

Description of amendment request: The proposed amendments would change the Technical Specifications (TSs) to incorporate some of the generic changes to the Improved Technical Specifications that have been previously approved by the NRC. In addition, a TS has been added that would test the Unit 1 automatic scram relay on a periodic basis.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or the consequences of a previously evaluated event for the following reasons:

Proposed Change One

The majority of primary containment isolation valves (PCIVs) should be in the closed position following an accident to prevent the release of radiation to the environment. Locked PCIVs are verified to be in the closed position prior to being locked. Therefore, it is unnecessary for these valves to be verified closed under the provisions of Surveillance Requirements (SRs) 3.6.1.3.2 and 3.6.1.3.3. The fact that the valves are secured closed assures they will be in the safe position following an accident. Furthermore, per Plant Hatch procedure, locked valves are periodically verified to be in their correct position. This provides additional assurance the valves will remain in the correct position. For these reasons, the proposed change does not involve a significant increase in the probability or the consequences of a previously evaluated event.

Proposed Change Two

This proposed change does not affect the function of the control rods, the control rod drive (CRD) system, or the control rod housing. Thus, the probability of the control rod drop accident (CRDA) is not increased. Also, this change does not affect the function of the rod worth minimizer (RWM). As with the present Technical Specification, no control rods will be moved (via SRs 3.1.3.2 and 3.1.3.3) when below the low power setpoint (LPSP) to limit interference with respect to the RWM's function in limiting the consequences of a CRDA. Additionally, no other systems designed to prevent or mitigate the consequences of any other transient or accident are affected.

Proposed Change Three

This proposed change merely deletes a redundant specification in the control rod operability section. The requirement to electrically disarm an inoperable withdrawn control rod ensures the validity of banked position withdrawal sequence (BPWS) is maintained, thus ensuring the mitigation of the consequences of the CRDA. This proposed change in no way affects the BPWS, the RWM, or the structures of the control rods and control rod drive. Thus, the probability, or the consequences, of a previously evaluated event are not increased by this proposed change.

Proposed Change Four

Any physical deterioration of a station service battery that can cause degradation of

battery performance will result in failure of the SR, with the ensuing inoperable declaration of the battery. A determination that battery performance is not degraded, or will not degrade, will result from evaluation of the particular abnormality found while performing the Surveillance. This is the intent of the Technical Specification as clarified in the Bases.

Accordingly, the safety function of the station service batteries is not compromised as a result of this proposed change. Thus, the consequences of a previously evaluated event are not affected by this proposed revision. The proposed revision does not affect any system needed to prevent the occurrence of previously analyzed events; therefore, the probability of occurrence of a previously evaluated event is not increased.

Proposed Change Five

The purpose of the primary containment air interlock is to provide access to the primary containment while maintaining containment integrity. Extending the Surveillance Frequency on the airlock to once per 24 months will not increase the likelihood of occurrence of any previously evaluated event, since no change in the operation or testing of any system designed for the prevention of accidents and transients is being made.

Extending the Frequency of the airlock interlock Surveillance does not increase the consequences of any accident or transient, since the proposed change does not affect any system designed to mitigate the consequences of a previously analyzed event. In fact, the extended Frequency will challenge the airlock interlock less; thus, the likelihood of a loss of primary containment integrity will decrease.

Proposed Change Six

This proposed change to the Safety Function Determination Program (SFDP) description in LCO [Limiting Condition for Operation] 3.0.6 is more restrictive than the existing version. Requiring an SFDP evaluation upon entry into LCO 3.0.6, as stated in the Bases, will not increase the probability of occurrence or the consequences of a previously evaluated event, since this is purely an administrative change to clarify the intent of LCO 3.0.6 and provide consistency with the Bases.

Proposed Change Seven

This proposed administrative change merely relocates the review requirements for the Offsite Dose Calculation Manual (ODCM) to licensee controlled documents. This change does not affect any system designed for the prevention or mitigation of previously analyzed events or any assumptions regarding transient and accident analyses.

Proposed Change Eight

This proposed administrative change eliminates some of the redundant reporting requirements for safety limit violations listed in the Technical Specifications. This change does not affect any systems designed for the prevention or mitigation of any previously evaluated accident or transient. Additionally, the change does not affect any assumptions of previously evaluated accidents or transient analyses.

Proposed Change Nine

This change adds a footnote to Unit 1 Technical Specifications Table 3.3.1.1–1 to ensure the auto scram relays (K14s) are tested as part of the manual scram Functional Test. This change does not adversely affect the ability of the reactor protection system (RPS) to perform its safety function. In fact, the added testing requirement enhances the ability to detect and correct problems with the RPS. Successful testing of the K14s on a weekly basis for many years has demonstrated that the additional testing requirements do not impose an undue burden on the system. No other systems designed for the prevention or mitigation of accidents are affected by this change. Therefore, the probability, or the consequences, of a previously evaluated event are not increased.

2. The proposed changes do not create the possibility of an accident of a new or different kind from any previously evaluated.

Proposed Change One

Removing the SR to verify locked valves are in their ''safe'' position does not increase the likelihood of occurrence or consequences of a new type of event, since no new modes of operation are introduced. All plant systems will continue to be operated within their design basis. Since the valves are verified to be in their safe position prior to locking, and are periodically verified to be in that position per the locked valve procedure, the valves will be in the position assumed by accident analyses should an event occur.

Proposed Change Two

This proposed change does not affect the function of either the CRD system or the RWM. These systems, as well as all other systems designed for the prevention or mitigation of accidents, will continue to function per their design basis. Also, the BPWS will continue to be used for control rod withdrawal. Thus, no new modes of operation that would cause a type of failure different from any previously analyzed are introduced.

Proposed Change Three

Deleting Required Action B.1 of Technical Specification 3.1.3 does not eliminate any Required Actions, since the subject Required Action is redundant. Deleting the redundant specification does not prevent any of the control rod control systems from performing their functions per their design bases. Therefore, no new modes of operation are introduced, and the probability of a new type event is also not introduced by this proposed change.

Proposed Change Four

No changes to the operation, maintenance, or testing of the batteries are proposed. The batteries will continue to operate within their design basis. As a result, no new modes of operation are introduced, and thus, the probability of occurrence of a new type event is not created.

Proposed Change Five

This change is administrative in the sense that it does not result in the airlock being operated or tested outside of its design. The proposed revision only includes a change to the Frequency of SR 3.6.1.2.2, which tests the interlock's ability to prevent the two primary containment airlock doors from opening at the same time. This change does not affect how the test is to be performed or how the doors are operated. Therefore, the probability of occurrence of a new type event is not increased by the proposed change.

Proposed Change Six

This proposed administrative change to the SFDP description does not involve the operation of any safety-related system. Furthermore, this change does not involve accident or transient analyses; thus, no changes to the assumptions for the analyses are made. As a result, the probability of occurrence of a new type event is not increased.

Proposed Change Seven

This administrative change merely relocates the review requirements for the ODCM to licensee controlled documents. This change does not affect any system designed for the prevention or mitigation of previously analyzed events or any assumptions regarding transient and accident analysis. Accordingly, the possibility of a new type event is not created.

Proposed Change Eight

This administrative change eliminates some of the redundant reporting requirements for safety limit violations listed in the Technical Specifications. This change does not affect any systems designed for the prevention or mitigation of any previously evaluated accident or transient. Additionally, the change does not affect any assumptions of previously evaluated accident or transient analyses. Accordingly, the possibility of a new type event is not created.

Proposed Change Nine

Adding a requirement to test the auto scram relays (K14s) on a weekly basis does not create a new mode of operation for the RPS. Also, no other safety-related systems are affected by this change, and as a result, the possibility of occurrence of a new type accident is not created.

3. The changes do not significantly reduce the margin of safety.

Proposed Change One

Not requiring position surveillance on PCIVs locked in position does not reduce the margin of safety, because the valves are verified to be in their ''safe'' position prior to locking. This ensures the valve will remain in the ''safe'' position until it is unlocked again. The position of these locked valves is verified periodically by the Operations Department. Furthermore, a ''malicious'' unlocking of the valves is unlikely to take place, since the keys to the valves are controlled by the shift supervisor (SS). Anyone wanting to check out a key must obtain SS approval. Also, the locked valves are periodically verified to be in their proper

position whenever Operations Management deems it necessary. For these reasons, the margin of safety is not significantly reduced.

Proposed Change Two

Moving the Technical Specification 3.1.3 Note from the Required Action column to the Completion Time column will not affect the safety function of the RWM system. The RWM will continue to function through the power ranges where the control rod drop accident is of concern. The change does not affect the safety function of the RWM in any way. Thus, the margin of safety is not reduced.

Proposed Change Three

This proposed change only eliminates a redundant Specification. Adherence to the requirements of the BPWS will still be maintained during plant startups. Also, the operation of the RWM system remains unaffected by this proposed change. For these reasons, the margin of safety for the CRDA is not reduced.

Proposed Change Four

This proposed change clarifies that the purpose of SR 3.8.4.3 is to determine whether a physical deterioration that could affect battery performance exists. This is already stated in the Plant Hatch Technical Specifications Bases; thus, the proposed revision is merely a clarification of the Specification. Adding this clarification does not reduce the margin of safety with respect to battery performance, because an engineering evaluation must be performed to document that the particular deficiency will not prevent the battery from performing its safety function.

Proposed Change Five

This proposed change to extend the Frequency of SR 3.6.1.2.2 reduces the number of challenges to primary containment integrity. The nature of the Surveillance is such that the primary containment (drywell) interlock is challenged. With that challenge, the likelihood of a primary containment breach is increased. Therefore, reducing the Frequency of this SR actually increases the safety of margin, since normal entry and exit procedures do not permit challenging the interlock.

Proposed Change Six

This purely administrative change clarifies the definition of the SFDP in LCO 3.0.6. The Technical Specifications margin of safety is enhanced, since the new wording, together with the existing wording in the Bases, makes it clear that the SFDP must be performed any time LCO 3.0.6 is entered.

Proposed Change Seven

This proposed change merely allows relocation of the review and approval functions for the ODCM revisions from the Technical Specifications to owner-controlled documents. The purely administrative change does not affect any Technical Specifications required system, test, or function. Changes to the ODCM will continue to receive the level of review necessary to ensure any proposed changes are accurate and complete. Therefore, the margin of safety is not reduced.

Proposed Change Eight

This purely administrative change eliminates redundant reporting requirements with respect to a safety limit violation. The change has no effect on any Technical Specifications required system, test, or function, or on any other safety-related system. Accordingly, the margin of safety is not reduced.

Proposed Change Nine

This proposed change ensures the Unit 1 auto scram relays (K14s) are tested on a weekly basis. General Electric recognizes this as an optimum test frequency for these scram contactors. In this respect, the margin of safety is increased, since this change ensures the relays will be tested at the optimum recommended Frequency. Also, at Plant Hatch, the K14 relays and contacts have been tested at this Frequency for many years. As a result, placing this requirement on the relays will not pose an undue burden on the RPS. No other safety-related systems are affected by this proposed change. For the above reasons, this proposed change does not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC.

NRC Project Director: Herbert N. Berkow.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas.

Date of amendment request: January 26, 1999.

Description of amendment request: The amendment would revise part of the Inservice Inspection requirements for the Reactor Coolant Pump flywheel from an in-place ultrasonic volumetric examination of the areas of higher stress concentration at the bore and keyway at approximately 3-year intervals and a surface examination of all exposed surfaces and complete ultrasonic volumetric examination at approximately 10 year intervals to ultrasonic examination over the volume from the inner bore of the flywheel to the circle of one-half the outer radius once every 10 years.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change increases the examination volume and revises the periodicity of the ultrasonic examination required by Regulatory Guide 1.14 regulatory position C.4.b(1) from 3-year intervals to 10-year intervals. This change is consistent with the conclusions of the NRC staff in the referenced safety evaluation of WCAP–14535. The NRC staff has determined that the evaluation methodology is appropriate and the criteria are in accordance with the design criteria of RG 1.14. There is no change in the method of plant operation or system design.

The proposed change revises the inspection process to eliminate 10-year surface examination of all exposed surfaces and complete ultrasonic volumetric examination required by Regulatory Guide 1.14 Regulatory Position C.4.b(2). An ultrasonic volumetric examination will be performed of a section of the flywheel once every 10 years. This change is consistent with the conclusions of the NRC staff in referenced safety evaluation of WCAP–14535. The NRC staff has determined that the evaluation methodology is appropriate and the criteria are in accordance with the design criteria of RG 1.14.

Based on the above, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change increases the examination volume and revises the periodicity of the ultrasonic examination required by Regulatory Guide 1.14 regulatory position C.4.b(1) from 3-year intervals to 10-year intervals. This change is consistent with the conclusions of the NRC staff in the referenced safety evaluation of WCAP–14535. The only potential accident associated with this change is loss of the flywheel. Precautionary measures taken to preclude missile formation from Reactor Coolant Pump components assure that the pumps will not produce missiles under any anticipated accident condition. Each component of the primary pump motors has been analyzed for missile generation Any fragments of the motor rotor would be contained by the heavy stator. Effects on reactor coolant flow due to loss of functionality of a single Reactor Coolant Pump flywheel are enveloped by the analysis of the consequences of the Reactor Coolant Pump locked rotor event. There is no change in the method of plant operation or system design.

The proposed change revises the inspection process to eliminate 10-year surface examination of all exposed surfaces and complete ultrasonic volumetric examination required by Regulatory Guide

1.14 Regulatory Position C.4.b(2). An ultrasonic volumetric examination will be performed of a section of the flywheel once every 10 years. This change is consistent with the conclusions of the NRC staff in the referenced safety evaluation of WCAP–14535. The only potential accident associated with this change is loss of the flywheel. Precautionary measures taken to preclude missile formation from Reactor Coolant Pump components assure that the pumps will not produce missiles under any anticipated accident condition. Each component of the primary pump motors has been analyzed for missile generation. Any fragments of the motor rotor would be contained by the heavy stator. Effects on reactor coolant flow due to loss of functionality of single Reactor Coolant Pump flywheel are enveloped by the analysis of the consequences of the Reactor Coolant Pump locked rotor event.

Based on the above, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change increases the examination volume and revises the periodicity of the ultrasonic examination required by Regulatory Guide 1.14 Regulatory Position C.4.b(1) from 3-year intervals to 10-year intervals. This change is consistent with the conclusions of the NRC staff in the referenced safety evaluation of WCAP–14535. The NRC staff used deterministic methodology to review the WCAP and came to the conclusion that ASME margins would be maintained during the service period and a 10-year inspection period appears reasonable. There is no change in the method of plant operation or system design.

The proposed change revises the inspection process to eliminate the 10-year surface examination of all exposed surfaces and complete ultrasonic volumetric examination required by Regulatory Position C.4.b(2) of Regulatory Guide 1.14. An ultrasonic volumetric examination will be performed of a section of the flywheel once every 10 years. This change is consistent with the conclusions of the NRC staff in the referenced safety evaluation of WCAP–14535. Effects on reactor coolant flow due to loss of functionality of a single Reactor Coolant Pump flywheel are enveloped by the analysis of the consequences of the Reactor Coolant Pump locked rotor event.

Based on the above, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Local Public Document Room location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, TX 77488.

Attorney for licensee: Jack R. Newman, Esq., Morgan, Lewis & Bockius, 1800 M Street, N.W., Washington, DC 20036–5869.

NRC Project Director: John N. Hannon.

Tennessee Valley Authority, Docket No. 50–328, Sequoyah Nuclear Plant, Unit 2, Hamilton County, Tennessee

Date of application for amendments: August 27, 1998 (TS 98–04).

Brief description of amendments: The proposed amendment would change the Sequoyah (SQN) Technical Specifications (TSs) by adding a provision to Section 5.3, ''Reactor Core,'' authorizing a limited number of lead test assemblies (LTAs) to be installed in the core as described in the Framatome Cogema Fuels Report BAW–2328 entitled ''Blended Uranium Lead Test Assembly Design Report.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), Tennessee Valley Authority (TVA), the licensee, has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The LTAs are identical to the other Mark-BW fuel assemblies with the exception of minor differences internal to the fuel rods. These differences will not adversely affect reactor neutronic or thermal-hydraulic performance; therefore, they do not significantly increase the probability of accidents while in the reactor.

The reload design analyses performed for SQN Unit 2 Cycle 10 accounts for any minor neutronic differences of the LTAs and confirms any effects on the reload core to be within established fuel design limits.

The pressure and temperature safety limits for the cycles in which the LTAs will be in the core are the same as those for the current operating cycle thus ensuring that the fuel will be maintained within the same range of safety parameters that form the basis for the FSAR [Final Safety Analysis Report] accident evaluation. The potential effects of the LTAs on plant operation and safety have been evaluated. This evaluation investigated both LOCA [loss-of-coolant accident] and non-LOCA events, and concluded that the current analyses remain bounding and that there will be no increase in the probability of occurrence for any design basis accident described in the FSAR.

The impact of the LTAs on key safety analysis parameters was examined and it was concluded that there will be an insignificant impact.

The impacts of the LTAs on the radiological consequences for all postulated events have been evaluated. The total calculated source term and the source term-activity of isotopes, which significantly contribute to operator and off-site accident exposure levels, were shown to be less than standard fuel assemblies, therefore, it will not increase the consequences of any accident previously evaluated.

The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The fuel assembly design for the LTAs is identical to the standard fuel assemblies. The main difference between the LTAs and the production fuel is that the concentration of the U^{234} and U^{236} isotopes will be higher in the LTA fuel pellets than that typically found in standard fuel. These isotopic differences will not affect the chemical, mechanical or thermal properties of the fuel pellet.

The LTAs meet the same design criteria and licensing basis criteria as the standard fuel assemblies and were manufactured with the same processes. The LTA skeleton is identical to the standard skeleton, which ensures that the loadings associated with normal operation, seismic events, LOCA events, and shipping and handling are not affected.

Pressure and temperature safety limits will be maintained the same as those for the current operating cycle, thus ensuring that the fuel will be maintained within the same range of safety parameters that form the basis for previous accident evaluations. No new performance requirements are being imposed on any system or component that exceed design criteria or cause the core to operate in excess of design basis operating limits. No credible scenario has been identified, which could jeopardize equipment that could cause intensify or mitigate events or accident sequences. Therefore, the LTAs will not create the possibility of accidents or equipment malfunctions of a different type than previously evaluated while in the reactor.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The LTAs will not adversely affect reactor neutronic or thermal-hydraulic performance. The LOCA acceptance criteria with LTAs installed in the core will continue to be met: peak cladding temperature of less than or equal to 2200 °F, peak cladding oxidation of less than or equal to 17 percent, average clad oxidation of less than or equal to 1 percent, and long-term coolability. The acceptance criteria for departure from nucleate boiling (DNB) events with the LTAs installed in the core will also continue to be met: 95 percent probability and 95 percent confidence interval that DNB is not occurring during the transient. Other acceptance criteria have also been demonstrated to remain within acceptable limits. The total calculated source term-activity and the source term-activity of isotopes, which significantly contribute to operator and off-site accident exposure levels of the LTAs, was determined to be less than that for the standard fuel assembly. All previously evaluated events remain bounding and valid. For these reasons, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902.

NRC Project Director: Cecil O. Thomas.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

Commonwealth Edison Company, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Date of application for amendments: August 14, 1998, as supplemented by letters dated October 13, 1998, and December 23, 1998.

Brief description of amendments: The amendments revised the Dresden Technical Specifications (TS) to reflect the use of Siemens Power Corporation ATRIUM–9B fuel. Specifically the amendments incorporated the following into the TS: (a) new methodologies that enhanced operational flexibility and reduced the likelihood of future plant derates; (b) administrative changes that eliminated the cycle-specific implementation of ATRIUM–9B fuel and adopted Improved Standard Technical Specification language where appropriate; and (c) changed the Minimum Critical Power Ratio.

Date of issuance: February 16, 1999

Effective date: Immediately, to be implemented within 30 days.

Amendment Nos.: 171; 166.

Facility Operating License Nos. DPR–19 and DPR–25: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: 63 FR 48258 (September 9, 1998) and 63 FR 59588 (November 4, 1998). The October 13 and December 23, 1998 submittals provided additional clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 16, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Morris Area Public Library District, 604 Liberty Street, Morris, Illinois 60450.

Commonwealth Edison Company, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: October 16, 1998.

Brief description of amendments: The amendments revise the Technical Specifications (TS) to lower the power level (from 30 percent to 25 percent rated thermal power) below which the turbine control valve (TCV) and turbine stop valve (TSV) closure scram signals and the end-of-cycle recirculation pump trip (EOC–RPT) signal are not in effect. The amendments also (1) delete from TSs the reference to turbine first stage pressure as a measure of rated thermal power, and (2) add a requirement to periodically verify that TCV and TSV scram trip functions and the EOC–RPT trip functions are not bypassed at greater than or equal to 25 percent rated thermal power.

Date of issuance: February 12, 1999.

Effective date: For Unit 1—Immediately, to be implemented within 90 days; for Unit 2—immediately, to be implemented prior to startup of L2C8.

Amendment Nos.: 130; 114.

Facility Operating License Nos. NPF–11 and NPF–18: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: November 18, 1998 (63 FR 54108). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 12, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Jacobs Memorial Library, 815 North Orlando Smith Avenue, Illinois Valley Community College, Oglesby, Illinois 61348–9692.

Commonwealth Edison Company, Docket No. 50–374, LaSalle County Station, Unit 2, LaSalle County, Illinois

Date of amendment request: November 9, 1998.

Brief description of amendment: The amendment revised Technical Specification 3/4.3.2, ''Isolation Actuation Instrumentation'' to add/revise various isolation setpoints for leak detection instrumentation. These changes are necessary due to modifications to the reactor water cleanup (RWCU) system to restore ''hot'' suction to the RWCU pumps and due to a re-evaluation of the high energy line break analysis. In addition, the amendment eliminated isolation actuation trip functions for the residual heat removal system steam condensing mode and shutdown cooling mode.

Date of issuance: February 16, 1999.

Effective date: February 16, 1999.

Amendment No.: 115.

Facility Operating License No. NPF–18: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 16, 1998 (63 FR 69335).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 16, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Jacobs Memorial Library, 815 North Orlando Smith Avenue, Illinois

Valley Community College, Oglesby, Illinois 61348–9692.

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of application for amendment: June 20, 1997 (NRC–97–0037), as supplemented July 2, 1997 (NRC–97–0066), and March 10 (NRC–98–0036) and April 9, 1998 (NRC–98–0083).

Brief description of amendment: The amendment revises the technical specifications by relocating surveillance requirement 4.4.1.1.2 for setting the reactor recirculation system motor-generator set scoop tube stops to the updated final safety analysis report (UFSAR), with modifications.

Date of issuance: February 8, 1999.

Effective date: February 8, 1999, with full implementation within 90 days. Implementation of this amendment shall include the relocation of surveillance requirement 4.4.1.1.2 from the technical specifications to the UFSAR as described in the licensee's application dated June 20, 1997, as supplemented on July 2, 1997, and March 10 and April 9, 1998, and evaluated in the staff's safety evaluation dated February 8, 1999.

Amendment No.: 130.

Facility Operating License No. NPF–43: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register**: July 16, 1997 (62 FR 38134)

The July 2, 1997, and March 10 and April 9, 1998, submittals provided additional clarifying information within the scope of the original **Federal Register** notice and did not change the staff's initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 8, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: June 30, 1998, as supplemented by letter dated November 23, 1998.

Brief description of amendment: The amendment authorizes the licensee to modify the plant to correct a design deficiency with the plant protection system (PPS). This deficiency could have rendered the system vulnerable to a single failure (i.e., failure of a DC buss) with one channel in bypass. The proposed modification would ensure the required redundancy and independence for the PPS such that no single failure results in a loss of the protection function with a channel in indefinite bypass, and removal from service of any component or channel does not result in a loss of the minimum redundancy required by the Technical Specifications.

Date of issuance: February 17, 1999.

Effective date: This license amendment is effective as of its date of issuance to be implemented within six months following the facility's restart from refueling outage 2R14.

Amendment No.: 201

Facility Operating License No. NPF–6: Amendment revised the license to authorize a modification to the plant protection system.

Date of initial notice in **Federal Register**: December 2, 1998 (63 FR 66593).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 17, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, AR 72801

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: June 29, 1998, as supplemented by letter dated January 12, 1999.

Brief description of amendment: The amendment changes the Appendix A TSs by modifying TS 3.7.6.1, ''Control Room Emergency Air Filtration System'' in Modes 1–4, TS 3.7.6.2, ''Control Room Emergency Air Filtration System'' in Modes 5 and 6, TS 3.7.6.3, ''Control Room Air Temperature'' in Modes 1–4, TS 3.7.6.4, ''Control Room Air Temperature,'' in Modes 5 and 6, TS 3.7.6.5, ''Control Room Isolation and Pressurization,'' and its associated basis. This amendment also modifies TS Tables 3.3–6 and 4.3–3 for the Control Room Intake Monitors.

Date of issuance: February 17, 1999.

Effective date: This license amendment is effective as of its date of issuance, to be implemented within 60 days.

Amendment No.: 149.

Facility Operating License No. NPF–38: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: October 21, 1998 (63 FR 56247).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 17, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122.

FirstEnergy Nuclear Operating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit 1, Ottawa County, Ohio

Date of application for amendment: May 28, 1996, as supplemented by letter dated October 27, 1998.

Brief description of amendment: This amendment increases the test interval for reactor protection system instrumentation and anticipatory reactor trip system instrumentation.

Date of issuance: February 22, 1999.

Effective date: February 22, 1999.

Amendment No.: 230.

Facility Operating License No. NPF–3: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: July 31, 1996 (61 FR 40031). The supplemental information provided did not impact the proposed no significant hazards consideration.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 22, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Toledo, William Carlson Library, Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, OH 43606

FirstEnergy Nuclear Operating Company, Docket No. 50–440 Perry Nuclear Power Plant, Unit 1, Lake County, Ohio

Date of application for amendment: September 8, 1997, as supplemented by submittal dated October 27, 1998.

Brief description of amendment: This amendment revised Technical Specification 5.2.2.e, ''Organization—Unit Staff,'' by removing the reference to the NRC Policy Statement on working hours and incorporating a requirement for administrative procedures necessary to ensure that the working hours of unit staff who perform safety-related functions are limited and controlled.

Date of issuance: February 22, 1999.

Effective date: February 22, 1999.

Amendment No.: 98.

Facility Operating License No. NPF–58: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: November 19, 1997 (62 FR

61847) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 22, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, OH 44081.

FirstEnergy Nuclear Operating Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit 1, Lake County, Ohio

Date of application for amendment: September 3, 1998, as supplemented by submittals dated December 3, and December 9, 1998 and January 12, and January 26, 1999.

Brief description of amendment: This amendment revised Technical Specification 3.8.1, ''AC Sources—Operating,'' by extending the emergency diesel generator (EDG) Completion Time from 72 hours to 14 days for the Division 1 and 2 EDG and allows performance of the EDG 24-hour test run in Modes 1 and 2. The amendment also establishes Technical Specification 5.5.13.1, ''Configuration Risk Management Program,'' an administrative program that assesses risk based on plant status.

Date of issuance: February 24, 1999.

Effective date: February 24, 1999.

Amendment No.: 99.

Facility Operating License No. NPF–58: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: October 21, 1998 (63 FR 56261)

The supplemental information provided clarifying information that did not change the initial no significant hazards consideration determination or alter the scope of the proposed action.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 24, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, OH 44081.

IES Utilities Inc., Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: January 22, 1999.

Brief description of amendment: The amendment revises Technical Specification Surveillance Requirement (SR) 3.8.1.7 to better match plant conditions during diesel generator (DG) testing by clarifying which voltage and frequency limits are applicable during the transient and steady state portions of the DG start. A Notice of Enforcement Discretion (NOED) related to SR 3.8.1.7 was issued verbally on January 20, 1999. The NOED is documented in a letter dated January 22, 1999.

Date of issuance: February 17, 1999.

Effective date: February 17, 1999, to be implemented within 30 days.

Amendment No.: 225.

Facility Operating License No. DPR–49: Amendment revised the Technical Specifications. Public comments requested as to proposed no significant hazards consideration (NSHC): Yes (64 FR 4902 dated February 1, 1999). The notice provided an opportunity to submit comments on the Commission's proposed NSHC determination. No comments have been received. The notice also provided for an opportunity to request a hearing by March 3, 1999, but indicated that if the Commission makes a final NSHC determination, any such hearing would take place after issuance of the amendment.

The Commission's related evaluation of the amendment, finding of exigent circumstances, and final NSHC determination are contained in a Safety Evaluation dated February 17, 1999.

Attorney for Licensee: Al Gutterman; Morgan, Lewis & Bockius, 1800 M Street NW, Washington, D.C. 20036–5869.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, SE., Cedar Rapids, IA 52401

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: October 22, 1998.

Brief description of amendment: The amendment revises Technical Specifications 3.3.2.1, ''Instrumentation—Engineered Safety Feature Actuation System Instrumentation''; 3.4.9.3, ''Reactor Coolant System—Overpressure Protection Systems''; and 3.5.3, ''Emergency Core Cooling Systems—ECCS Subsystems—Tavg < 300 [degrees] F.'' The amendment allows Millstone Unit No. 2 to prevent an automatic start of any high-pressure safety injection (HPSI) pump when the shutdown cooling system (SDCS) is in operation (Mode 4 and below). An inadvertent start of an HPSI pump could result in overpressurization of the SDCS.

Date of issuance: February 10, 1999.

Effective date: As of the date of issuance to be implemented within 60 days from the date of issuance.

Amendment No.: 227.

Facility Operating License No. DPR–65: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 2, 1998 (63 FR 66600)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 10, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: March 10, 1997, as supplemented by letters dated May 20, 1997; March 13, August 28, and October 22, 1998; and January 29 and February 2, 1999.

Brief description of amendments: The amendments revised the combined Technical Specifications (TS) for the Diablo Canyon Power Plant (DCPP) Unit Nos. 1 and 2 that changed TS 3/4.4.5 and its associated Bases to allow the implementation of steam generator (SG) tube alternate repair criteria for axial indications in the Westinghouse explosive tube expansion (WEXTEX) region below the top of the tubesheet and below the bottom of the WEXTEX transition that may exceed the current TS depth-based plugging limit.

Date of issuance: February 19, 1999.

Effective date: February 19, 1999, to be implemented within 30 days from the date of issuance.

Amendment Nos.: Unit 1—129; Unit 2—127.

Facility Operating License Nos. DPR–80 and DPR–82: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: November 19, 1997 (62 FR 61843). The March 13, August 28, and October 22, 1998; and January 29 and February 2, 1999, supplemental letters provided additional clarifying information, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 19, 1999. No

significant hazards consideration comments received: No.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Power Authority of The State of New York, Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of application for amendment: June 16, 1998.

Brief description of amendment: The amendment changes the Technical Specifications (TSs) by moving certain administrative requirements from the TSs to the Final Safety Analysis Report.

Date of issuance: February 25, 1999.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 188.

Facility Operating License No. DPR–64: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register**: July 29, 1998 (63 FR 40560).

No significant hazards consideration comments received: No.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 25, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

PP&L, Inc., Docket No. 50–388, Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of application for amendment: August 4, 1998, as supplemented by letters dated December 16, 1998, and January 12 and 28, 1999.

Brief description of amendment: This amendment would modify the Susquehanna Steam Electric Station, Unit 2 Technical Specifications to replace figures 2.1.1.2–1 and 2.1.1.2–2, and associated footnotes, with single value minimum critical power ratio Safety Limits of Section 2.1.1.2; remove references from Section 5.6.5 which do not directly support the generation of Core Operating Limits; remove references from Section 5.6.5 which were previously included to address the application of the ANFB–10 correlation to ATRIUM–10 fuel; include Siemiens Power Corporation ANFB–10 topical report in Section 5.6.5; and to change the Bases to reflect the inclusion of the ANFB–10 critical power correlation.

Date of issuance: February 17, 1999.

Effective date: As of date of issuance, to be implemented in 30 days.

Amendment No.: 154.

Facility Operating License No. NPF–22. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: September 9, 1998 (63 FR 48262). The December 16, 1998, and January 12, and 28, 1999, letters provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 17, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendments request: October 12, 1998.

Brief Description of amendments: The amendments revise Technical Specification Section 6, ''Administrative Controls,'' to recognize the additional management positions associated with the steam generator replacement project. The new positions would provide the ability to approve procedures regarding this project, which may affect nuclear safety.

Date of issuance: February 19, 1999.

Effective date: As of the date of issuance to be implemented within 30 days from the date of issuance.

Amendment Nos.: Unit 1—141 and Unit 2—133.

Facility Operating License Nos. NPF–2 and NPF–8: Amendments revise the Technical Specifications.

Date of initial notice in **Federal Register**: November 18, 1998 (63 FR 64122). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 19, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, Post Office Box 1369, Dothan, Alabama.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of application for amendments: June 19, 1998, as supplemented by letters dated December 4, 1998, and January 13, 1999.

Brief description of amendments: The proposed changes would modify the technical specifications (TS) to (1) reduce the minimum RCS cold leg temperature (Tc); (2) convert the specified reactor coolant system (RCS) flow from mass units (lbm/hr) to volumetric units (gpm); and (3) eliminate the maximum RCS flow rate limit from the TS.

Date of issuance: February 12, 1999.

Effective date: February 12, 1999, to be implemented within 30 days from the date of issuance.

Amendment Nos.: Unit 2—149; Unit 3—141.

Facility Operating License Nos. NPF–10 and NPF–15: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: September 9, 1998 (63 FR 48266). The supplemental letters dated December 4, 1998, and January 13, 1999, provided additional clarifying information, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 12, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Main Library, University of California, P. O. Box 19557, Irvine, California 92713.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of application for amendments: November 23, 1998, as supplemented by letter dated January 13, 1999.

Brief description of amendments: The amendments revised the technical specifications (TS) to (1) reinstate the log power reactor trip at or above 4E–5% RATED THERMAL POWER (RTP); (2) reinstate reactor trips for Reactor Coolant Flow—Low (RCS flow), the Local Power Density—High (LPD), and the Departure from Nucleate Boiling Ratio—Low (DNBR); (3) remove the word ''automatically'' from notes (a) and (d) of Table 3.3.1–1 to clarify that the

manual enable of the trip is permissible; and (4) clarify that the setpoints on Table 3.3.1–1 are set relative to logarithmic power.

Date of issuance: February 12, 1999.

Effective date: February 12, 1999, to be implemented within 30 days from the date of issuance.

Amendment Nos.: Unit 2—150; Unit 3—142.

Facility Operating License Nos. NPF–10 and NPF–15: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 30, 1998 (63 FR 71973). The January 13, 1999, supplemental information provided additional clarifying information and did not change the staff's initial no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 12, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Main Library, University of California, P. O. Box 19557, Irvine, California 92713.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: November 23, 1998.

Brief description of amendments: Relocates descriptive design information from Technical Specification (TS) Section 3.7.1.1, Table 3.7–2, regarding orifice sizes for main steam line Code safety valves, to the Bases section for this TS.

Date of issuance: February 24, 1999.

Effective date: This license amendment is effective as of its date of issuance, and shall be implemented within 30 days of issuance.

Amendment Nos.: Unit 1—Amendment No. 103; Unit 2—Amendment No. 90.

Facility Operating License Nos. NPF–76 and NPF–80: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 30, 1998 (63 FR 71974).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 24, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, TX 77488.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: December 10, 1998.

Brief description of amendment: The amendment corrects an error in the technical specifications by changing to the use of ''hydrogen balance air'' rather than the incorrect ''hydrogen balance nitrogen'' for calibration of the Augmented Offgass System hydrogen monitors.

Date of Issuance: February 12, 1999.

Effective date: February 12, 1999, to be implemented within 30 days.

Amendment No.: 166.

Facility Operating License No. DPR–28: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 30, 1998 (63 FR 71975).

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated February 12, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: August 20, 1997, as supplemented on September 18, 1997, and October 31, 1997.

Brief description of amendment: The amendment makes administrative changes to the Technical Specifications to add and revise reference to NRC-approved methodologies which will be used to generate the cycle-specific thermal operating limits in the Vermont Yankee Core Operating Limits Report.

Date of Issuance: February 23, 1999.

Effective date: February 23, 1999, to be implemented within 30 days.

Amendment No.: 167.

Facility Operating License No. DPR–28: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: March 25, 1998 (63 FR 14489).

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated February 23, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: December 10, 1996, as supplemented on January 22, 1999.

Brief description of amendment: The amendment makes changes to the Technical Specifications regarding fire protection requirements as recommended by NRC Generic Letters 86–10 and 88–12. This includes relocating certain fire protection requirements to the Vermont Yankee Fire Protection Plan, Technical Requirements Manual, and Final Safety Analysis Report.

Date of Issuance: February 24, 1999.

Effective date: February 24, 1999, to be implemented within 30 days.

Amendment No.: 168.

Facility Operating License No. DPR–28. Amendment revised the Technical Specifications and Facility Operating License.

Date of initial notice in **Federal Register**: February 26, 1997 (62 FR 8801).

The January 22, 1999, supplement did not change the original proposed no significant hazards consideration determination, or expand the scope of the amendment request as initially noticed.

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated February 24, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301.

Virginia Electric and Power Company, et al., Docket Nos. 50–280 and 50–281, Surry Power Station, Units 1 and 2, Surry County, Virginia

Date of application for amendments: November 4, 1998.

Brief Description of amendments: These amendments revise the Technical Specifications (TS) to change Emergency Diesel Generator start and load time testing requirements in TS 4.6.A.1.b. The TS Basis Section 3.16 is also revised to reflect the basis for the new TS requirements. The TS changes are in a conservative direction, and are being made to bring the TS and the Updated Final Safety Analysis Report into conformance with each other.

Date of issuance: March 1, 1999.

Effective date: March 1, 1999.

Amendment Nos.: 218 and 218.

Facility Operating License Nos. DPR–32 and DPR–37: Amendments change the Technical Specifications.

Date of initial notice in **Federal Register**: January 27, 1999 (64 FR 4161).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 1, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185

Wisconsin Public Service Corporation, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: March 4, 1998, as supplemented September 21, 1998.

Brief description of amendment: This amendment revises the Technical Specifications to provide a one-hour limiting condition for operation that will permit a safety injection pump to be used for the addition of make-up fluid to safety injection accumulators during power operation.

Date of issuance: February 23, 1999.

Effective date: February 23, 1999.

Amendment No.: 143.

Facility Operating License No. DPR–43: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 8, 1998 (63 FR 17237).

The September 21, 1998, supplement provided clarifying information that did not change the initial no significant hazards determination or alter the scope of the proposed action.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 23, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Wisconsin, Cofrin Library, 2420 Nicolet Drive, Green Bay, WI 54311–7001.

Dated at Rockville, Maryland, this 3rd day of March 1999.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–5751 Filed 3–9–99; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are Invited on

(a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and Purpose of Information Collection

Evidence for application of Overall Minimum: OMB 3220–0083 Under Section 3(f)(3) of the Railroad Retirement Act (RRA), the total monthly benefits payable to a railroad employee and his/her family are guaranteed to be no less than the amount which would be payable if the employee's railroad service has been covered by the Social Security Administration. The Social Security Overall Minimum Guarantee is prescribed in 20 CFR 229. To administer this provision, the Railroad Retirement Board (RRB) requires information about a retired employee's spouse and child(ren) who would not be eligible for benefits under the RRA but would be eligible for benefits under the Social Security Act if the employee's railroad service had been covered by that Act. The RRB obtains the required information by the use of forms G–319 (Statement Regarding Family and Earnings for Special Guaranty Computation) and G–320 (Statement by Employee Annuitant Regarding Student Age 18–19). One form is completed by each respondent. Form G–319 is being revised to request information regarding a student's earnings and entitlement to other benefits. Reformatting, editorial and cosmetic revisions are also being proposed to Form G–319. Reformatting, and editorial revisions (including the deletion of information items requested on the proposed G–319) are proposed to Form G–320.

Estimate of Annual Respondent Burden

The estimated annual respondent burden is as follows:

Form#(s)	Annual responses	Time (Min)	Burden (Hrs)
G–319			
Employee Completed:			
With assistance	95	26	41
Without assistance	5	55	5
Spouse completed:			
With assistance	95	30	48
Without assistance	5	60	5
G–320			
With assistance	86	10	14
Without assistance	4	26	2
Total	290	.....	115

FOR FURTHER INFORMATION CONTACT: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Baord, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 99–5841 Filed 3–9–99; 8:45 am]

BILLING CODE 7905–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Representative Payee Parental Custody Monitoring.
(2) *Form(s) submitted:* G–99d.
(3) *OMB Number:* 3220–0176.
(4) *Expiration date of current OMB clearance:* 4/30/1999.
(5) *Type of request:* Extension of a currently approved collection.
(6) *Respondents:* Individuals or households.
(7) *Estimated annual number of respondents:* 1,850.
(8) *Total annual responses:* 1,850.
(9) *Total annual reporting hours:* 154.
(10) *Collection description:* Under Section 12(a) of the Railroad Retirement Act, the RRB is authorized to select, make payment to, and conduct transactions with an annuitant's relative or some other person willing to act on behalf of the annuitant as a representative payee. The collection obtains information needed to verify the parent-for-child payee still retains custody of the child.

Additional Information or Comment: Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 and the OMB reviewer, Laurie Schack (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, D.C. 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 99–5939 Filed 3–9–99; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission Office of Filings and Information Services Washington, DC 20549

Extension
Regulation S–X SEC File No. 270–3 OMB Control No. 3235–0009

Notice is hereby given that, pursuant to the Paperwork Reduction Act 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Information collected and information prepared pursuant to Regulation S–X focus on the form and content of, and requirements for, financial statements filed with periodic reports and in connection with the offer and sale of securities. Investors need reasonably current financial statements to make informed investment and voting decisions.

The potential respondents include all entities that file registration statements or reports pursuant to the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, or the Investment Company Act of 1940.

Regulation S–X specifies the form and content of financial statements when those financial statements are required to be filed by other rules and forms under the federal securities laws. Compliance burdens associated with the financial statements are assigned to the rule or form that directly requires the financial statements to filed, not Regulation S–X. Instead, an estimated burden of one hour traditionally has been assigned to Regulation S–X for incidental reading of the regulation. The estimated average burden hours are solely for purpose of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules or forms.

Recordkeeping retention periods are based on the disclosure required by various forms and rules other than Regulation S–X. In general, balance sheets for the preceding two fiscal years, income and cash flow statements for the preceding three fiscal years, and condensed quarterly financial statements must be filed with the Commission. Five year summary financial information is required to be disclosed by some larger registrants.

Filing financial statements, when required by the governing rule or form, is mandatory. Because these statements are provided for the purpose of disseminating information to the securities markets, they are not kept confidential.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: March 2, 1999.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–5843 Filed 3–9–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [To Be Published]

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: To Be Published.

CHANGE IN THE MEETING: Cancellation of Meeting.

The closed meeting scheduled for Thursday, March 11, 1999, at 11:00 a.m., has been cancelled.

At times, changes in Commission priorities require alternations in the scheduling of meeting items. For further informaiton and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary (202) 942–7070.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–5983 Filed 3–5–99; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on September 30, 1998 [63 FR 52314].

DATES: Comments must be submitted on or before April 9, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Ernest Huckaby, HHS–10, Room 3414, Office of Highway Safety, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Federal Highway Administration

Title: Food Service Highway Signs Study.

OMB Number: 2125–NEW.

Type of Request: Approval of a new information collection.

Affected Public: Departments of Transportation in 50 States and Puerto Rico and the District of Columbia.

Abstract: This information collection provides for a study to be conducted by the FHWA to determine the practices of the States regarding specific food service signs as described in the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD). The Transportation Equity Act for the 21st Century (TEA–21), Section 1213(g), directs the Secretary of the U.S. Department to conduct a study of States' practices for specific food service signs described in sections 2G–5.7 and 2G–5.8 of the MUTCD. TEA–21 requires that the study shall examine, at a minimum: (a) the practices of all States for determining businesses eligible for inclusion on such signs; (b) whether States allow businesses to be removed from such signs and the circumstances for such removal; (c) the practices of all States for erecting and maintaining such signs, including the time required for erecting such signs; and (d) whether States contract out the erection and maintenance of such signs. A report to Congress is due not later than one year after the enactment of TEA–21 on the results of the study, including any recommendations and, if appropriate, modifications to the MUTCD.

Estimated Total Annual Burden Hours: 104.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention DOT Desk Officer.

Comments are Invited on

Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Issued in Washington, DC, on March 4, 1999.

Vanester M. Williams,

Clearance Officer, United States Department of Transportation.

[FR Doc. 99–5922 Filed 3–9–99; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 186; Automatic Dependent Surveillance—Broadcast (ADS–B)

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for Special Committee (SC)–186 meeting to be held March 22–25, 1999, starting at 9:00 a.m. The meeting will be held at RTCA, Inc., 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC, 20036.

The agenda will include: March 22: Working Group (WG)–1, Operations and Implementations; WG–3, 1090 MHz ADS–B Minimum Operational Performance Standards (MOPS). March 23: WG–1, Operations and Implementation; WG–3, 1090 MHz ADS–B MOPS; WG–4, Application Technical Requirements. March 24: WG–4, Application Technical Requirements.

Plenary Session, March 24, 1:00–4:30 p.m., and March 25, 9:00 a.m.–4:30 p.m.: (1) Chairman's Introductory Remarks/Review of Meeting Agenda; (2) Review and Approval of Minutes of the Previous Meeting; (3) Working Group (WG) Reports: a. WG–1, Operations and Implementation; b. WG–3, 1090 MHz MOPS; c. WG–4, Application Technical Requirements; (4) Review of SC–186's Organization/Working Group Structure; (5) Progress of SC–186/WG–51 Joint Working Relationship; (6) Review of Draft Document: *Development and Implementation Template for ADS–B and Other CNS Applications: An Implementation Planning Guide. (7) Other Business; (8) Date and Place of Next Meeting.*

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC, 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on March 3, 1999.

Janice L. Peters,

Designated Official.

[FR Doc. 99–5854 Filed 3–9–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Application (99–02–C–00–MDT) to Impose a Passenger Facility Charge at Harrisburg International Airport and use the Revenue From a Passenger Facility Charge (PFC) at Harrisburg International Airport and Capital City Airport (Master Plan Project only), Middletown, Pennsylvania

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose a PFC at Harrisburg International Airport and use the revenue from a PFC at Harrisburg International Airport and Capital City Airport (Master Plan Project only) under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L.

101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before April 9, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. Oscar Sanchez, Project Manager, Harrisburg Airports District Office, 3911 Hartzdale Dr., suite 1100, Camp Hill, PA 17011.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. David G. Holdsworth, Executive Director for the Susquehanna Area Regional Airport Authority at the following address: 135 York Drive, Suite 100, Middletown, PA 17057–5078.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Susquehanna Area Regional Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Oscar Sanchez, Project Manager, Harrisburg Airports District Office, 3911 Hartzdale Dr., Suite 1100, Camp Hill, PA 17011. 717–730–2834. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose a PFC at Harrisburg International Airport and use the revenue from a PFC at Harrisburg International Airport and Capital City Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On February 19, 1999, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Susquehanna Area Regional Airport Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 1, 1999.

The following is a brief overview of the application.

Application number: 99–02–C–00–MDT.

Level of the proposed PFC: $3.00.

Proposed charge effective date: July 1, 1999.

Proposed charge expiration date: August 1, 2000.

Total estimated PFC revenue: $2,141,249.

Brief description of proposed projects:

—Deicing System Database/Permits
—Loading Bridge Replacements (4)
—Deicing System Design Studies
—Revolving Security Door Replacement
—Taxiway Guidance Signs
—Trackless Plow/Mower
—Equipment Storage Building
—Runway Overlay, Phase 1
—Deicing Truck/Tank
—Dozer/Spreader
—ARFF Titan 4X4 Vehicle
—ARFF 6X6 Vehicle
—Master Plan
—Multi-User Flight Information Display System
—Runway Overlay, Phase 2
—Commuter Concourse Expansion
—PFC Application Development

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Non-scheduled On-Demand Air Carriers.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Susquehanna Area Regional Airport Authority.

Issued in Jamaica, New York on February 26, 1999.

Kenneth Kroll,

AIP/PFC Team Leader, Planning and Programming Branch, Airports Division, Eastern Region.

[FR Doc. 99–5928 Filed 3–9–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Final Supplemental Environmental Impact Statement; Douglas County, Kansas

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that we are reopening the preparation of a supplemental document to the Final Environmental Impact Statement (FEIS) for a segment of the South Lawrence Trafficway project in Douglas County, Kansas.

FOR FURTHER INFORMATION CONTACT: David R. Geiger, P.E., FHWA Kansas Division Administrator; Telephone: (785) 267–7287, FHWA—Kansas Division Office, 3300 South Topeka Boulevard, Suite 1, Topeka, Kansas 66611–2237.

SUPPLEMENTARY INFORMATION:

Electronic Access

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

Background

The FHWA, in cooperation with the Kansas Department of Transportation (KDOT) and Douglas County, will recommence preparation of a final supplement to the FEIS for a segment of the highway project known as the South Lawrence Trafficway (SLT). The original FEIS for the improvements (FHWA–KS–EIS–87–01–F) was approved on January 4, 1990, and the Record of Decision was approved on June 5, 1990. The project would be primarily on a new location and developed initially as a two lane road. The SLT Supplemental Environmental Impact Statement (SEIS) corridor begins at U.S. 59 and extends east to K–10 on the south side of Lawrence. The western section of the SLT from the I–70/Kansas Turnpike Authority (KTA) interchange near Lecompton, south and east to U.S. 59, has been constructed and was opened to traffic in late 1996 (See 59 FR 52360, October 17, 1994).

The SLT is intended to provide for traffic demands and to alleviate congestion on two primary arterial streets in the south and west sections of the City of Lawrence, and to improve access to the University of Kansas and Clinton Lake.

The FHWA circulated a draft supplemental EIS on October 2, 1995, to address concerns regarding new information on the effect of the SLT on cultural issues, spiritual sites, academic programs and future development at Haskell Indian Nations University (HINU) which was not previously evaluated in the FEIS. A public hearing was held on November 8, 1995. Numerous comments were received on the Draft SEIS from both the public and governmental agencies. Work to develop the Final SEIS was initiated, but was delayed when consensus could not be reached on a preferred alignment.

On February 27, 1997 (See 62 FR 10305, March 6, 1997), the FHWA withdrew as the lead Federal agency due to KDOT and Douglas County deciding not to use Federal-aid funds

for the project. Subsequent legal action resulted in a determination that the SEIS must be completed before the project could proceed. Since the approval date for the Draft SEIS was over three years old, the FHWA completed a reevaluation of the Draft document and found that it remains valid. Therefore, the FHWA will reinstate the process to complete the Supplemental Environmental document process.

The FHWA has determined that a formal scoping meeting is not necessary.

Authority: 23 U.S.C. 315; 49 CFR 1.48.

David R. Geiger,

P.E., Division Administrator, Kansas Division, Federal Highway Administration, Topeka, Kansas.

[FR Doc. 99–5940 Filed 3–9–99; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Amtrak Reform Council; Notice of Meeting

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Amtrak Reform Council meeting.

SUMMARY: As provided in Section 203 of the Amtrak Reform and Accountability Act of 1997, the Federal Railroad Administration (FRA) gives notice of a meeting of the Amtrak Reform Council (''ARC or Council''). The purpose of the meeting is to receive a briefing from the executive director, continue Amtrak's response to the Department of Transportation's Inspector General's independent assessment report of Amtrak's financial needs, discuss the Council's work program and schedule for the coming year and to take up such other matters as the Council or its members deem appropriate.

DATES: The meeting is scheduled from 1:00 p.m. to 4:30 p.m. on Monday, March 15, 1999.

ADDRESSES: The meeting will be held in room 9210 at the U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. The meeting is open to the public on a first-come, first-served basis. Portions of the meeting may be closed to the public at the discretion of the Council if proprietary information is to be discussed. Persons in need of special arrangements should contact the person whose name is listed below.

FOR FURTHER INFORMATION CONTACT: Tom Till, Executive Director, Amtrak Reform Council, JM–ARC, Room 7105, 400 Seventh Street, S.W., Washington, D.C. 20590 or by telephone at (202) 366–0591.

SUPPLEMENTARY INFORMATION: The ARC was created by the Amtrak Reform and Accountability Act of 1997 (ARAA) as an independent commission to evaluate Amtrak's performance and make recommendations to Amtrak for achieving further cost containment and productivity improvements, and financial reforms. In addition, the ARAA requires: that the ARC monitor cost savings resulting from work rules established under new agreements between Amtrak and its labor unions; that the ARC provide an annual report to Congress that includes an assessment of Amtrak's progress on the resolution of productivity issues; and that after two years the ARC begin to make findings on whether Amtrak can meet certain financial goals and, if not, to notify the President and the Congress.

The ARAA provides that the ARC consist of eleven members, including the Secretary of Transportation and ten others nominated by the President or Congressional leaders. Each member is to serve a 5 year term.

Issued in Washington, D.C., on March 3, 1999.

Mark E. Yachmetz,

Chief, Passenger Programs Division.

[FR Doc. 99–5929 Filed 3–9–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–99–5200; Notice 1]

Capacity of Texas, Inc.; Application for Temporary Exemption From Federal Motor Vehicle Safety Standard No. 105

We are asking your views on the application by Capacity of Texas, Inc., of Longview, Texas (''Capacity''), for a three-year exemption from requirements of Motor Vehicle Safety Standard No. 105 *Hydraulic and Electric Brake Systems* that are effective March 1, 1999. Capacity has applied on the basis that ''compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard.'' 49 CFR 555.6(a).

We are publishing this notice of receipt of the application in accordance with our regulations on temporary exemptions. This action does not represent any judgment by us about the merits of the application. The discussion that follows is based on information contained in Capacity's application.

Why Capacity Needs a Temporary Exemption

On and after March 1, 1999, S5.5 of Standard No. 105 requires any motor vehicle with a gross vehicle weight rating (GVWR) greater than 10,000 pounds, except for a vehicle that has a speed attainable in 2 miles of not more than 33 mph, to be equipped with an antilock brake system. Capacity manufactures bus chassis that it provides to World Trans, Inc., of Hutchinson, Kansas, for completion. However, with respect to the buses that will be covered by the exemption, if granted, Capacity has informed us that, pursuant to the option granted the manufacturer of an incomplete vehicle by 49 CFR 568.7(a), it will assume the responsibilities of the final-stage manufacturer (World Trans), certifying that the completed buses comply with all applicable Federal motor vehicle safety standards, and provide notification and remedy if required. In the meantime, the usual commercial relationship between Capacity and World Trans need not be interrupted; World Trans, as a final-stage manufacturer, may complete the bus in such a manner that it conforms to the standards in effect on the date that the incomplete vehicle was manufactured. Therefore, buses whose manufacture is completed on or after March 1, 1999, are not required to comply with antilock requirements if their chassis was manufactured before March 1, 1999 (see 49 CFR 568.6(a)).

Why Compliance Would Cause Capacity Substantial Economic Hardship

Capacity produces a limited quantity (100 or less yearly) bus chassis for World Trans, and, as discussed more fully below, has been unable to find a vendor who is willing to provide antilock controllers. Therefore, if Capacity is not granted an exemption, it will have to withdraw the chassis from production, and World Trans's bus production will be diminished. This will cause both Capacity and World Trans to lose income in each of the three years for which exemption has been requested. Capacity's projected net income for its fiscal year ending October 31, 1998, was $2,631,018. Its projected net income for the year ending October 31, 1999, is $2,286,617 if an exemption is granted, and $1,945,087 if it is not. Thus, net income would be reduced by $341,530 in the absence of an exemption covering production from March 1–October 31, 1999.

How Capacity Has Tried To Comply With the Standard in Good Faith

Capacity contacted four different brake component suppliers. Its search for an anti-lock controller began with Lucas/Varity (formerly Kelsey-Hayes) because of its longtime association with Ford Motor Company and the fact that the bus chassis uses a common Dana drive axle with many Ford light duty trucks. But the company was told that no development could be approached until Capacity could guarantee a purchase order in the range of 10,000 controllers.

Capacity next approached Eaton-Bosch, and found that it is currently producing hydraulic anti-lock brake systems for vehicles up to 12,000 lbs GVWR. Although the company is developing a system for vehicles up to 20,000 lbs GVWR, the system won't be finalized until 2001.

The third vendor that Capacity approached was ITT Automotive-Teves, which expects to have a system ready for installation on vehicles up to 20,000 lbs GVWR by the fourth quarter of 1999. The company told Capacity that it will take a minimum of one winter test season to assure that the controller can be adapted to a vehicle. Thus, Capacity does not foresee that it can use this system and comply before the Fall of 2000.

Finally, Capacity consulted Rockwell/Meritor-Wabco System. This company has a controller that ''can be fine tuned on a vehicle to meet different dynamic characteristics.'' However, ''even if this system proves out, it appears that a year's testing will be required to adapt it to our bus chassis.''

Why Exempting Capacity Would Be Consistent With the Public Interest and Objectives of Motor Vehicle Safety

Capacity argued that an exemption would be in the public interest and consistent with traffic safety objectives because

> many of these vehicles end up serving small cities and rural transit districts. These customers have limited budgets so the availability of an economical low floor bus allows them to prove fee service in areas where large buses are too costly to operate. The low floor feature of this vehicle allows the finished bus to readily serve the handicapped community.

In addition, ''these buses operate in shuttle and light transit operations where high speed stops aren't commonly experienced.'' The company believes that rushing an anti-lock system into production might present a risk to safety.

How To Comment on Capacity's Application

If you would like to comment on Capacity's application, send two copies of your comments, in writing, to: Docket Management, National Highway Traffic Safety Administration, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590, in care of the docket and notice number shown at the top of this document.

We shall consider all comments received before the close of business on the comment closing date stated below. To the extent possible, we shall also consider comments filed after the closing date. You may examine the docket in Room PL–401, both before and after that date, between 10 a.m. and 5 p.m.

When we have reached a decision, we shall publish it in the **Federal Register**.

Comment closing date: March 30, 1999.

Authority: 49 U.S.C. 30113; delegations of authority at 49 CFR 1.50 and 501.4.

Issued on: March 4, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 99–5971 Filed 3–9–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Announcement of University Transportation Centers Program Grant Solicitation

Authority: 49 U.S.C. 5505.

ACTION: Announcement of grant solicitation for University Transportation Centers (UTC) Program.

SUMMARY: The US Department of Transportation (DOT) plans to establish and maintain one University Transportation Center in each of the ten standard federal regions. The mission of the Centers is to advance U.S. technology and expertise in the many disciplines comprising transportation through the mechanisms of education, research and technology transfer at university-based centers of excellence.

To accomplish this purpose, DOT will provide up to $1 million per Center for each of the five consecutive academic years starting in 1999. Each Center is required to obtain matching funds from non-federal sources in an amount at least equal to the DOT grant. DOT funding will be awarded in annual increments, on the basis of each Center's success in attaining the goals of the program and subject to the availability of funding.

APPLICATION INSTRUCTIONS: Documents providing general program information and instructions for applying for a UTC grant are posted on the Internet at *http://utc.dot.gov/fy1999.html*. If you are unable to access the documents electronically, you may request a hard copy from the office designated below.

DATES: Applications must be received at the office designated below by 5:00 p.m. on Thursday, April 15, 1999.

ADDRESSES: Applications must be submitted to the following address: UTC Competition (Mail Code DRA–2), Research and Special Programs Administration, US Department of Transportation, 400 Seventh Street, SW, Room 8417, Washington, DC 20590–0001.

FOR FURTHER INFORMATION: Contact the UTC Program office by e-mail at *utc@rspa.dot.gov*; by phone at 202/366–4434; or by Fax at 202/366–3671.

Dated: March 3, 1999.

E. Fenton Carey,

Associate Administrator for Research, Technology and Analysis.

[FR Doc. 99–5938 Filed 3–9–99; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33407]

Dakota, Minnesota & Eastern Railroad Corporation; Construction Into the Powder River Basin [1]

AGENCIES:

Lead: Surface Transportation Board.
Cooperating:
U.S.D.A. Forest Service.
U.S.D.I. Bureau of Land Management.
U.S. Army Corps of Engineers.

ACTION: Notice of availability of final scope of study for the Environmental Impact Statement (EIS); Request for

[1] This case was formerly entitled Dakota, Minnesota & Eastern Railroad Corporation—Construction and Operation—in Campbell, Converse, Niobrara, and Weston Counties, WY, Custer, Fall River, Jackson, and Pennington Counties, SD, and Blue Earth, Nicollet, and Steele Counties, MN. By decision served May 7, 1998, the Surface Transportation Board shortened the title for the sake of simplicity. As discussed below, the environmental review of this project will also include the section of the line DM&E proposes to rebuild as part of this project. Environmental review of the rebuild portion of the line would include the counties of Winona, Olmsted, Dodge, Steele, Waseca, Blue Earth, Brown, Redwood, Lincoln, and Lyon in Minnesota; Brookings, Kingsbury, Beadle, Hand, Hyde, Hughes, Stanley, Haakon, Jackson, Pennington, and Fall River in South Dakota.

comments on (1) the modified proposed action, referred to as Alternative C, and (2) the City of Rochester, Minnesota's south bypass proposal.

SUMMARY: On February 20, 1998, the Dakota, Minnesota & Eastern Railroad Corporation (DM&E) filed an application with the Surface Transportation Board (Board) for authority to construct and operate new rail line facilities in east-central Wyoming, southwest South Dakota, and south-central Minnesota. The project involves construction of new rail line totaling 280.9 miles. Additionally, DM&E proposes to rebuild 597.8 miles of existing rail line along its current system to standards acceptable for operation of unit coal trains. Because the construction and operation of this project has the potential to result in significant environmental impact, the Board's Section of Environmental Analysis (SEA) determined that the preparation of an Environmental Impact Statement (EIS) is appropriate. SEA held 3 agency and 12 public scoping workshops in 14 cities as part of the EIS scoping process, as discussed in the Notice of Intent to Prepare an EIS, Request for Comments on the Proposed EIS Scope, and Notice of Scoping Meetings published by the Board on March 27, 1998. Because of public interest in the project, workshops in Newcastle, Wyoming and Winona, Minnesota, not originally scheduled, were added to provide additional opportunities for public participation in the scoping process. Comment forms and the draft scope of study (draft scope) were provided to workshop attendees. On August 7, 1998, the Board published a Revised Notice of Intent to Prepare an EIS, indicating that the U.S.D.A. Forest Service, U.S.D.I. Bureau of Land Management, and the U.S. Army Corps of Engineers would be participating as cooperating agencies. The scoping comment period, originally scheduled to conclude on July 10, 1998, was extended until September 8, 1998. However, comments filed after September 8, 1998 have been accepted and considered in this final scope of study (final scope) of the EIS. Changes made to the draft scope are detailed in the Response to Comments section of this notice.

In addition to issuing the final scope of the EIS, the Board and the cooperating agencies are providing a 30 day comment period for interested parties to submit comments on two new proposed alternatives: (1) the Modified Proposed Action, referred to as Alternative C, and (2) the City of Rochester, Minnesota's South Bypass Proposal. Both these new alternatives are discussed in detail below, along with information on how to submit written comments. This 30 day comment period is in addition to the comment period that will be provided on all aspects of the Draft EIS (DEIS) when that document is made available.

FOR FURTHER INFORMATION CONTACT:
Ms. Victoria Rutson, SEA Project Manager, Powder River Basin Expansion Project, toll free at 1–877–404–3044.
Mr. Steve Thornhill of Burns & McDonnell, SEA's third party contractor, at (816) 822–3851.
Ms. Wendy Schmitzer, U.S.D.A. Forest Service, (307) 358–4690.
Mr. Bill Carson, U.S.D.I. Bureau of Land Management, (307) 746–4453.
Mr. Jerry Folkers, U.S. Army Corps of Engineers, (402) 221–4173.

SUPPLEMENTARY INFORMATION:

Background

The proposed action, referred to as the Powder River Basin Expansion Project, would involve the construction and operation of 280.9 miles of new rail line and the rebuilding of 597.8 miles of existing rail line by DM&E, as described in the February 20, 1998 application for construction and operation authority for the project filed by DM&E and in the March 27, 1998 Notice of Intent to Prepare an EIS published in the **Federal Register** by the Board.

The Powder River Basin Expansion Project, as set forth by DM&E in its application filed with the Board, would involve the construction and operation of new rail facilities designed to provide access for a third rail carrier to serve the Powder River Basin's coal mines for transport of coal eastward and increase the operational efficiency of DM&E. New rail construction would include approximately 262.03 miles of rail line extending off DM&E's existing system near Wasta, South Dakota, extending generally southwesterly to Edgemont, South Dakota, and then westerly into Wyoming to connect with existing coal mines[2] located south of Gillette, Wyoming. This portion of the new construction would traverse portions of Custer, Fall River, and Pennington Counties, South Dakota and Campbell, Converse, Niobrara, and Weston Counties, Wyoming.

New rail construction would also include an approximate 13.31 mile line segment at Mankato, Minnesota, within Blue Earth and Nicollet Counties. DM&E currently operates over trackage on both sides of Mankato, accessed by trackage rights on rail line owned and operated by Union Pacific Railroad Company (UP). The proposed Mankato construction would provide DM&E direct access between its existing lines and avoid operational conflicts with UP.

The final proposed segment of new rail construction would involve a connection between the existing rail systems of DM&E and I&M Rail Link. The connection would include construction and operation of approximately 2.94 miles of new rail line near Owatonna, Steele County, Minnesota. The connection would allow interchange of rail traffic between the two carriers.

In order to transport coal over the existing system, DM&E proposes to rebuild approximately 597.8 miles of rail line along its existing system. The majority of this, approximately 584.95 miles, would be along DM&E's mainline between Wasta, South Dakota, and Winona, Minnesota. This rebuild would cross Winona, Olmsted, Dodge, Waseca, Brown, Redwood, Lincoln, and Lyons Counties, as well as Steele, Blue Earth, and Nicollet Counties in Minnesota, and Brookings, Kingsbury, Beadle, Hand, Hyde, Hughes, Stanley, Haakon, and Jackson Counties in South Dakota. An additional approximate 12.85 miles of existing rail line between Oral and Smithwick, in Fall River County, South Dakota, would also be rebuilt. Rail line rebuilding would include rail and tie replacement, additional sidings, signals, grade crossing improvements, and other systems.

DM&E plans to transport coal as its principal commodity. However, shippers desiring rail access could ship other commodities in addition to coal over DM&E's rail line. Existing shippers along the existing DM&E system would continue to receive rail service.

Environmental Review Process

The Board is the lead agency, pursuant to 40 CFR 1501.5(c). SEA is responsible for ensuring that the Board complies with the National Environmental Policy Act (NEPA), 42 U.S.C. 4321–4335, and related environmental statutes. SEA will supervise the preparation of the EIS. The U.S. Department of Agriculture Forest Service (USFS), the U.S. Department of Interior Bureau of Land Management (BLM), and the U.S. Army Corps of Engineers (COE) are cooperating agencies, pursuant to 40 CFR 1501.6. If the cooperating agencies find the EIS adequate, they will base their respective decisions on it. The EIS should include all of the information necessary for decisions by the Board,

[2] Caballo, Belle Ayr, Caballo Rojo, Cordero, Coal Creek, Jacobs Ranch, Black Thunder, North Rochelle, North Antelope, Rochelle, and Antelope.

USFS, BLM, and COE (collectively, the agencies).

On December 10, 1998, the Board found that DM&E had satisfied the transportation-related requirements of 49 U.S.C. 10901. In issuing its decision, the Board stated that it had considered only the transportation aspects of DM&E's proposed project. Environmental aspects would be considered after the completion of the environmental review process. Therefore, the Board emphasized, no final decision would be issued until all statutory requirements—both transportation and environmental—were satisfied. Construction cannot begin until the cooperating agencies have issued their decisions and the Board has issued its final decision.

The NEPA environmental review process is intended to assist the agencies and the public to identify and assess the potential environmental consequences of a proposed action before a decision on the proposed action is made. The agencies have developed and made available a draft scope of the EIS and provided a period for submission of written comments on it. At this time, the agencies are issuing this final scope of the EIS. In addition, the agencies are requesting comments on two new proposed alternatives: (1) the Modified Proposed Action, referred to as Alternative C, and (2) the City of Rochester's South Bypass Proposal. This comment period is in addition to the comment period that will be provided on all aspects of the DEIS when that document is made available.

Specifically, DM&E has developed a Modified Proposed Action, referred to as Alternative C. This proposal includes an alternative alignment in Wyoming and South Dakota for the mainline extension developed by DM&E in response to environmental issues and concerns raised by agencies, local landowners, and other interested parties. The Board and the cooperating agencies are seeking views of all commenters in order to ensure public input in the assessment of potential environmental impacts of this alternative.

Also, the City of Rochester has submitted a South Bypass Proposal to construct a rail line that would route rail traffic south around that city. The Board and the cooperating agencies are seeking additional information to assist in determining whether the bypass proposal is a reasonable and feasible alternative designed to meet the purpose and need of the applicant's proposed action. The Board and the cooperating agencies will consider the comments in determining whether Rochester's South Bypass Proposal is a reasonable and feasible alternative and will set forth their conclusions in the DEIS.

As stated, the agencies will prepare a DEIS for the proposed project. The DEIS will address those environmental issues and concerns identified during the scoping process and detailed in the scope of study. It will also contain a reasonable range of alternatives to the proposed action and recommended environmental mitigation measures.

The DEIS will be made available upon its completion for public review and comment. A Final EIS (FEIS) will then be prepared reflecting the agencies' further analysis and the comments on the DEIS. In reaching their future decisions in this case, the Board and each cooperating agency will take into account the full environmental record, including the DEIS, the FEIS, and all public and agency comments received.

Consistent with its jurisdiction under the ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (1995), the Board would normally only conduct an environmental analysis of the new construction and the increase in operations over DM&E's existing system. However, in this instance, the EIS analysis will also address construction related impacts associated with the rebuilding of DM&E's existing mainline from the point of connection with the new construction segments between Wasta, South Dakota and Winona, Minnesota. Because the COE, which as discussed above is a cooperating agency, requires such analysis, construction related impacts along the rail line to be rebuilt, including sidings and yard facilities, will be analyzed in this EIS to the extent necessary to satisfy the COE's permitting requirements under the Clean Water Act.

Proposed Action and Alternatives

Based on analysis conducted to date and comments received during the scoping process, the agencies have determined that the reasonable and feasible alternatives [3] that will be discussed in the EIS are:

A. South Dakota/Wyoming New Rail Line Extension

(1) The ''No Action Alternative,'' referred to as Alternative A. This alternative to include the no build alternative as well as the no action on federal lands alternative.

(2) The ''Proposed Action,'' referred to as Alternative B. This alternative includes DM&E's preferred alternative as identified in its application to the Board, but modified in response to operational constraints discovered near Wall, South Dakota.[4]

(3) The ''Modified Proposed Action,'' referred to as Alternative C. This alternative would include an alternative alignment in Wyoming and South Dakota for the mainline extension developed by DM&E in response to environmental issues and concerns raised by agencies, local landowners, and other interested parties. Alternative C is designed to minimize potential environmental impacts. This alignment was not developed until after DM&E filed its application with the Board and after scoping workshops had been held. Therefore, this alignment has not yet been presented publicly on a broad scale for review and comment.[5] To facilitate public review and comment regarding this alternative, the agencies will provide an additional 30 day comment period. A general description of the alignment for this alternative, together with a map, is set forth below (see ''Description of Alternative C, the

[3] Under NEPA, an applicant's goals are important in defining the range of feasible alternatives. NEPA does not require discussion of an alternative that is not reasonably related to the purpose of the proposal considered by the agencies. *Citizens Against Burlington, Inc. v. Busey*, 938 F.2d 190 (D.C. Cir. 1991). Here, the proposed project is intended to facilitate the delivery of coal from the Powder River Basin of Wyoming eastward by DM&E. During scoping, numerous comments were received suggesting that the EIS evaluate alternative energy sources, such as nuclear, hydroelectric and wind, as an alternative to burning of coal. These alternatives, while offering legitimate means of generating energy, do not advance the applicant's goals of efficiently transporting coal and upgrading its current rail system, and therefore, will not be evaluated in the EIS.

[4] DM&E noted in its application that modifications to the existing system near Wall would likely be required as part of the proposed project. However, no modifications were specifically indicated at the time DM&E filed its application with the Board. As a result of more detailed engineering, DM&E has since determined that grade and curve considerations at this location would be prohibitive for the operation of unit coal trains and has proposed a modified plan to eliminate these problems. This new construction along new rail line right-of-way would be utilized by Alternatives B, C, or D. The new alignment would branch from DM&E's existing system approximately 3 miles south of Wasta, just north of where the proposed new construction would begin. It would curve eastward, cross the Cheyenne River, turn northward to near Interstate 90. It would generally parallel I–90, approximately 0.5 mile to the south. Approximately 5 miles west of Wall the alignment would extend away from I–90, then turn northeasterly, crossing I–90 approximately 1.5 miles west of Wall. After crossing I–90, the alignment would curve to the east, joining with the existing system approximately 0.25 mile north of Wall.

[5] The applicant conducted numerous site visits and public meetings during the development of this alternative, including meeting with landowners potentially affected by this alignment and Federal and state agencies to discuss adjustments and ways to minimize impacts on environmental resources and individual landowners. Thus, some individuals, including potentially affected landowners, are already aware of the Alternative C alignment.

Modified Proposed Action''). Copies of maps of this alignment may be obtained through written request to the Board or by contacting the toll-free environmental hotline at 1–877–404–3044.

(4) The ''existing transportation corridors alternative,'' referred to as Alternative D. This alternative includes:

- Utilization of the existing DM&E line westward to Rapid City, then southward to Crawford, Nebraska, then northward parallel to the existing Burlington Northern Santa Fe Railway Company (BNSF) line to Donkey Creek Junction, then south to the joint BNSF/UP line (Joint Line), following the Joint Line into the Powder River Basin and connecting to the mines, referred to as Alternative D1. This alternative would involve utilization and rebuilding of existing DM&E rail line and new construction immediately adjacent to the existing BNSF and Joint Lines.
- Utilization of the existing DM&E line westward to Rapid City, then southward to Crawford, Nebraska, construction of new line westward to Crandall, Wyoming along a previously abandoned UP rail line right-of-way, then northward parallel to the existing into the Powder River Basin and accessing the mines, referred to as Alternative D2. This alternative would involve utilization and rebuilding of existing DM&E rail line and new construction between Crawford and Crandell and immediately adjacent to the existing Joint Line.
- Utilization of the existing DM&E line westward to Rapid City, then southward to Crawford, Nebraska, then northward parallel to the existing BNSF line to near Newcastle, Wyoming, turning westward to parallel State Highway 450 to the Joint Line, then following the Joint Line north and south to access the mines, referred to as Alternative D3. This alternative would involve utilization and rebuilding of existing DM&E rail line and new construction parallel to the BNSF line northward from Crawford, new construction westward along State Highway 450, and new construction along the existing Joint Line to access the mines.
- Construction of new rail line extending from DM&E's existing line near Wasta, South Dakota south and west to Edgemont, South Dakota[6] and then northward parallel to the existing BNSF line to near Newcastle, Wyoming, turning westward to parallel State Highway 450 to the Joint Line, then following the Joint Line north and south to access the mines, referred to as Alternative D4. This alternative would involve new construction along new rail line right-of-way between Wasta and Edgemont, new construction parallel to the BNSF line northward from Edgemont, new construction westward along State Highway 450, and new construction along the existing Joint Line to access the mines.
- Utilization of the existing DM&E line westward to Alto, South Dakota, approximately 10 miles east of Pierre, South Dakota, then southward to the former Milwaukee Road rail line right-of-way (now Dakota Southern Rail owned and operated by the State of South Dakota) near Draper, South Dakota, then westward utilizing the State-owned rail line right-of-way and grade to the point this railbed intersects DM&E's prosed new construction alignment approximately 2 miles south of State Highway 44 in Pennington County, South Dakota, then following the alignment proposed for the new construction into the Powder River Basin, referred to as Alternative D5. This alternative would involve approximately 40 miles of new construction, including a new rail bridge over the Missouri River, and the rebuilding of approximately 100 miles of former rail line on the existing State-owned right-of-way. This alternative would eliminate the need for approximately 30 miles of new construction south of Wasta and around Wall, South Dakota and the rebuilding of approximately 100 miles of existing DM&E rail line between Pierre and Wasta.

B. Rail Line Construction on New Right-of-Way Along DM&E's Existing Rail System

UP Bypass at Mankato, Minnesota

(1) The ''No Action Alternative,'' referred to as Alternative M1.

(2) The ''Proposed Action,'' or ''Southern Alternative,'' referred to as Alternative M2. This alternative would include the alternative identified by DM&E as the preferred alternative in its application to the Board and involves construction of new rail line in a loop south of Mankato to connect DM&E trackage on the west and east sides of Mankato.

(3) The ''Existing Rail Corridor Alternative,'' or the ''Middle Alternative,'' referred to as Alternative M3. This alternative would include construction of a new rail line connecting the ends of DM&E's existing system on either side of Mankato generally along and within an existing rail corridor through Mankato. This corridor is currently only occupied by UP and contains the UP line DM&E must currently operate over, via trackage right, for access between its existing rail lines east and west of Mankato.

(4) The ''Northern Alternative,'' referred to as Alternative M4. This alternative would include an alignment connecting the two portions of DM&E's existing system through construction of new rail line in a loop north of Mankato and North Mankato.

C. I&M Connection at Owatonna, Minnesota

(1) The ''No Action Alternative,'' referred to as Alternative O1.

(2) The ''Proposed Action,'' referred to as Alternative O2. This alternative would include the alternative identified by DM&E as the preferred alternative in its application to the Board and involves construction of a connecting rail line to allow interchange of rail traffic between DM&E and I&M Rail Link.

(3) The alternative alignment, referred to as Alternative O3. This alternative would include another alignment to the construction alternative proposed by DM&E in its application to the Board. It involves construction of a connecting rail line to allow interchange of rail traffic between DM&E and I&M Rail link approximately one mile west of Alternative O2.

In addition to the alternatives discussed above, the EIS will evaluate other subsequently identified alternatives determined reasonable and feasible in light of the purpose and need for the proposed action. This may include the City of Rochester's South Bypass Proposal.

Public Participation

Scoping workshops were attended by over 1,000 people. Over 600 scoping comment forms and well over 1,000 letters raising environmental issues were received.

As part of the environmental review process to date, the agencies have conducted broad public outreach activities to inform the public about DM&E's proposal and to facilitate public participation. The agencies have consulted and will continue to consult with Federal, state, and local agencies, American Indian Tribal governments, affected communities, landowners, and all interested parties to gather and disseminate information about the proposal. In addition, comments continue to be accepted on all aspects of the environmental review process

[6] The new construction portion of this alterative would involve the portions of both Alternative B and C between their points of diversion from DM&E's existing line near Wasta to where they would begin to parallel the existing BNSF line northwest of Edgemont.

and potential environmental impacts. Moreover, the agencies are specifically requesting comments in this final scope on the Modified Proposed Action, referred to as Alternative C, and the City of Rochester's South Bypass Proposal.

The agencies continue to encourage extensive public participation in the EIS process. Comments have been received and will continue to be accepted throughout the environmental process. To further assist in obtaining information about the environmental review process, the agencies have provided a toll-free environmental hotline (1–877–404–3044).

Response to Comments

The agencies reviewed and considered all comments received in their preparation of this final scope of the EIS. The final scope reflects changes made as a result of comments received addressing environmental issues and concerns, as well as comments on the draft scope, previously distributed at public scoping workshops and published in the **Federal Register**. Other changes in the final scope were made for clarification or as a result of additional analysis. Additions and modifications reflected in the final scope include:

- Analysis of construction impacts resulting from the rebuilding of the applicant's existing system, including sidings and yard facilities (with alternative locations). Over 70 written and numerous oral comments requesting that this analysis be conducted were received. The rebuilding of DM&E's existing line, and the construction of sidings and yard facilities on DM&E's existing right-of-way, would not normally be included in an EIS prepared by the Board. However, as discussed above, because one of the cooperating agencies—the U.S. Army Corps of Engineers (COE)—requires such analysis, construction related impacts along the rail line to be rebuilt will be analyzed in this EIS to the extent necessary to satisfy the COE's permitting requirements under the Clean Water Act.
- Sidings and yard facilities (with alternative locations) for the new construction. The draft scope did not explicitly note that these facilities would be addressed in the EIS. As a point of clarification, sidings, yards, and other new rail facilities along the new construction portion of the project will be included in the EIS analysis.
- Analysis of air quality impacts related to fugitive coal dust. Over 350 written and numerous oral comments were received concerning the potential impacts of fugitive coal dust as it applies to both air quality and fire hazard. In response, the agencies have added the analysis of these potential impacts from coal dust to the final EIS scope.
- Analysis of downline impacts. The draft scope indicated that the EIS would address the potential environmental impacts associated with increased levels of rail traffic above the Board's thresholds, which would include DM&E's existing mainline between Wasta, South Dakota, eastward to its termination at Goodview, Minnesota. Because of the proximity of the communities of Goodview and Winona, Minnesota, the reasonably foreseeable potential impact of the project on them due to their location at the terminus of DM&E's system, and the numerous requests to include them in the analysis, the EIS will be expanded to include an appropriate analysis of those portions of the UP and Canadian Pacific (CP) lines potentially impacted by this project within the communities of Goodview and Winona, Minnesota.
- Analysis of increases in barge traffic. In its application, DM&E indicated a portion of the coal transported by the proposed project could be available for delivery by barge to utilities along the Mississippi and Ohio Rivers and within its identified core market area. Subsequently, during scoping, several written and oral comments asked that the impacts of increased barge traffic on the Mississippi River, specifically the Upper Mississippi River National Fish and Wildlife Refuge (Refuge), as a result of DM&E's proposal, be addressed in the EIS.

Based on more information from the applicant concerning potential impacts to barge traffic from DM&E's anticipated rail operations, it appears that barge loading facilities currently available could not accommodate unit coal trains of the type DM&E would be operating. Additionally, DM&E has no estimates of the reasonably foreseeable amount of coal to be transported by barge, as this would depend on market demand from a specific segment of its identified core market. Any projections of potential coal volumes to be transported by barge, therefore, are speculative at this time. In addition, such projections are dependent on the development of facilities capable of loading barges from unit coal trains.[7]

Because there is a high level of uncertainty about both the future development of a barge loading facility and the amount of coal that DM&E would transload to barge, any related impact to the Mississippi River generally and the Refuge specifically does not meet the ''reasonably foreseeable'' standard set by the Council on Environmental Quality (CEQ) for impacts analysis. See 40 CFR 1508.8; Forty Questions No. 18. Increases in barge traffic as a result of DM&E's proposal, therefore, will not be evaluated in this EIS.

- Vehicular traffic levels for evaluation. The air quality and transportation systems sections of the draft scope indicated grade crossings with vehicular traffic levels of 5,000 vehicles per day or more would be included in these analyses. In prior cases, this level of traffic has been considered by the lead agency, the Board, to be a conservative and appropriate baseline. Over 300 written and numerous oral comments were received pertaining to vehicular delay and access, particularly as they apply to the issues of air quality and transportation. A few commenters requested reduction in the traffic levels for evaluation in the EIS. The Board, in consultation with its cooperating agencies, has determined that a grade crossing traffic volume of 5,000 vehicles per day is appropriate for EIS evaluation. However, in response to concerns that have been raised, the Board will expand its analysis of impacts at grade crossings to specific crossings of less than 5,000 vehicles per day if unique circumstances discovered during the course of the environmental review process make it appropriate to include the crossings.
- Safety analysis. Based on comments received, the agencies have determined the EIS analysis will include the potential safety impacts of the project on affected facilities, such as the Federal Medical Center in Rochester, Minnesota.
- Analysis of vibration. Over 200 written and numerous oral comments were received expressing concern for the potential impacts resulting from train induced vibration. In response to these comments the agencies have revised the final scope of the EIS to include an analysis of the potential impacts of vibration, including impacts to structures, sensitive equipment, and alarm systems.
- Analysis of aesthetics. The analysis of aesthetics in the EIS will include the potential impacts of the proposed new rail line construction on areas determined to be of high visual quality, as discussed in the draft scope. Based

[7] Should a barge facility be developed, it would likely require an environmental review under NEPA. Such a review would likely require evaluation of the impacts of increased barge traffic on the river, including impacts to the Refuge, resulting from the development and operation of such a facility.

on comments received, the agencies clarify that the following criteria will be considered in evaluating areas of high visual quality: perception of isolation, feeling of vastness, and the wide open nature of the area.

- Quality of life issues. Several written and numerous oral comments were received regarding various potential quality of life impacts, including division of communities, isolation of residences, access to destinations, annoyance from increased noise and vibration, and traffic delays. The final scope has been clarified to include those quality of life issues involving division of communities, isolation of residences, access to destinations and similar concerns in the socioeconomic section. Annoyance from increased noise and vibration will be addressed in the noise section and annoyance from traffic delays will be covered within the transportation systems section.
- Distinction between public verses private lands. The agencies have clarified the land use section of the final scope to define the evaluation of existing land use patterns to include identification of private and public lands and the potential project impacts related to both.
- Potential impacts to utilities. The agencies have added to the land use evaluation of the final scope of the EIS an evaluation of potential project impacts on utilities, including pipelines, electrical lines, telephone lines, and any others in the vicinity of the project.
- Evaluation of mineral resources. The geology and soils section of the final scope of the EIS has been expanded to include an evaluation of the potential impacts of the project on mineral resources within the project area.
- Placement of paleontological resources evaluation. The draft scope included the evaluation of potential project impacts to paleontological resources within the cultural resources section. Based on comments received during scoping, the agencies have moved the discussion of paleontological resources to the geology and soils section of the final scope.

Additional Comment Period on the ''Modified Proposed Action,'' Referred to as Alternative C and City of Rochester's South Bypass Proposal

As stated above, in this final scope the agencies are providing an opportunity for all interested parties to submit their views during a 30 day comment period on the potential environmental impacts of the ''Modified Proposed Action,'' referred to as Alternative C. This comment period is in addition to the further comment period that will be provided on all aspects of the DEIS when it is issued. With regard to the City of Rochester's South Bypass Proposal, the agencies will consider the additional information submitted during the 30 day comment period to make a final determination of whether the South Bypass Proposal is a reasonable and feasible alternative designed to meet the purpose and need of the applicant's proposed action. The agencies have provided a general description of both the Modified Proposed Alternative, known as Alternative C, and the City of Rochester's South Bypass Proposal below:

Description of Modified Proposed Action,'' Referred to as Alternative C

Alternative C, the Modified Proposed Action, would diverge from DM&E's existing system approximately three miles south of Wasta, South Dakota. It would generally follow the Cheyenne River along the sideslope of the floodplain on the west side of the river. It would cross State Highway 44 approximately 2 miles west of where the highway crosses the Cheyenne River and continue southward along Spring Creek for approximately 10 miles. Alternative C would cross Spring Creek where the creek bends to the west, with the rail line alternative extending in a generally westward direction for approximately 12 miles before turning southward. It would extend southward for approximately 16 miles, crossing the Cheyenne River just south of the Custer-Fall River County Line. Alternative C would continue southward for 5 miles, then curve westward to join with DM&E's existing line just north of Smithwick, South Dakota. It would utilize this existing rail line for approximately four miles, then branch from the existing line, extending westward for approximately 28 miles, then curve northward, passing approximately 2 miles east of Edgemont, South Dakota. Approximately 2 miles north of Edgemont, Alternative C would parallel the existing BNSF for approximately 13 miles before crossing over the BNSF line and extending westward into Wyoming, following the Cheyenne River for approximately 11 miles. After crossing U.S. Highway 85, Alternative C would extend in a generally northwest direction, crossing Black Thunder Creek approximately 4 miles south of where State Highway 450 crosses Black Thunder Creek. Alternative C would extend westward, generally parallel to and south of State Highway 450, along Little Thunder Creek. Approximately 4 miles east of the Jacob's Ranch Coal Mine, Alternative C would split and one branch would extend north along the east side of the region's coal mines, converging with the existing joint rail line in the vicinity of the Belle Ayr and Caballo Rojo mines. The southern branch would extend southward, also along the east side of the areas coal mines, accessing the North Antelope, Rochelle, and Antelope Coal Mines.

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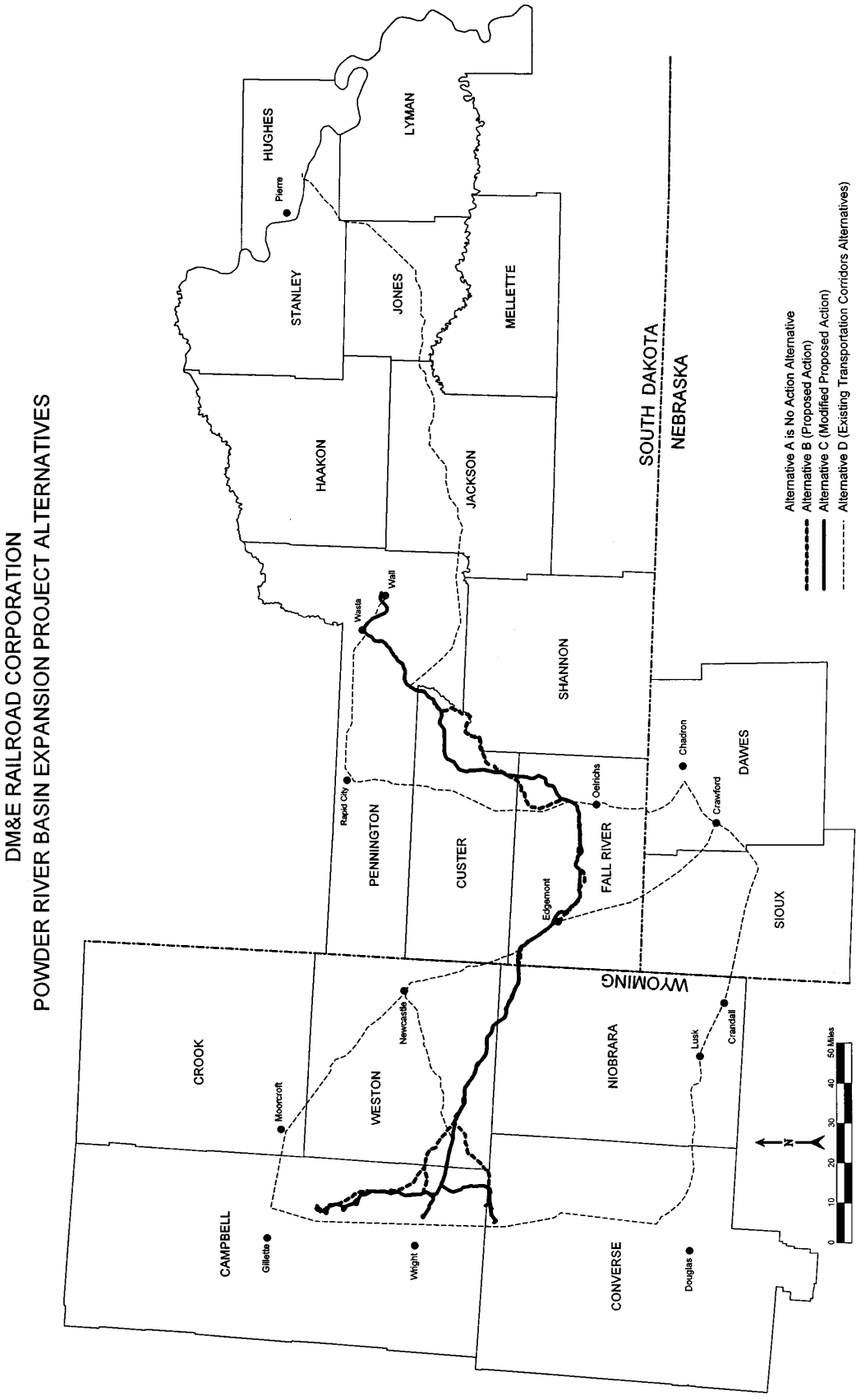

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City of Rochester's South Bypass Proposal

On January 6, 1999, the City of Rochester, Minnesota (the City) requested that SEA consider a south bypass corridor as an alternative to DM&E's proposed plan to rehabilitate its existing rail line and operate additional rail traffic, primarily coal trains, through Rochester. As part of its submission, the City has attached an engineering report commissioned jointly by the City and Olmsted County.[8] The report, entitled *Mitigation of Safety and Environmental Issues Associated with The Dakota Minnesota & Eastern Railroad's Proposed Expansion Through the City of Rochester and Olmsted County, Minnesota,* contains information on the southern bypass route and proposed mitigation for the existing DM&E rail corridor.

Description of Proposed South Bypass

The report states that its intent is to ''assess the impacts the additional train traffic would have on the communities and the environment within the county and, if appropriate, recommend reasonable, effective, and practical alternatives for mitigation of these impacts.'' Report p. 2. To that end, the report states that after assessing the increased potential for train/vehicle collisions at grade crossings if DM&E's proposal were to be approved, several options for mitigating these potential safety impacts were considered, including construction of a depressed trainway, construction of a tunnel beneath the City, construction of a north bypass, and construction of a south bypass. According to the report, the trench, tunnel, and north bypass options were found not to be viable so the report focused on a south bypass and an existing corridor improvement option.[9] Report p. 6.

The report describes the south bypass as follows: the route would be 34.1 miles long and would diverge south from DM&E's mail track in Dodge County at milepost 61.1, approximately .8 miles west of the Olmsted County line west of Byron, Minnesota. The route then would travel due south approximately 9.5 miles through portions of Salem and Rock Dell Township. The line would then travel generally eastward through High Forrest, Marion, Pleasant Grove, and Eyota Townships. The line would reconnect with DM&E's existing system at milepost 37.5, approximately 8.2 miles west of the east Olmsted County line.

According to the report, the south bypass would require acquisition of approximately 887 acres for a 200-foot wide new right-of-way. Twelve households would be located within 500 feet of the rail centerline. Fifty-one households would be within 1200 feet of the centerline. The bypass would cross forty-two intermittent creeks or waterways, none of which are major according to the report's engineers. Thirty-eight roadways (seventeen of which are paved and eighteen of which have average daily traffic counts less than 100 vehicles) would be crossed.

The report also sets forth details of design criteria, including curves and profile grades, track specifications, embankment and side slopes, bridges, highway crossings and signals, fencing, cut and fill requirements, wetlands, and endangered species. Report pp. 7–13. In addition, the report includes an estimated cost of $115,334,000 for acquisition and construction of the south bypass. Report p. 12.

The report concludes that the south bypass would effectively mitigate adverse impacts to the City and Olmsted County by avoiding population areas. In addition, the report states that the bypass would present operational advantages to DM&E, such as improved curvature, a wider right-of-way, and increased opportunities for future development and additional trackage. Report p. 14. The report notes that the south bypass route would not require DM&E to abandon service to its existing customers, and that light local rail traffic could continue over DM&E's present line through the City. Report p. 15.

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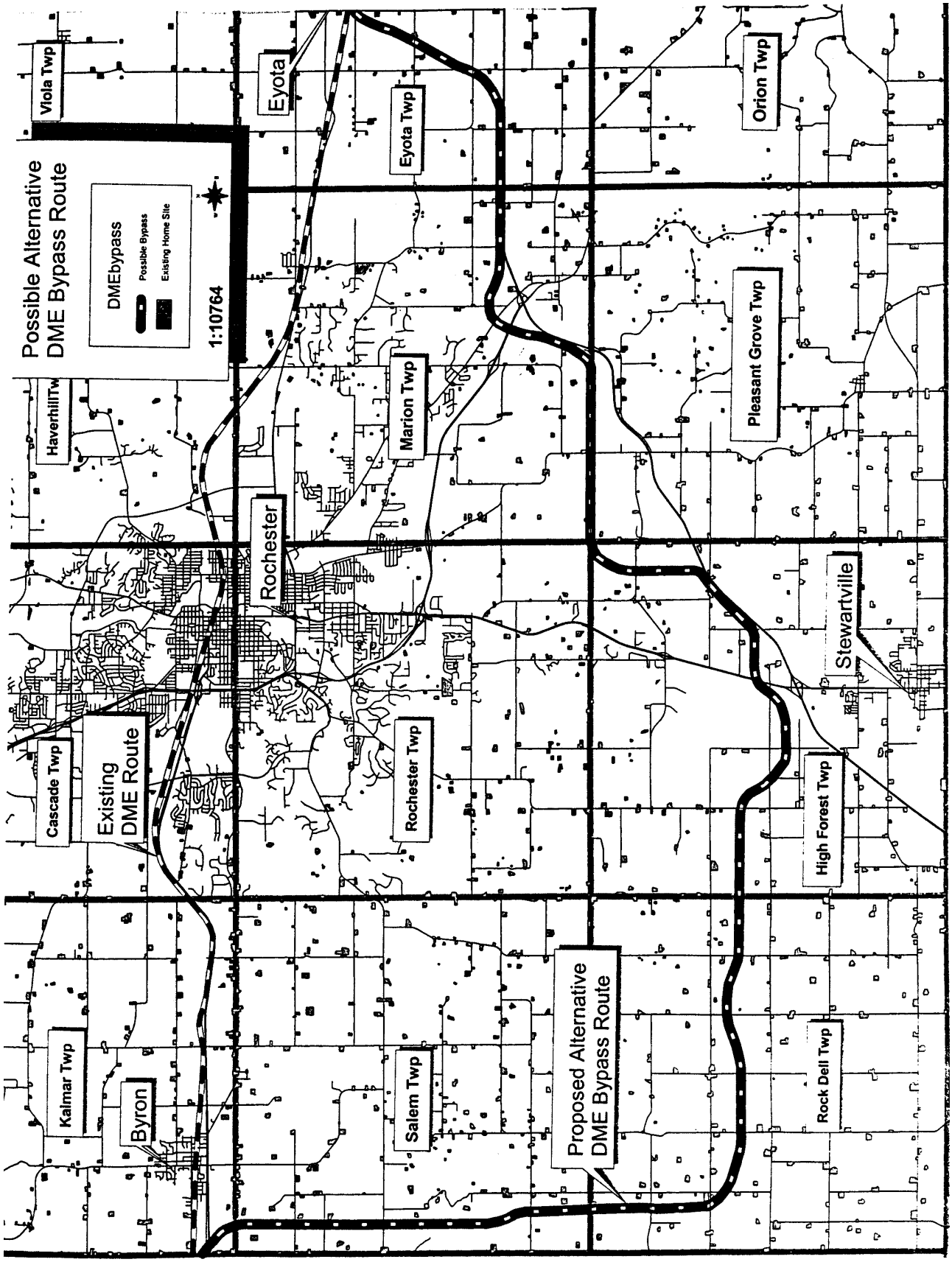
[8] The report was prepared by the engineering firms of Toltz, Duvall, Anderson and Associates of St. Paul, Minnesota and its subconsultant, Black and Veatch located in Overland, Kansas. A copy has been placed in the environmental record in this case. We urge interested parties or members of the public to review the report itself. We explain below how to obtain a copy of the report.

[9] The report notes, however, that the City is continuing to gather data on the feasibility of the tunnel option. See p. 6



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City of Rochester's Proposed Mitigation of DM&E's Existing Corridor

The report also proposes a number of improvements to DM&E's existing corridor through the City [10] designed to mitigate potential environmental impacts if DM&E's proposal were to be approved.[11] The improvements include replacing all of the main track with 136-lb continuously welded rail, replacing all poor or marginal timber cross ties, replacing all turnouts along the main track, installing power switch machines and switch heaters at all heavily used locations, replacing all timber trestle bridges, replacing or strengthening all of the steel bridges to support heavier axle loads, cleaning and installing additional rock ballast and re-profiling the existing line, cleaning drainage ditches and repairing culverts and marginal embankments, and replacing all at grade crossing surfaces following reconstruction of the track.

The report goes on to recommend additional work to reduce potential safety, environmental, congestion, and quality of life problems. Moreover, the report recommends construction of eleven separated grade crossings, closure of seven grade crossings, and protection with train activated flashing light signal and automatic gate arms at the seventeen remaining crossings. Other recommended mitigation includes sound barrier walls, fencing, and pedestrian crossings. The report includes an estimated cost of $119,300,000 for the recommended mitigation of DM&E's existing corridor. Report p. 21.

Public Participation and Request for Comments

Pursuant to NEPA, the EIS must explore and evaluate a reasonable range of alternatives designed to meet the purpose and need of the proposal. If alternatives have been eliminated from detailed study, the EIS must briefly discuss why these alternatives have been discarded. See 40 CFR 1502.14(a); Forty Questions No. 1(a). CEQ's guidance states that ''[r]easonable alternatives include those that are practical or feasible from the technical and economic standpoint and using commonsense, rather than simply desirable from the standpoint of the applicant.'' Forty Questions No. 2a.

The City's submission contains sufficient information for the Board, in consultation with its cooperating agencies, to make a preliminary determination that the south bypass *may* be a feasible alternative routing. However, we do not yet have the benefit of the applicant's views, nor those of the affected members of the public or other interested parties as to the feasibility of the south bypass, or whether it would simply shift to different communities and populations the potential environmental consequences of the applicant's proposed route. To ensure that the agencies have as much information as possible on the south bypass in preparing the DEIS, SEA has decided to provide an opportunity for interested parties and members of the public to submit comments on the feasibility of the City's proposal prior to the issuance of the DEIS.[12]

In addition, as discussed above, the agencies are seeking comments on the potential environmental impacts of the ''Modified Proposed Action,'' referred to as Alternative C.

Comments on Alternative C and on the City's proposal can be submitted to the Surface Transportation Board within 30 days of publication of the final scope and request for comments in the **Federal Register**. Comments should be sent to: Office of the Secretary, Case Control Unit, STB Finance Docket No. 33407, Surface Transportation Board, 1925 K Street, NW, Washington, D.C. 20423–0001.

To ensure proper handling of your comments, you must mark your submission: Attention: Elaine K. Kaiser, Chief, Section of Environmental Analysis, Environmental Filing.

The DEIS will include an appropriate discussion of the south bypass and recommended mitigation and a determination as to whether the bypass would be a reasonable and feasible alternative. The public then will have the opportunity to review and comment on these conclusions regarding the south bypass during the comment period on the DEIS. The DEIS will contain information on the agencies' conclusions regarding the City of Rochester's South Bypass Proposal. An opportunity for further comment will be provided at that time.

Agency Actions

Based on CEQ's and each agencies' regulations implementing NEPA, the draft scope, oral and written comments received, and all other information available to date, the agencies have prepared this final scope of the EIS. This final scope of the EIS will be distributed to all Parties of Record, interested parties and American Indian Tribal governments, and appropriate Federal, state, and local agencies.

Based on the agencies' environmental analysis, review of all information available to-date, and consultations with appropriate American Indian Tribal governments and agencies, the agencies will prepare the DEIS. The DEIS will address relevant environmental concerns, as generally described in this final scope of the EIS and recommend appropriate environmental mitigation. The agencies will afford an opportunity for public comments on the DEIS. Once comments have been received and assessed, the agencies will issue the FEIS, which will respond to comments and, if appropriate, set forth additional analysis and information. Following the close of the environmental record, the Board and each of the cooperating agencies will then issue final decisions on the proposed action.

Environmental Impact Analysis

Analysis in the EIS will address, as appropriate, the potential environmental impacts of proposed activities associated with the construction and operation of DM&E's new rail facilities, as well as construction and operation activities associated with the rebuilding of DM&E's existing mainline. The scope of the analysis will include the following activities:

1. Proposed construction of new rail mainline extension to access coal mines south of Gillette, Wyoming.
2. Proposed construction of new rail mainline to bypass DM&E's existing trackage rights on UP in Mankato, Minnesota.
3. Proposed construction of new rail line connection between DM&E and I&M Rail Link south of Owatonna, Minnesota.
4. Proposed upgrade along DM&E's existing track from the point of connection with new construction between Wasta, South Dakota and Winona, Minnesota.

Impact Categories

The EIS will address potential impacts from the proposed construction and operation of new rail facilities on the human and natural environment.

[10] The report defines the corridor as DM&E's 31.0 mile long main track traveling east-west through Olmsted County and .8 miles located in Dodge County. Report p. 15.

[11] The DEIS will assess potential environmental impacts that would result from rebuilding DM&E's existing line and operating a maximum of 37 trains, including 34 unit coal trains over the rebuilt line. The DEIS will assess proposals for mitigation of impacts and independently develop recommended mitigation measures.

[12] Detailed information, including maps, of Rochester's proposed south bypass and mitigation of DM&E's existing corridor may be obtained from: The Rochester-Olmsted County Department of Planning, 2122 Campus Drive, SE, Rochester, MN 55904, (507) 285–8232.

Impact areas addressed will include the categories of land use, biological resources, water resources, geology and soils, air quality, noise, energy resources, socioeconomics as they relate to physical changes in the environment, safety, transportation systems, cultural and historic resources, recreation, aesthetics, environmental justice, and cumulative effects. The EIS will include a discussion of each of these categories as they currently exist in the project area and address the potential impacts from the proposed project on each category as described below.

The EIS analysis will also address construction and operation related impacts associated with the rebuilding of DM&E's existing mainline from the point of connection with the new construction segments between Wasta, South Dakota and Winona, Minnesota. Such action, being confined within existing rail right-of-way and on existing rail property, would not normally be included in an EIS prepared by the Board. Only the potential impacts associated with rail traffic increases on DM&E's existing system resultant from the construction and operation of the proposed project would be evaluated. However, because the U.S. Army, Corps of Engineers, a cooperating agency, requires such analysis to satisfy its permitting requirements under the Clean Water Act and comments requesting such analysis be conducted were received, analysis of construction related impacts along the rail line to be rebuilt will be included in this EIS. In addition to the analysis of potential project impacts related to operational increases in rail traffic (noise, air quality, transportation, safety), the construction related impacts to land use, biological resources, water resources, geology and soils, air quality, noise, socioeconomics, safety, hazardous materials, transportation systems, cultural and historic resources, environmental justice, and cumulative effects will be analyzed as discussed below.

1. Land Use

The EIS will:

A. Describe existing land use patterns, management, and ownership (private and public) within the project area for new rail line construction and along the existing rail line to be rebuilt and identify those land uses and the amounts of each potentially impacted by new rail line construction and rail line rebuild.

B. Describe the potential impacts associated with the proposed construction and operation of new rail line and existing rail line to be rebuilt to cropland, pastureland, rangeland, grassland, woodland, developed land, school endowment land, BLM lands,[13] Forest Service lands, state lands, utilities, and any other land uses identified within the project area. Such potential impacts may include but not be limited to impacts to farming/ranching activities, introduction of noxious weeds, fire hazard, incompatibility with existing land uses, relocation of residences or businesses, and conversion of land to railroad uses.

C. Propose mitigative measures to minimize or eliminate potential adverse project impacts to land use, as appropriate.

2. Biological Resources

The EIS will:

A. Describe the existing biological resources within the project area for new rail line construction and along the existing rail line to be rebuilt, including vegetative communities, wildlife and fisheries, federally threatened or endangered species, and any sensitive vegetation and wildlife identified and the potential impacts to these resources resultant from construction and operation of new rail line and the existing rail line to be rebuilt.

B. Describe the wildlife sanctuaries, refuges, and national or state parks, forests, or grasslands within the project area for new construction and along the existing rail line to be rebuilt and the potential impacts to these resources resultant from construction and operation of new rail line and existing rail line to be rebuilt.

C. Propose mitigative measures to minimize or eliminate potential adverse project impacts to biological resources, as appropriate.

3. Water Resources

The EIS will:

A. Describe the existing surface and groundwater resources within the project area for new rail line construction and along the existing rail line to be rebuilt, including lakes, rivers, streams, stock ponds, wetlands, aquifers, wells, and floodplains and the potential impacts on these resources resultant from construction and operation of new rail line and the existing rail line to be rebuilt.

B. Describe the existing uses of water resources in the project area for irrigation, livestock, residential, and municipal water supply.

C. Describe the permitting requirements for the proposed new rail line construction and existing rail line rebuild in regard to wetlands, stream crossings, water quality, and erosion control.

D. Propose mitigative measures to minimize or eliminate potential adverse project impacts to water resources and users, as appropriate.

4. Geology and Soils

The EIS will:

A. Describe the geology, soils, and mineral resources found within the project area for new rail line construction and along the existing rail line to be rebuilt, including unique or problematic geologic formations or soils, prime farmland soils, and recoverable mineral resources.

B. Describe measures employed to avoid or construct through unique or problematic geologic formations or soils.

C. Describe the impacts of new rail line and existing rail line rebuild construction activities on prime farmland soils.

D. Describe the potential impacts to mineral resources within the project area for new construction and along the existing rail line to be rebuilt.

E. Describe the potential general impacts to paleontological resources in the project area for new construction and along the existing rail line to be rebuilt due to new rail line construction and existing rail line rebuild activities, if necessary and required.

F. Propose mitigative measures to minimize or eliminate potential adverse project impacts to geology, soils, mineral resources, and paleontological resources, as appropriate.

5. Air Quality

The EIS will:

A. Discuss the existing air quality in the project area for the new construction, along the existing rail line to be rebuilt, and those portions of the UP and CP rail systems within Goodview and Winona, Minnesota.

B. Evaluate rail air emissions on new rail line, the existing rail line to be rebuilt, and those portions of the UP and CP rail systems within Goodview and Winona, Minnesota that exceed the Board's environmental thresholds in 49 CFR 1105.7(e)(5)(I), in an air quality attainment or maintenance area as designated under the Clean Air Act. The threshold anticipated to apply to this project is eight trains per day on any segment of new rail line.

C. Evaluate rail air emissions on new rail line, the existing rail line to be rebuilt, and those portions of the UP and CP rail systems within Goodview and Winona, Minnesota, if a Class I or non-attainment area as designated under the Clean Air Act is affected. The

[13] This term includes those lands for which the BLM administers the land and/or the mineral estate.

threshold for Class I and non-attainment areas anticipated to apply to this project is 3 trains per day or more.

D. Evaluate the potential air quality impacts associated with the increased availability and utilization of Powder River Basin coal.

E. Discuss the net increase in emissions from increased railroad operations associated with the proposed operations over new rail line, the existing DM&E system and other rail systems as appropriate, including those portions of the UP and CP systems within Goodview and Winona, Minnesota.

F. Discuss the potential air emissions increases from vehicle delays at new and existing grade rail crossings where the rail crossing is projected to experience an increase in rail traffic over the threshold described above for attainment, maintenance, Class I, and non-attainment areas and that have an average daily vehicle traffic level of over 5,000. Emissions from vehicle delays at new and existing grade rail crossings and idling diesel engines and coal dust will be factored into the emissions estimates for the affected area, as appropriate.

G. Describe the potential air quality impacts of emissions from idling diesel locomotives and coal dust produced during train operation.

H. Describe the potential air quality impacts resulting during new rail line and existing rail line rebuild construction activities.

I. Propose mitigative measures to minimize or eliminate potential adverse project impacts to air quality, as appropriate.

6. Noise

The EIS will:

A. Describe existing noise receptors and conditions in the project area for new rail line construction, along the existing rail line to be rebuilt, and the portions of the UP and CP rail lines within Goodview and Winona, Minnesota.

B. Describe the potential noise impacts during new and existing rail line construction and rebuilding.

C. Describe potential noise impacts of new and rebuilt existing rail line operation for those areas that exceed the Board's environmental threshold of eight or more trains per day as a result of the proposed project along the proposed new construction, the existing rail line to be rebuilt, and along the portions of the UP and CP rail lines within Goodview and Winona, Minnesota.

D. Describe the potential impacts of the new and rebuilt existing rail line operation due to vibration, both noise and ground-borne along the proposed new construction, the existing rail line to be rebuilt, and along the portions of the UP and CP rail lines within Goodview and Winona, Minnesota.

E. Propose mitigative measures to minimize or eliminate potential adverse project impacts to noise and vibration receptors, as appropriate.

7. Energy Resources

The EIS will:

A. Describe the transport of energy resources and recyclable commodities on the existing DM&E system.

B. Describe the potential environmental impact of the new rail line and rebuilt existing rail line on the transportation of energy resources and recyclable commodities.

C. Describe the environmental impacts of operation of the new rail line and rebuilt existing rail line on utilization of the nations energy resources.

D. Propose mitigative measures to minimize or eliminate potential adverse project impacts to the transportation of energy resources and recyclable commodities, as appropriate.

8. Socioeconomics

The EIS will:

A. Describe the socioeconomic conditions within the area of new construction alternatives and along the existing line to be rebuilt.

B. Address socioeconomic issues shown to be related to changes in the physical environment as a result of the proposed action, including quality of life issues such as division of communities, isolation of residences, access to destinations and similar concerns.

C. Propose mitigative measures to minimize or eliminate potential adverse project impacts to socioeconomics, as appropriate.

9. Safety

The EIS will:

A. Describe rail/highway grade crossing safety factors at new grade crossings, as appropriate.

B. Describe rail/highway grade crossing safety factors at existing grade crossings along the portion of DM&E's system to be rebuilt and those portions of the UP and CP systems within Goodview and Winona, Minnesota.

C. Describe the potential for increased probability of train accidents, derailments, and train/vehicular accidents at new and existing grade crossings, as appropriate.

D. Describe the potential for disruption and delays to the movement of emergency vehicles across the new rail line, existing rail line to be rebuilt, and those portions of the UP and CP systems within Goodview and Winona, Minnesota due to new rail line construction and operation.

E. Describe the changes at existing grade crossings implemented to increase safety at existing grade crossings due to increased rail operations on the DM&E system. Such changes would include signalization upgrades and conversion of grade crossings to grade separated crossings.

F. Propose mitigative measures to minimize or eliminate potential adverse project impacts to safety, as appropriate.

10. Hazardous Materials

The EIS will:

A. Describe any known hazardous materials sites along the preferred and alternative construction alignments and the existing rail line to be rebuilt.

B. Describe the transport of any hazardous materials over the existing DM&E system and those portions of the UP and CP rail systems within Goodview and Winona, Minnesota.

C. Describe the potential impacts to hazardous materials sites along the preferred and alternative alignments.

D. Describe the potential impacts to the transport of any hazardous materials over the existing DM&E system, new rail line proposed for construction, and those portions of the UP and CP rail systems within Goodview and Winona, Minnesota.

E. Propose mitigative measures to minimize or eliminate potential adverse project impacts to hazardous materials and the transport of any hazardous materials, as appropriate.

11. Transportation Systems

The EIS will:

A. Describe the potential effects of new rail line construction and operation on the existing transportation network in the project area including:

(1) Impact to the existing DM&E system operations

(2) Impacts to other rail carriers' operations

(3) Vehicular delays at new grade crossings for those crossings having average daily vehicle traffic of 5,000 or more and

(4) Vehicular delays at existing grade crossings that are part of the portion of the existing system proposed to be rebuilt for those crossings having average daily vehicle traffic of 5,000 or more.

(5) Vehicular delays at existing grade crossings along those portions of the UP and CP rail systems within Goodview and Winona, Minnesota for those

crossings having average daily vehicle traffic of 5,000 or more.

(6) Vehicular delays at existing and new grade crossings having average daily traffic of less than 5,000 vehicles but have unique circumstances that make such evaluation appropriate.

B. Propose mitigative measures to minimize or eliminate potential adverse project impacts to transportation systems, as appropriate.

12. Cultural and Historic Resources

The EIS will:

A. Describe the potential impacts to historic structures or districts previously recorded and determined potentially eligible, eligible, or listed on the National Register of Historic Places within or immediately adjacent to the right-of-way for the preferred and alternative construction alignments and the existing rail line to be rebuilt.

B. Describe the potential impacts to archaeological sites previously recorded and either listed as unevaluated or determined potentially eligible, eligible, or listed on the National Register of Historic Places within the right-of-way for the preferred and alternative construction alignments and the existing rail line to be rebuilt.

C. Describe the potential impacts to historic structures or districts identified by ground survey and determined potentially eligible or eligible for listing on the National Register of Historic Places within or immediately adjacent to the existing rail line to be rebuilt.

D. Describe the potential impacts to traditional cultural properties and religious use areas, sacred sites, cultural landscapes, and collection areas for religious and ceremonial plants.

E. Propose mitigative measures to minimize or eliminate potential adverse project impacts to cultural and historic resources, as appropriate.

13. Recreation

The EIS will:

A. Describe the existing recreational opportunities and activities present and undertaken in the project area for the new construction and along the existing rail line to be rebuilt.

B. Describe the potential impacts of the proposed new rail line construction and operation on the recreational opportunities and activities in the project area for the new construction and along the existing rail line to be rebuilt.

C. Propose mitigative measures to minimize or eliminate potential adverse project impacts to recreation, as appropriate.

14. Aesthetics

The EIS will:

A. Describe any areas identified or determined to be of high visual quality (components of which may include the wide open nature of the area, the perception of isolation, and feeling of vastness), wilderness areas, or waterways designated as wild and scenic within the project area for the new construction and along the existing rail line to be rebuilt.

B. Describe the potential impacts of the proposed new rail line construction and existing rail line rebuild on any areas identified or determined to be of high visual quality.

C. Describe the potential impacts of the proposed new rail line construction and existing rail line rebuild on any designated wilderness areas.

D. Describe the potential impacts of the proposed new rail line construction and existing rail line rebuild on any waterways considered for or designated as wild and scenic.

E. Propose mitigative measures to minimize or eliminate potential adverse project impacts to aesthetics, as appropriate.

15. Environmental Justice

The EIS will:

A. Describe the demographics in the project area and the immediate vicinity of the proposed new construction and along the existing rail line to be rebuilt, as appropriate, including communities potentially impacted by the construction and operation of the proposed new rail line and existing rail line to be rebuilt.

B. Evaluate whether new rail line and existing rail line construction, rebuild, or operation activities would have a disproportionately high adverse impact on any minority or low-income groups.

C. Propose mitigative measures to minimize or eliminate potential adverse project impacts to minority or low-income groups, as appropriate.

16. Cumulative Effects

The EIS will discuss cumulative effects of the construction and operation of the new rail line and DM&E's existing system.

By the Board, Elaine K. Kaiser, Chief, Section of Environmental Analysis.

Vernon A. Williams,

Secretary.

[FR Doc. 99–5930 Filed 3–9–99; 8:45 am]

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DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Customhouse Brokers Licence and Permit

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Customhouse Brokers Licence and Permit. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before May 10, 1999, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (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 estimates 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 including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting

comments concerning the following information collection:

Title: Customhouse Brokers Licence and Permit.

OMB Number: 1515–0076.

Form Number: Customs form 3124.

Abstract: The license permit application is used by individuals, corporations, partnerships or associations applying for initial licensing in one Customs district, or in applying for a permit in an additional Customs district, or applying for a National Permit after receiving prior licensing.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 2,000.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 2,000.

Estimated Total Annualized Cost on the Public: N/A.

Dated: March 4, 1999.

J. Edgar Nichols,

Team Leader, Information Services Group.

[FR Doc. 99–5844 Filed 3–9–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Notice of Detention

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Notice of Detention. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before May 10, 1999, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (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 estimates 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 including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Notice of Detention.

OMB Number: 1515–0210.

Form Number: N/A.

Abstract: This collection requires a response to the Notice of Detention of merchandise and to provide evidence of admissibility to allow entry.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 250.

Estimated Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 500.

Estimated Total Annualized Cost on the Public: N/A.

Dated: March 4, 1999.

J. Edgar Nichols,

Team Leader, Information Services Group.

[FR Doc. 99–5845 Filed 3–9–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Report of Loss, Detention, or Accident by Bonded Carrier, Cartman, Lighterman, Foreign Trade Zone Operator, or Centralized Examination Station Operator

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Report of Loss, Detention, or Accident by Bonded Carrier, Cartman, Lighterman, Foreign Trade Zone Operator, or Centralized Examination Station Operator. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before May 10, 1999, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, DC 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (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 estimates 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 including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and

included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Report of Loss, Detention, or Accident by Bonded Carrier, Cartman, Lighterman, Foreign Trade Zone Operator, or Centralized Examination Station Operator.

OMB Number: 1515–0193.

Form Number: N/A.

Abstract: This collection is required to ensure that any loss or detention of bonded merchandise, or any accident happening to a vehicle or lighter while carrying bonded merchandise shall be immediately reported by the cartman, lighterman, qualified bonded carrier, foreign trade zone operator, bonded warehouse proprietor, container station operator or centralized examination station operator are properly reported to the port director.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 250.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 84.

Estimated Total Annualized Cost on the Public: N/A.

Dated: March 4, 1999.

J. Edgar Nichols,

Team Leader, Information Services Group.

[FR Doc. 99–5846 Filed 3–9–99; 8:45 am]

BILLING CODE 4820–02–M

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Record of Vessel Foreign Repair or Equipment Purchase

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Record of Vessel Foreign Repair or Equipment Purchase. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before May 10, 1999, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) 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 estimates 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 including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Record of Vessel Foreign Repair or Equipment Purchase.

OMB Number: 1515–0082.

Form Number: Customs form 226.

Abstract: This collection is required to ensure the collection of revenue (duty) required on all equipment, parts, or materials purchased, and repairs made to U.S. Flag vessels outside the United States.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 2,000.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 1,000.

Estimated Total Annualized Cost on the Public: N/A.

Dated: March 4, 1999.

J. Edgar Nichols,

Team Leader, Information Services Group.

[FR Doc. 99–5847 Filed 3–9–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Declaration for Unaccompanied Articles

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Declaration for Unaccompanied Articles. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before May 10, 1999, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) 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 estimates 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 including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Declaration for Unaccompanied Articles.

OMB Number: 1515–0087.

Form Number: Customs form 255.

Abstract: This collection is completed by each arriving passenger for each parcel or container which is being sent from an Insular Possession at a later date. This declaration allows that traveler to claim their appropriate allowable exemption.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 7,500.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 1,250.

Estimated Total Annualized Cost on the Public: N/A.

Dated: March 4, 1999.

J. Edgar Nichols,

Team Leader, Information Services Group.

[FR Doc. 99–5848 Filed 3–9–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds Change of Name—Domestication: Zurich Insurance Company, U.S. Branch

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 9 to the Treasury Department Circular 570; 1998 Revision, published July 1, 1998, at 63 FR 36080.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6696.

SUPPLEMENTARY INFORMATION: Zurich Insurance Company, U.S. Branch, has become a domestic corporation and changed its name to Zurich American Insurance Company, effective January 1, 1999. The Company was last listed as an acceptable reinsurer on Federal bonds at 63 FR 36114, July 1, 1998.

A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued under 31 U.S.C. 9304 to 9308 to Zurich American Insurance Company, New York, New York. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1998 Revision, on page 36113 to reflect this addition:

Zurich American Insurance Company. Business Address: 1400 American Lane, Schaumburg, IL 60196. Phone: (847) 605–6000. Underwriting Limitation b/: $72,150,000. Surety Licenses c/: AK, CT, FL, IL, IA, KY, LA, MA, MN, MT, NE, NV, NH, NY, NC, ND, PA, SC, SD, TX, UT, VT, VA. Incorporated in: New York.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwiring limitations, areas in which licensed to transact surety business and other information.

The Circular may be viewed and downloaded through the Internet at http://www.fms.treas.gov/c570/index.html. A hard copy may be purchased from the Government Printing Office (GPO) Subscription Service, Washington, DC, Telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 048–000–00516–1.

Questions concerning this Notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6A04, Hyattsville, MD 20782.

Dated: February 24, 1999.

Wanda J. Rogers,

Acting Director, Financial Accounting and Services Division, Financial Management Service.

[FR Doc. 99–5874 Filed 3–9–99; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1118

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1118, Foreign Tax Credit—Corporations.

DATES: Written comments should be received on or before May 10, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Foreign Tax Credit—Corporations.

OMB Number: 1545–0122.

Form Number: 1118.

Abstract: Form 1118 and separate Schedules I and J are used by domestic and foreign corporations to claim a credit for taxes paid to foreign countries. The IRS uses Form 1118 and related schedules to determine if the corporation has computed the foreign tax credit correctly.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 30,000.

Estimated Time Per Respondent: 135 hr., 43 min.

Estimated Total Annual Burden Hours: 4,071,298.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to

respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 18, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–5835 Filed 3–9–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–7–89]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–7–89 (TD 8684), Treatment of Gain From the Disposition of Interest in Certain Natural Resource Recapture Property by S Corporations and Their Shareholders (§ 1.1254–4).

DATES: Written comments should be received on or before May 10, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Treatment of Gain From the Disposition of Interest in Certain Natural Resource Recapture Property by S Corporations and Their Shareholders.

OMB Number: 1545–1493.

Regulation Project Number: PS–7–89.

Abstract: This regulation prescribes rules under Code section 1254 relating to the treatment by S corporations and their shareholders of gain from the disposition of natural resource recapture property and from the sale or exchange of S corporation stock. Section 1.1254–4(c)(2) of the regulation provides that gain recognized on the sale or exchange of S corporation stock is not treated as ordinary income if the shareholder attaches a statement to his or her return containing information establishing that the gain is not attributable to section 1254 costs.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and individuals.

Estimated Number of Respondents: 1,000.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 1,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 2, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–5836 Filed 3–9–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 4070, 4070A, 4070PR, and 4070A–PR

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4070, Employee's Report of Tips to Employer, Form 4070A, Employee's Daily Record of Tips; Forma 4070PR, Informe al Patrono de Propinas Recibidas por el Empleado; Forma 4070A–PR, Registro Diario de Propinas del Empleado.

DATES: Written comments should be received on or before May 10, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue

Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Form 4070, Employee's Report of Tips to Employer, Form 4070A, Employee's Daily Record of Tips; Forma 4070PR, Informe al Patrono de Propinas Recibidas por el Empleado; Forma 4070A–PR, Registro Diario de Propinas del Empleado.

OMB Number: 1545–0065.

Form Number: Forms 4070, 4070A, 4070PR, and 4070A–PR.

Abstract: Employees who receive at least $20 per month in tips must report the tips to their employers monthly for purposes of withholding of employment taxes. Forms 4070 and 4070PR (Puerto Rico only) are used for this purpose. Employees must keep a daily record of tips they receive. Forms 4070A and 4070A–PR (Puerto Rico only) are used for this purpose.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 570,000.

Estimated Time Per Respondent: 63 hours, 58 minutes (Forms 4070 and 4070A); 64 hours, 12 minutes (Forms 4070PR and 4070A–PR).

Estimated Total Annual Burden Hours: 36,459,600.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 1, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–5837 Filed 3–9–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 99–18

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 99–18, Debt Roll-Ups.

DATES: Written comments should be received on or before May 10, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Debt Roll-Ups.

OMB Number: 1545–1647.

Revenue Procedure Number: Revenue Procedure 99–18.

Abstract: Revenue Procedure 98–18 provides for an election that will facilitate the consolidation of two or more outstanding debt instruments into a single debt instrument. Under the election, taxpayers can treat certain exchanges of debt instruments as realization events for federal income tax purposes even though the exchanges do not result in significant modifications under section 1.1001–3 of the Income Tax Regulations.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 100.

Estimated Time Per Respondent: 45 minutes.

Estimated Total Annual Burden Hours: 75.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 2, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–5838 Filed 3–9–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Notice of Open Public Meeting of Citizen Advocacy Panel

AGENCY: Internal Revenue Service.

ACTION: Notice of open public meeting of Citizen Advocacy Panel.

SUMMARY: An open public meeting of the Citizen Advocacy Panel will be held in Bradenton, Florida.

DATES: The meeting will be held Friday, March 26, 1999 and Saturday, March 27, 1999.

FOR FURTHER INFORMATION CONTACT: Nancy Ferree at 1–888–912–1227, or 954–423–7973.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open public meeting of the Citizen Advocacy Panel will be held Friday, March 26, 1999 from 6:00 pm to 9:00 pm and Saturday, March 27, 1999 from 9:00 a.m. to 1:00 p.m., in The Manatee Community College—Bradenton Campus, Second Floor of Library Studio A, 5840 26 Street West, Bradenton, FL 34207. The public is invited to make comments from 10:00 am to 12:00 noon on Saturday, March 26, 1999. Individual comments will be limited to 5 minutes. If you would like to have the CAP consider a written statement, please call 1–888–912–1227 or 954–423–7973, or write Nancy Ferree, CAP Office, 7771 W. Oakland Park Blvd. Rm. 225, Sunrise, FL 33351. Due to limited conference space, notification of intent to attend the meeting must be made with Nancy Ferree. Ms. Ferree can be reached at 1–888–912–1227 or 954–423–7973. In accordance with the Americans With Disabilities Act, persons with special needs should contact Nancy Ferree at 954–423–7973 by no later than 3/19/99.

The agenda will include the following: various IRS issue updates and reports by the CAP sub-groups.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Cathy Van Horn,

CAP Project Manager.

[FR Doc. 99–5950 Filed 3–9–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Notice of Meeting With Current and Prospective Tax Software Developers

AGENCY: Internal Revenue Service (IRS), Treasury.

SUMMARY: This announcement serves as notice that the Internal Revenue Service will hold a meeting of current and prospective tax software developers to share ideas and to hold dialogue on electronic filing issues. Updates on the Year 2000 Filing Season, Alternative Payment Options, and Authentication Strategies will be addressed at the conference. The meeting will be held at the New Carrollton Federal Building, 5000 Ellin Road, Lanham, MD 20706, Room B1–303 (Training Center).

SUPPLEMENTARY INFORMATION: To register for this meeting, please call V. McNeal at 202–283–4830 (not a toll-free number). A registration packet will be mailed or faxed which must be completed by March 15, 1999. You may also access The Digital Daily (IRS website) at http://www.irs.ustreas.gov, under ''What's Hot'', to obtain registration information. If you have any questions or issues which you would like to have addressed during the meeting, you may submit them beforehand by faxing them to V. McNeal at 202–283–4829.

DATES: The conference will be held on Monday, March 22, 1999 from 8:30am–4:30pm and Tuesday, March 23, 1999 from 8:30am–1pm.

ADDRESSES: Questions or concerns should be directed to Portia Bingham at IRS, Electronic Tax Administration, OP:ETA:O:P, Room C4262, 5000 Ellin Road, Lanham, MD 20706.

FOR FURTHER INFORMATION CONTACT: Questions or concerns will also be taken over the telephone. Call Portia Bingham at 202–283–0226.

Dated: March 1, 1999.

Terence H. Lutes,

National Director, Electronic Program Operations Office, Electronic Tax Administration.

[FR Doc. 99–5834 Filed 3–9–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Notice of Open Meeting of Citizen Advocacy Panel, Midwest District

SUMMARY: An open meeting of the Midwest District Citizen Advocacy Panel will be held in Milwaukee, Wisconsin.

DATES: The meeting will be held Thursday, March 25, 1999 and Friday, March 26, 1999.

FOR FURTHER INFORMATION CONTACT: Sandy McQuin at 1–888–912–1227 or 414–297–1604.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an operational meeting of the Citizen Advocacy Panel will be held Thursday, March 25, 1999, 9:00 a.m. to 5:00 p.m. and Friday, March 26, 1999 from 8:00 am to 12:00 noon, in the Strauss Room, Best Western Inn Towne Hotel, 710 N. Old World Third Street, Milwaukee, Wisconsin 53203. Due to limited conference space, notification of intent to attend the meeting must be made with Sandy McQuin. Ms. McQuin can be reached at 1–888–912–1227 or 414–297–1604.

The Agenda will include the following: Finalizing the mission statement, establishing priority on sources of issues to be considered, and setting parameters for future meetings.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: February 28, 1999.

M. Cathy VanHorn,

CAP Project Manager.

[FR Doc. 99–5833 Filed 3–9–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service (IRS)

Notice of open meeting of Citizen Advocacy Panel, Pacific-Northwest District

SUMMARY: An open meeting of the Pacific-Northwest District Citizen Advocacy Panel will be held in Portland, Oregon.

DATES: The meeting will be held Saturday, March 20, 1999.

FOR FURTHER INFORMATION CONTACT: Deborah A. Diamond at 1–888–912–1227 or 206–220–6099.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an operational meeting of the Citizen Advocacy Panel will be held Saturday, March 20, 1999, 9:00 a.m. to 5:00 p.m. at the Riverside Inn, 50 SW Morrison Street, Portland, OR 97204. Due to limited conference space, notification of intent to attend the

meeting must be made with Deborah Diamond. Ms. Diamond can be reached at 1–888–912–1227 or 206–220–6099. The public is invited to make oral comments from 10:00am to 11:00am on Saturday, March 20, 1999. Individual comments will be limited to 5 minutes.

If you would like to have the CAP consider a written statement, please call 1–888–912–1227 or 206–220–6099, or write Deborah Diamond, CAP Office, 915 2nd Avenue; M/S W–406, Seattle, WA 98174.

The Agenda will include the following: initial start up issues and various IRS issues.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: March 5, 1999.

M. Cathy VanHorn,

CAP Project Manager.

[FR Doc. 99–5949 Filed 3–9–99; 8:45 am]

BILLING CODE 4830–01–U

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determination: ''Goya: Another Look''

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 F.R. 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 F.R. 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, ''Goya: Another Look,'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign leader. I also determine that the exhibition or display of the listed objects at The Philadelphia Museum of Art, Philadelphia, PA, from on or about April 11, 1999, to on or about July 11, 1999, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For a copy of the list of exhibit objects and for further information, contact Ms. Jacqueline Caldwell, Assistant General Counsel, Office of the General Counsel, 202–619–6982. The address is Room 700, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547–0001.

Dated: March 4, 1999.

Les Jin,

General Counsel.

[FR Doc. 99–5974 Filed 3–9–99; 8:45 am]

BILLING CODE 8230–01–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determinations

AGENCY: United States Information Agency.

This is an amendment to Notice Regarding Culturally Significant Objects Imported for Exhibition in the exhibit entitled ''Impressionists in Winter: Effets de Neige.'' This is to amend **Federal Register** Doc. 98–19127, 63 FR 38696 (July 17, 1998) by adding the following language after the words ''to May 2, 1999'': ''and at The Brooklyn Museum of Art from on or about May 27, 1999, to on or about August 29, 1999.''

Dated: March 4, 1999.

Les Jin,

General Counsel.

[FR Doc. 99–5973 Filed 3–9–99; 8:45 am]

BILLING CODE 8230–01–M

Federal Register

Wednesday
March 10, 1999

Part II

Environmental Protection Agency

40 CFR Parts 52 et al.

Approval and Promulgation of Air Quality Implementation Plans; Rules and Proposed Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[CT051–7209; A–1–FRL–6224–8]

Removal of the Approval of the Maintenance Plan, Carbon Monoxide Redesignation Plan and Emissions Inventory for the Connecticut Portion of the New York-N. New Jersey-Long Island Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On November 2, 1998 (63 FR 58637), EPA published a direct final rule that approved the maintenance plan, carbon monoxide redesignation plan, and emissions inventory for the Connecticut portion of the New York-N. New Jersey-Long Island Area. EPA stated in that direct final rule that if we received adverse comment by December 2, 1998, the rule would not take effect and EPA would publish a timely notice withdrawing the rule. EPA subsequently received adverse comment on that direct final rule, but did not publish the withdrawal notice prior to the effective date of the direct final rule. In this action, EPA is removing the amendments that were published in the November 2, 1998, direct final rule. In today's **Federal Register**, EPA also is issuing a subsequent direct final rule and parallel proposal that addresses the adverse comment EPA received on the November 2, 1998 rule and approves the Connecticut portion of the New York-N. New Jersey-Long Island Area.

DATES: This action is effective March 10, 1999.

FOR FURTHER INFORMATION CONTACT: Jeffrey S. Butensky, Environmental Planner, Air Quality Planning Unit of the Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100, Boston, MA 02114–2023, or at (617) 918–1665 or butensky.jeff@epa.gov.

SUPPLEMENTARY INFORMATION: EPA is removing the amendments to this rule that were published as a direct final rule on November 2, 1998. Those amendments approved the redesignation request, maintenance plan, and emissions inventory for the State of Connecticut intended to redesignate the Connecticut portion of the New York-N. New Jersey-Long Island nonattainment area to attainment for carbon monoxide. That action was to establish the area as attainment for carbon monoxide and require the state to implement their 10 year maintenance plan. Since EPA received a letter dated December 2, 1998 with adverse comments from the State of Connecticut, by its terms, the direct final rule should not have become effective. EPA, therefore, is hereby removing those amendments in today's action. Also, in today's **Federal Register**, EPA is publishing a subsequent direct final rulemaking, which approves the enhanced inspection and maintenance program in Connecticut and also addresses the comment we received from the State of Connecticut on EPA's November 2, 1998 direct final rule. That action also articulates an additional legal rationale for the redesignation and invites comment on that action before the rule becomes effective. EPA is offering the public another opportunity to comment on the issue raised in that comment and on the action as a whole in that direct final rule in today's **Federal Register**.

This removal action is simply a ministerial correction of the prior direct final rulemaking, which by its terms should not have become effective because Connecticut commented adversely on the redesignation action. Therefore, EPA is invoking the good cause exception under the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(B) because EPA believes that notice-and-comment rulemaking of this removal action is contrary to the public interest and unnecessary. This removal action merely corrects the status of the previous direct final rulemaking. EPA stated in the November 2, 1998 direct final action that should adverse comment be received, the rule would not take effect. The rule took effect because EPA did not publish a timely withdrawal in the **Federal Register** prior to the rule's effective date. It would be contrary to the public interest to keep that final rule in effect when it should not have taken effect since adverse comment was received. Additionally, notice-and-comment on this action is unnecessary because EPA is affording the public an opportunity to comment on any issues raised by this rulemaking and the comment EPA received in the parallel direct final action published elsewhere in today's **Federal Register**.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not require prior consultation with State, local, and tribal government officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993) or Executive Order 13084 (63 FR 27655 (May 10, 1998), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to E.O. 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of March 10, 1999. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

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 May 10, 1999. 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

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, hydrocabons, Intergovernmental relations, Ozone.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Note: Incorporation by reference of the State Implementation Plan for the State of Connecticut was approved by the Director of the Federal Register on July 1, 1982.

Dated: January 15, 1999.

John P. DeVillars,

Regional Administrator, Region I.

40 CFR Parts 52 and 81 are amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart H—Connecticut

2. Section 52.374 is amended by revising the table to read as follows:

§ 52.374 Attainment dates for national standards.

* * * * *

Air quality control region and nonattainment area	Pollutant					
	SO_2		PM10	NO_X	CO	O_3
	Primary	Secondary				
AQCR 41: Eastern Connecticut Interstate						
Middlesex County (part)	[a]	[b]	[a]	[a]	[a]	[a]
All portions except cities and towns in Hartford Area:						
New London County	[a]	[b]	[a]	[a]	[a]	[e]
Tolland County (part)	[a]	[b]	[a]	[a]	[a]	[e]
All portions except cities and towns in Hartford Area:						
Windham County	[a]	[b]	[a]	[a]	[a]	[e]
AQCR 42: Hartford-New Haven-Springfield Interstate Hartford-New Britain-Middletown Area						
Hartford County (part) See 40 CFR 81.307	[a]	[b]	[a]	[a]	[d]	[e]
Litchfield County (part) See 40 CFR 81.307	[a]	[b]	[a]	[a]	[d]	[e]
Middlesex County (part) See 40 CFR 81.307	[a]	[b]	[a]	[a]	[d]	[e]
Tolland County (part) See 40 CFR 81.307	[a]	[b]	[a]	[a]	[d]	[e]
New Haven-Meriden-Waterbury Area:						
Fairfield County (part) See 40 CFR 81.307	[a]	[b]	[a]	[a]	[d]	[e]
Litchfield County (part) See 40 CFR 81.307	[a]	[b]	[a]	[a]	[d]	[e]
New Haven County:						
All portions except City of New Haven	[a]	[b]	[a]	[a]	[d]	[e]
City of New Haven	[a]	[b]	[g]	[a]	[d]	[e]
AQCR 43: New York-New Jersey-Connecticut Interstate New York-N. New Jersey-Long Island Area						
Fairfield County (part) See 40 CFR 81.307	[a]	[b]	[a]	[a]	[d]	[f]
Litchfield County (part) See 40 CFR 81.307	[a]	[b]	[a]	[a]	[d]	[f]
AQCR 44: Northwestern Connecticut Interstate						
Hartford County (part)	[a]	[b]	[a]	[a]	[a]	[e]
Hartford Township:						
Litchfield County (part) See 40 CFR 81.307	[a]	[b]	[a]	[a]	[a]	[e]
All portions except cities and towns in Hartford, New Haven, and New York Areas.						

[a] Air quality levels presently below primary standards or area is unclassifiable.
[b] Air quality levels presently below secondary standards or area is unclassifiable.
[c] November 15, 1995.
[d] December 31, 1995.
[e] November 15, 1999.
[f] November 15, 2007.
[g] December 31, 1996 (two 1-year extensions granted).

3. Section 52.376 is amended by revising paragraphs (a) and (d) and removing paragraphs (e) and (f) to read as follows:

§ 52.376 Control Strategy: Carbon Monoxide.

(a) Approval. On January 12, 1993, the Connecticut Department of Environmental Protection submitted a revision to the carbon monoxide State Implementation Plan for the 1990 base year emission inventory. The inventory was submitted by the State of Connecticut to satisfy Federal requirements under sections 182(a) of the Clean Air Act as amended in 1990, as a revision to the carbon monoxide State Implementation Plan.

* * * * *

(d) Approval. On January 17, 1997, the Connecticut Department of Environmental Protection submitted a request to redesignate the New Haven/Meriden/Waterbury carbon monoxide nonattainment area to attainment for carbon monoxide. As part of the redesignation request, the State submitted a maintenance plan as required by 175A of the Clean Air Act,

as amended in 1990. Elements of the section 175A maintenance plan include a base year emission inventory for carbon monoxide, a demonstration of maintenance of the carbon monoxide NAAQS with projected emission inventories to the year 2008 for carbon monoxide, a plan to verify continued attainment, a contingency plan, and an obligation to submit a subsequent maintenance plan revision in 8 years as required by the Clean Air Act. If the area records a violation of the carbon monoxide NAAQS (which must be confirmed by the State), Connecticut will implement one or more appropriate contingency measure(s) which are contained in the contingency plan. The menu of contingency measure includes reformulated gasoline and the enhanced motor vehicle inspection and maintenance program. The redesignation request and maintenance plan meet the redesignation requirements in sections 107(d)(3)(E) and 175A of the Act as amended in 1990, respectively.

PART 81—[AMENDED]

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

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

Subpart C—Section 107 Attainment Status Designations

2. The table in § 81.307 entitled ''Connecticut-Carbon Monoxide'' is revised to read as follows:

§ 81.307 Connecticut.

* * * * *

CONNECTICUT—CARBON MONOXIDE

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Hartford-New Britain-Middletown Area:				
Hartford County (part)	1/2/96	Attainment.		
Bristol City, Burlington Town, Avon Town, Bloomfield Town, Canton Town, E. Granby Town, E. Hartford Town, E. Windsor Town, Enfield Town, Farmington Town, Glastonbury Town, Granby Town, Hartford city, Manchester Town, Marlborough Town, Newington Town, Rocky Hill Town, Simsbury Town, S. Windsor Town, Suffield Town, W. Hartford Town, Wethersfield Town, Windsor Town, Windsor Locks Town, Berlin Town, New Britain city, Plainville Town, and Southington Town				
Litchfield County (part)	1/2/96	Attainment.		
Plymouth Town				
Middlesex County (part)	1/2/96	Attainment.		
Cromwell Town, Durham Town, E. Hampton Town, Haddam Town, Middlefield Town, Middletown City, Portland Town, E. Haddam Town				
Tolland County (part)	1/2/96	Attainment.		
Andover Town, Bolton Town, Ellington Town, Hebron Town, Somers Town, Tolland Town, and Vernon Town				
New Haven—Meriden—Waterbury Area:				
Fairfield County (part)	12/4/98	Attainment.		
Shelton City				
Litchfield County (part)	12/4/98	Attainment.		
Bethlehem Town, Thomaston Town, Watertown, Woodbury Town				
New Haven County	12/4/98	Attainment.		
New York-N. New Jersey-Long Island Area:				
Fairfield County (part)	.....	Nonattainment	.....	Moderate > 12.7ppm
All cities and townships except Shelton City				
Litchfield County (part)	.....	Nonattainment	.....	Moderate > 12.7ppm
Bridgewater Town, New Milford Town				
AQCR 041 Eastern Connecticut Intrastate	.....	Unclassifiable/Attainment.		
Middlesex County (part)—All portions except cities and towns in Hartford Area				
New London County				
Tolland County (part)—All portions except cities and towns in Hartford Area				
Windham County				
AQCR 044 Northwestern Connecticut Intrastate	.....	Unclassifiable/Attainment.		
Hartford County (part)—Hartland Township				
Litchfield County (part)—All portions except cities and towns in Hartford, New Haven, and New York Areas				

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

* * * * *

[FR Doc. 99–2979 Filed 3–9–99; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[CT008–7210a; A–1–FRL–6225–1]

Approval and Promulgation of Air Quality Implementation Plans and Designations of Areas for Air Quality Planning Purposes; Connecticut; Enhanced Motor Vehicle Inspection and Maintenance Program; Approval of Maintenance Plan, Carbon Monoxide Redesignation Plan and Emissions Inventory for the Connecticut Portion of the New York-N. New Jersey-Long Island Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is conditionally approving a State Implementation Plan (SIP) revision submitted by the State of Connecticut on June 24, 1998 and a commitment submitted November 13, 1998 to start on-board diagnostic testing (OBD) by July 1, 2001. This revision conditionally approves the Connecticut statewide enhanced inspection and maintenance (I/M) program. The effect of this action is to conditionally approve the State's I/M SIP revision which for the most part is approvable, but which does not meet all EPA enhanced I/M program regulatory requirements. Connecticut has committed to correcting these deficiencies by July 1, 1999. EPA is also approving a request by the Connecticut Department of Environmental Protection (CTDEP) on May 29, 1998 to redesignate the Connecticut portion of the New York-N. New Jersey-Long Island carbon monoxide nonattainment area from nonattainment to attainment for carbon monoxide (CO). EPA is approving this request which establishes the Connecticut portion of this area as attainment for carbon monoxide and requires the State to implement its 10 year maintenance plan that will insure that the area remains in attainment. Under the Clean Air Act (CAA), section 107 as amended in 1990, designations can be revised if sufficient air quality data is available to warrant such revisions. EPA is approving the Connecticut request because it addresses the redesignation requirements set forth in the CAA. This action is being taken under section 107 of the Clean Air Act.

DATES: This direct final rule is effective on May 10, 1999 without further notice, unless EPA receives relevant adverse comment by April 9, 1999. If relevant adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, One Congress St., Suite 1100, Boston, MA 02114–2023. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th Floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, S.W., (LE–131), Washington, D.C. 20460; and (the Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

FOR FURTHER INFORMATION CONTACT: Peter X. Hagerty, (617) 918–1049 or Jeff Butensky, (617) 918–1665.

SUPPLEMENTARY INFORMATION:

I. Background

A. Clean Air Act Requirements for I/M

The Clean Air Act, as amended in 1990 (CAA or Act), requires certain States to revise and improve existing I/M programs or implement new ones. All ozone nonattainment areas classified as moderate or worse must implement a basic or enhanced I/M program depending upon its nonattainment classification, regardless of previous requirements. In addition, Congress directed the EPA in section 182(a)(2)(B) to publish updated guidance for State I/M programs, taking into consideration findings of the Administrator's audits and investigations of these programs. The States must then incorporate this guidance into the SIP for all areas required by the Act to have an I/M program. Metropolitan statistical areas with populations of 100,000 or more that are within the Northeast Ozone Transport Region are required to meet EPA guidance for enhanced I/M programs.

Final full approval of the portions of the state's I/M SIP revision subject to the conditions stated in this notice is still necessary under section 110 and under section 182, 184 or 187 of the CAA.

B. Rationale for CO Redesignation

On November 2, 1998 EPA published a direct final rule in the **Federal Register** approving the maintenance plan, carbon monoxide (CO) redesignation, and emissions inventory for the Connecticut portion of the New York—N. New Jersey—Long Island Area (62 FR 58637). This action was meant to redesignate the southwest Connecticut moderate carbon monoxide (CO) area to attainment. On December 2, 1998, EPA received a comment on that action, which should have prevented the direct final rule from taking effect. EPA is removing the amendments in that action in a parallel document published elsewhere in today's **Federal Register**. This action addresses the comment received and again redesignates Southwest Connecticut to attainment for CO.

In the November 2, 1998 document, EPA inaccurately stated that Connecticut has a fully approved CO SIP. A fully approved CO nonattainment SIP for this area must include a fully approved enhanced I/M program. On December 2, 1998, EPA received a comment pointing out that EPA has not fully approved Connecticut's enhanced I/M program and inquiring as to the basis for EPA's redesignation in light of the absence of a fully approved enhanced I/M program.[1]

A memorandum from John Calcagni, September 4, 1992, Procedures for Processing Requests to Redesignate Areas to Attainment, states that areas requesting redesignation to attainment must fully adopt rules and programs that come due prior to the submittal of a complete redesignation request. However, EPA is allowing a deminimis exception to this policy in today's action. While all nonattainment area SIP requirements that come due prior to the submission of the redesignation request

[1] EPA also received a comment from the State of New Jersey supporting the Connecticut redesignation and making certain assertions about New Jersey's eligibility for redesignation and the use of oxygenated fuels. EPA is taking no position in this notice on New Jersey's eligibility for redesignation and the use of oxygenated fuels in either New Jersey or Connecticut. The Clean Air Act requires the sale of oxygenated fuels in areas that are located within a CMSA in which a carbon monoxide nonattainment area with a design value of 9.5 parts per million or greater, and that requirement is not changed merely by the redesignation of such areas to attainment. Although the Southwest Connecticut emission inventory and maintenance plan EPA presented in its prior document (See 63 FR 58641 (Nov. 2, 1998)) did not include any emissions reductions from the sale of oxygenated fuels, the applicability of the requirements concerning the sale of oxygenated fuels in the southwest Connecticut portion of the New York City consolidated metropolitan statistical area will not be affected by the redesignation of southwest Connecticut to attainment.

remain applicable requirements, the EPA believes it appropriate, in this instance, to allow a narrow exception to this policy with respect to the conditional approval of the I/M program.

In its approval of the redesignation to attainment for ozone of Grand Rapids, Michigan, EPA formulated a limited exception to the requirement that an area must have a fully approved SIP prior to redesignation. 61 FR 31831, 31833, 31843–31847 (June 21, 1996). In that action, EPA allowed redesignation where the area had not adopted nor received approval for certain VOC RACT rules, accepting instead a commitment to adopt and implement the RACT rules as contingency measures in the maintenance plan, rather than require full adoption and approval prior to redesignation. EPA allowed this exception based on a combination of several factors: (1) The rules were not needed to bring about attainment of the ozone standard in Grand Rapids; (2) the State demonstrated maintenance without the implementation of these measures; (3) the State placed other contingency measures in the maintenance plan that would bring about greater emission reductions than the VOC RACT rules would. 31833–31834. See also 61 FR 14526–14527 (April 2, 1996) (proposed rulemaking on Grand Rapids). Moreover, the State would have been able to have the RACT rules become a part of the contingency measures upon approval of the redesignation, and thus the only difference lay in having a commitment to adopt contingency measures rather than fully adopted contingency measures. 31843–31844. EPA concluded that ''this difference has no significant environmental consequence and that it is permissible to approve the Grand Rapids redesignation on this basis.'' 61 FR 14527.

The Southwestern Connecticut redesignation presents a similar case for an exception to the general policy that all SIP provisions must be fully approved. In the case of southwestern Connecticut, EPA believes that, as in Grand Rapids, a number of factors in combination justify an approach similar to that taken with respect to Grand Rapids.

First, as explained in the first direct final rule for this redesignation, the modeling supporting Connecticut's redesignation demonstrates that emission reductions from enhanced I/M are not needed to attain the CO standard. Second, reductions from enhanced I/M are not needed to maintain the CO standard during the maintenance period. Third, the State has committed to implement enhanced I/M as a contingency measure in their CO maintenance plan, as well as the low emission vehicle program. Fourth, Connecticut remains obligated to implement a fully enhanced I/M program under the Act based on the state's status as an ozone nonattainment area. Indeed, Connecticut is already implementing the enhanced I/M program in order to achieve emissions reductions for the purposes of addressing ozone nonattainment. Note that the enhanced I/M program only commenced operation in January 1998. Therefore, any CO reductions achieved by the enhanced program were not a factor in attaining the CO standard in southwest Connecticut or elsewhere in this CO nonattainment area, because the enhanced I/M program did not operate during the 1996–1997 years, two of the years when the entire area monitored air quality attaining the CO standard. Nevertheless, Connecticut's operation of the program gives EPA substantial assurance that the environmental benefit of the enhanced I/M program will be achieved despite this minor departure from Agency redesignation policy. Fifth, the deficiencies in the Connecticut enhanced I/M program, while they must be corrected for full approval, are not flaws in the program that substantially diminish the level of emissions reductions the current program achieves as compared with a fully approvable program. Finally, EPA is today conditionally approving the enhanced I/M program into the SIP. Connecticut has committed to meeting the conditions of EPA's approval and correcting its program by July 1, 1999. Even if the State failed to meet these conditions, EPA is providing that the conditional approval will convert to a limited approval/limited disapproval of the enhanced I/M program, so the emissions reductions from Connecticut's current enhanced I/M program will remain enforceable under the SIP in the unlikely event the State fails to meet its commitment to cure the I/M program.

For all these reasons, EPA has concluded that relying on a conditional approval of Connecticut's enhanced I/M program for the purposes of redesignating the southwest portion of the State to attainment for CO is a deminimis departure from redesignation requirements. In the context of this particular CO redesignation, the difference between full and conditional approval has a trivial environmental impact, if any.

As in Grand Rapids, EPA believes that the difference between full approval and the circumstances presented by Southwestern Connecticut has no significant environmental consequence and that it is permissible to approve the redesignation on this basis. Indeed, arguably Connecticut's circumstances are even more persuasive than those in Grand Rapids: the fact that the program has been substantially adopted and is currently being implemented, and that Connecticut will remain obligated after redesignation to implement an enhanced I/M program based on its ozone nonattainment status, and the fact that EPA is providing that its conditional approval will convert to a limited approval to preserve the enforceability of the I/M program, all provide even greater assurances that redesignation will not put at risk the achievement of any significant environmental benefits.

C. Background on Connecticut's I/M Program

On June 24, 1998, Connecticut submitted an enhanced I/M SIP revision to EPA, requesting action under the CAA of 1990. The official submittal was made by the appropriate State officials, Mr. Jose O. Salinas, Commissioner of Motor Vehicles, and Mr. Arthur J. Roche Jr., Commissioner Environmental Protection, and was addressed to John DeVillars, Regional Administrator, the appropriate EPA official in the Region.

The State of Connecticut has adopted legislation, at Sec. 14–164c and Sec. 22a of the Connecticut General Statutes, enabling the implementation of an enhanced I/M program.

On March 26, 1998 and April 7, 1998, the Connecticut I/M regulations were filed with the Secretary of State thereby making them effective. The regulations call for implementation of a test-only enhanced I/M program which started operation in January 1998, utilizing new emission analyzers and dynamometers connected to a central computer with final cut points being implemented in 2001.

The program calls for biennial ASM2525 testing in test-only contractor-operated facilities. The test equipment will be ASM connected to a contractor operated central computer. The program evaluation year is 2000.

D. Analysis of the EPA I/M Regulation and CAA Requirements

Based upon EPA's review of Connecticut's submittal, EPA believes the State has complied with most but not all aspects of the CAA and the I/M Rule. For those sections of the I/M rule identified below with which the State has not yet fully complied, EPA is conditionally approving the SIP since

the State has committed in the I/M SIP submittal to correct said deficiencies by a date certain (July 1, 1999) within 1 year of EPA approval.

The State must correct these deficiencies by the date committed to in the I/M SIP or the conditional approval will convert to a final limited approval/ limited disapproval under CAA section 110(k)(4). In that event, EPA would issue a letter to notify the State that the conditions had not been met and that the approval had converted to a limited approval/limited disapproval, starting an 18 month clock prior to imposing sanctions under CAA Section 179.

Applicability—40 CFR 51.350

Sections 182(c)(3) and 184(b)(1)(A) of the Act and 40 CFR 51.350(a) require all states in the Ozone Transport Region (OTR) which contain Metropolitan Statistical Areas (MSAs) or parts thereof with a population of 100,000 or more to implement an enhanced I/M program. Connecticut is part of the OTR and contains the following MSAs or parts thereof with a population of 100,000 or more: Hartford-New Britain-Middletown, CMSA, New York-Northern New Jersey-Long Island, NY–NJ–CT CMSAs.

Connecticut is also classified as a serious ozone nonattainment area for the greater Connecticut Area and a severe ozone nonattainment area for the New York-New Jersey-Long Island area and is required to implement an enhanced I/M program per section 182(c)(3) of the CAA and 40 CFR 51.350(a)(2). Although the New Haven/ Meriden/Waterbury area and the Hartford-New Britain-Middletown area are no longer CO nonattainment areas, a basic CO I/M program is part of the CO Maintenance Plan and an enhanced I/M program is part of the CO Contingency Plan for these areas. This is also true for the Connecticut portion of the New York-N. New Jersey-Long Island area redesignation to attainment, which will become effective May 10, 1999 as described earlier in this notice.

Although under the requirements of the Clean Air Act, not all counties in Connecticut would be subject to I/M program requirements, the Connecticut I/M regulation requires that the enhanced I/M program be implemented statewide. As stated in the State submittal, the Connecticut I/M legislative authority in section 14–164c, and section 22a of the Connecticut General Statutes provides the authority to establish a statewide enhanced program. EPA finds that the geographic applicability requirements are satisfied. The federal I/M rule requires that the state program not terminate until it is no longer necessary. EPA interprets the federal rule as stating that a SIP which does not sunset prior to the attainment deadline for each applicable area satisfies this requirement. The Connecticut submittal does not address the length of time the program will be in effect. The program must continue past the attainment dates for all applicable nonattainment areas in Connecticut. In the absence of a sunset date, EPA interprets the SIP submittal as requiring the I/M program to continue indefinitely, and approves the program on this basis. This unlimited term of the program will be federally enforceable as a requirement of the SIP.

Enhanced I/M Performance Standard—40 CFR 51.351

The enhanced I/M program must be designed and implemented to meet or exceed a minimum performance standard, which is expressed as emission levels in area-wide average grams per mile (gpm) for certain pollutants. The performance standard shall be established using local characteristics, such as vehicle age mix and local fuel controls, and the following model I/M program parameters: network type, start date, test frequency, model years, vehicle type coverage, exhaust emission test type, emission standards, emission control device, evaporative system function checks, stringency, waiver rate, compliance rate and evaluation date. The emission levels achieved by the state's program design shall be calculated using the most current version, at the time of submittal, of the EPA mobile source emission factor model. At the time of the Connecticut submittal, the most current version was MOBILE5b. Areas shall meet the performance standard for the pollutants which cause them to be subject to enhanced I/M requirements. In the case of ozone nonattainment areas, the performance standard must be met for both nitrogen oxides (NO_X) and hydrocarbons (HC). In the case of carbon monoxide areas, the performance standard must be met for CO. This Connecticut submittal must meet the enhanced I/M performance standard statewide for HC and NOx and in the Connecticut portion of the New York-Northern New Jersey and Long Island CO nonattainment area for CO.

EPA published requirements for on-board diagnostic (OBD) testing in inspection and maintenance programs in the **Federal Register** at 61 FR 40940 on August 6, 1996 and extended the required date until January 1, 2001 in the **Federal Register** at 63 FR 24429 on May 4, 1998. States were required to submit a SIP by August 6, 1998 committing to begin OBD testing in accordance with EPA regulations by January 1, 2001.

The Connecticut submittal includes the following program design parameters:

Network type—test-only
Start date—1998
Test frequency—biennial
Model year/ vehicle type coverage—1981+, light and heavy duty up to 10,000 GVW, gasoline
Exhaust emission test type—ASM2525
Emission standards—See Regulations of Connecticut State Agencies Section 22a–174–279(c) and (d)
Emission control device check—yes (catalytic converters)
Evaporative system function checks—81+ (gas cap only)
Stringency (pre-1981 failure rate)—20%
Waiver rate—3%
Compliance rate—96%
Evaluation date(s)—2000

Connecticut has submitted modeling demonstrations using the EPA computer model MOBILE5b showing that the enhanced performance standard reductions will be met in 2000 for NOx, HC, and CO.

In the modeling, Connecticut has claimed full credit for mechanic training. Repair shops are licensed by the Department of Motor Vehicles in Connecticut. Either by complaints or a high rate of retest failures shops are identified for nonroutine visits to identify problems. There will be extensive training and support network provided for mechanics provided by the educational community, DMV and the contractor. Only work done by licensed shops can be counted toward a waiver. Based on this, the state has taken full credit for mechanic training. Since EPA has no conflicting data to refute the State's claim at this time, the use of full credit for mechanic training will be approved at this time, subject to reconsideration in connection with final full approval of the entire program subsequent to the July 1, 1999 submittal to satisfy conditions in this document. EPA is studying the technician training credit available, and expects to have further guidance available prior to the July 1, 1999 date for submittal by Connecticut of a revision to meet the conditions specified in this document.

On November 13, 1998, Connecticut submitted a SIP revision which committed to start OBD testing meeting EPA requirements by January 1, 2001. This submittal meets the requirements set forth in the I/M regulations for OBD at this time.

EPA is conditionally approving the Connecticut program at this time

consistent with the requirements of the CAA. If the State cannot meet the high enhanced I/M performance standard, the State may demonstrate compliance with the low enhanced performance standard established in 40 CFR 51.351(g). That section provides that states may select the low enhanced performance standard if they have an approved SIP for reasonable further progress in 1996, commonly known as a 15 percent reduction SIP or 15 percent plan. EPA's approval of Connecticut's 15 percent plan is published elsewhere in today's **Federal Register** as a direct final rule. The approval of this I/M program is conditioned on the approval of Connecticut's 15 percent plan. In the event that effective date of the 15 percent plan is delayed, EPA will correspondingly delay the effective date of the I/M plan and the CO redesignation in this document.

Calculations done by the State for a revised 15% plan indicate that the State can achieve the needed 15% reduction without the high enhanced standard utilizing the ASM credits The State has shown that the program meets the ''low enhanced I/M performance standard'' in 2000.

Network Type and Program Evaluation—40 CFR 51.353

The enhanced program shall include an ongoing evaluation to quantify the emission reduction benefits of the program, and to determine if the program is meeting the requirements of the Act and the federal I/M regulation. The SIP shall include details on the program evaluation and shall include a schedule for submittal of biennial evaluation reports and the legal authority enabling the evaluation program.

The program evaluation requirements of EPA's I/M rule were postponed in the **Federal Register** on January 9, 1998, (63 FR 1362) in order for EPA to evaluate alternate methods for states to meet this requirement. On January 9, 1998, EPA required states to submit program evaluation requirements by November 30, 1998. In its June 15, 1998 submittal, the state committed to meet the program evaluation requirements of 40 CFR 51.353. EPA interprets this commitment to mean that Connecticut will submit program evaluation requirements consistent with EPA's January 9, 1998 guidance by July 1, 1999. This part of the submittal does not meet the requirements of this section set forth in the federal I/M rule and this is a SIP deficiency. The State has committed to correct this SIP deficiency by a date certain (July 1, 1999) within one year of conditional approval of this submittal.

Adequate Tools and Resources—40 CFR 51.354

The federal regulation requires the state to demonstrate that adequate funding of the program is available. A portion of the test fee or separately assessed per vehicle fee shall be collected, placed in a dedicated fund and used to finance the program. Alternative funding approaches are acceptable if it is demonstrated that the funding can be maintained. Reliance on funding from the state or local General Fund is not acceptable unless doing otherwise would be a violation of the state's constitution. The SIP shall include a detailed budget plan which describes the source of funds for personnel, program administration, program enforcement, and purchase of equipment. The SIP shall also detail the number of personnel dedicated to the quality assurance program, data analysis, program administration, enforcement, public education and assistance and other necessary functions.

The State has provided for a dedicated fund for the program, and has submitted resource allocations and budgets. The submittal meets the requirements of this section set forth in the federal I/M rule and is approvable.

Test Frequency and Convenience—40 CFR 51.355

The enhanced I/M performance standard assumes an annual test frequency; however, other schedules may be approved if the performance standard is achieved. The SIP shall describe the test year selection scheme, how the test frequency is integrated into the enforcement process and shall include the legal authority, regulations or contract provisions to implement and enforce the test frequency. The program shall be designed to provide convenient service to the motorist by ensuring short wait times, short driving distances and regular testing hours.

The Connecticut program will require biennial testing for 1981 and newer vehicles and annual testing of 1968–1980 vehicles in a test-only network. The program meets the performance standard with this level of testing. The state has expanded the network to accommodate a longer enhanced test. The contractor is required to provide convenient locations and reasonable wait times. Legal authority for these requirements is found in Connecticut General Statutes (C.G.S.) section 14–164c(c) and regulations of Connecticut State Agencies (R.C.S.A.) section 14–164c–2a(a). This part of the submittal meets all applicable requirements of this section as set forth in the federal I/M rule and is part of the basis for conditional approval of the Connecticut I/M SIP.

Vehicle Coverage—40 CFR 51.356

The performance standard for enhanced I/M programs assumes coverage of all 1968 and later model year light duty vehicles and light duty trucks up to 8,500 pounds GVWR, and includes vehicles operating on all fuel types. Other levels of coverage may be approved if the necessary emission reductions are achieved. Vehicles registered or required to be registered within the I/M program area boundaries and fleets primarily operated within the I/M program area boundaries and belonging to the covered model years and vehicle classes comprise the subject vehicles. Fleets may be officially inspected outside of the normal I/M program test facilities, if such alternatives are approved by the program administration, but shall be subject to the same test requirements using the same quality control standards as non-fleet vehicles and shall be inspected in the same type of test network as other vehicles in the state, according to the requirements of 40 CFR 51.353(a).

The federal I/M regulation requires that the SIP shall include the legal authority necessary to implement and enforce the vehicle coverage requirement, a detailed description of the number and types of vehicles to be covered by the program and a plan for how those vehicles are to be identified including vehicles that are routinely operated in the area but may not be registered in the area, and a description of any special exemptions including the percentage and number of vehicles to be impacted by the exemption. Such exemptions shall be accounted for in the emissions reduction analysis.

EPA is not requiring states to implement section 40 CFR 51.356(a)(4) dealing with federal installations within I/M areas at this time. The Department of Justice has recommended to EPA that this regulation be revised since it appears to grant states authority to regulate federal installations in circumstances where the federal government has not waived sovereign immunity. It would not be appropriate to require compliance with this regulation if it is not constitutionally authorized. EPA will be revising this provision in the future and will review state I/M SIPs with respect to this issue when this new rule is final.

The State program proposes to test 1968 and newer light and heavy duty vehicles up to 10,000 lbs. The

Connecticut submittal contains a detailed description of the number and types of vehicles included in the program. See June 15, 1998, state submittal at p. 8 and Apps. 7 and 8. There are no special provisions for fleet testing at this time. All vehicles must be tested at contractor operated stations. Legal authority for these requirements is found in C.G.S. section 14–164c(c) and R.C.S.A. section 14–164c–2a(a).

This part of the submittal meets all applicable requirements of this section as set forth in the federal I/M rule and is part of the basis for conditional approval of the Connecticut I/M SIP.

Test Procedures and Standards—40 CFR 51.357

Written test procedures and pass/fail standards shall be established and followed for each model year and vehicle type included in the program. Test procedures and standards are detailed in 40 CFR 51.357 and in the EPA documents entitled ''High-Tech I/M Test Procedures, Emission Standards, Quality Control Requirements, and Equipment Specifications,'' EPA–AA–EPSD–IM–93–1, dated April 1994 and ''Acceleration Simulation Mode Test Procedures, Emission Standards, Quality Control Requirements, and Equipment Specifications,'' EPA–AA–RSPD–IM–96–2, dated July 1996. The federal I/M regulation also requires vehicles that have been altered from their original certified configuration (i.e. engine or fuel switching) to be subject to the requirements of § 51.357(d).

Connecticut is using an Acceleration Simulation Mode Test (ASM2525) and has adopted the EPA test procedures and standards. This part of the submittal meets the requirements of this section as set forth in the federal I/M rule and is part of the basis for conditional approval of the Connecticut I/M SIP.

Test Equipment—40 CFR 51.358

Computerized test systems are required for performing any measurement on subject vehicles. The federal I/M regulation requires that the state SIP submittal include written technical specifications for all test equipment used in the program. The specifications shall describe the emission analysis process, the necessary test equipment, the required features, and written acceptance testing criteria and procedures.

Connecticut is using ASM specifications for test equipment to be used in the program and a system which will utilize the latest computerized equipment. Connecticut has fully explained its specifications in its submittal. This part of the submittal meets all applicable requirements of this section as set forth in the federal I/M rule and is part of the basis for conditional approval of the Connecticut I/M SIP.

Quality Control—40 CFR 51.359

Quality control measures shall insure that emission measurement equipment is calibrated and maintained properly, and that inspection, calibration records, and control charts are accurately created, recorded and maintained.

The Connecticut submittal includes a portion of the inspection agreement which describes and establishes detailed quality control measures for the emission measurement equipment, and record keeping requirements. This part of the submittal meets all applicable requirements of this section as set forth in the federal I/M rule and is part of the basis for conditional approval of the Connecticut I/M SIP.

Waivers and Compliance Via Diagnostic Inspection—40 CFR 51.360

The federal I/M regulation allows for the issuance of a waiver, which is a form of compliance with the program requirements that allows a motorist to comply without meeting the applicable test standards. For enhanced I/M programs, an expenditure of at least $450 in repairs, adjusted annually to reflect the change in the Consumer Price Index (CPI) as compared to the CPI for 1989, is required by statute in order to qualify for a waiver. Waivers can only be issued after a vehicle has failed a retest performed after all qualifying repairs have been made. Any available warranty coverage must be used to obtain repairs before expenditures can be counted toward the cost limit. Tampering related repairs shall not be applied toward the cost limit. Repairs must be appropriate to the cause of the test failure. Repairs for 1980 and newer model year vehicles must be performed by a recognized repair technician. The federal regulation allows for compliance via a diagnostic inspection after failing a retest on emissions and requires quality control of waiver issuance. The SIP must set a maximum waiver rate and must describe corrective action that would be taken if the waiver rate exceeds that committed to in the SIP.

Connecticut has provided for a waiver program for 1981 and later vehicles (the portion of the fleet used to show achievement of the enhanced performance standard) which meets the requirements of the I/M rule with one exception.

The date for compliance with the $450 adjusted waiver cost requirement is beyond the January 1, 2000 deadline established by the I/M rule. This part of the submittal does not meet the requirements of this section set forth in the federal I/M rule and this is a SIP deficiency. The State has committed to correct this major deficiency by a date certain (July 1, 1999) within one year of conditional approval of this submittal. The State has committed to a waiver rate in practice equal to or lower than three percent. If the rate is higher, the State will implement corrective strategies including ceasing waivers for vehicles under six years of age, raising minimum expenditure limits, and limiting waivers to once every four years for any one vehicle. June 15, 1998 State submittal at page 14.

Motorist Compliance Enforcement—40 CFR 51.361

The federal regulation requires that compliance shall be ensured through the denial of motor vehicle registration in enhanced I/M programs unless an exception for use of an existing alternative is approved. An enhanced I/M area may use either sticker-based enforcement programs or computer-matching programs if either of these programs were used in the existing program, which was operating prior to passage of the 1990 Clean Air Act Amendments, and it can be demonstrated that the alternative has been more effective than registration denial. The SIP shall provide information concerning the enforcement process, legal authority to implement and enforce the program, and a commitment to a compliance rate to be used for modeling purposes and to be maintained in practice.

The State is planning on utilizing a sticker system for visible evidence of compliance, but registration will be suspended or not renewed for noncompliance. Noncomplying vehicles will be identified within 14 days of the required inspection date and notified to comply. This will be done with a computer matching program run by the contractor. Registration suspension will take place for noncompliance within 90 days. The Connecticut SIP submittal uses a 96% compliance rate in the performance standard modeling demonstration and the State has committed to it in practice. Connecticut has also described what other measures will be used to achieve this compliance rate if it drops below 96%. Legal authority for these requirements is found in C.G.S. section 14–164c(a) and (j) and R.C.S.A. section 14–164–17a. This part of the submittal meets all applicable requirements of this section as set forth in the federal I/M rule and

is part of the basis for conditional approval of the Connecticut I/M SIP.

Motorist Compliance Enforcement Program Oversight—40 CFR 51.362

The federal I/M regulation requires that the enforcement program shall be audited regularly and shall follow effective program management practices, including adjustments to improve operation when necessary. The SIP shall include quality control and quality assurance procedures to be used to insure the effective overall performance of the enforcement system. An information management system shall be established which will characterize, evaluate and enforce the program.

Connecticut has described in the SIP an outline of a program which could meet the requirements of this section, however there is not enough detailed information to determine whether the requirements are met. This is a SIP deficiency which Connecticut must correct by a date certain within one year of final conditional approval. The State has committed in the I/M SIP to submit a plan to address these requirements in more detail by July 1, 1999.

Quality Assurance—40 CFR 51.363

An ongoing quality assurance program shall be implemented to discover, correct and prevent fraud, waste, and abuse in the program. The program shall include covert and overt performance audits of the inspectors, audits of station and inspector records, equipment audits, and formal training of all state I/M enforcement officials and auditors. A description of the quality assurance program which includes written procedure manuals on the above discussed items must be submitted as part of the SIP.

Connecticut has described a program which addressed these requirements in the SIP submittal. However, the written procedures manuals, have not yet been developed. The state has committed to submit these by July 1, 1999. This part of the submittal does not meet the requirements of this section as set forth in the federal I/M rule however, the State has committed in the I/M SIP to revise this section by a date certain (July 1, 1999) within one year of final conditional approval.

Enforcement Against Contractors, Stations and Inspectors—40 CFR 51.364

Enforcement against licensed stations, contractors and inspectors shall include swift, sure, effective, and consistent penalties for violation of program requirements. The federal I/M regulation requires the establishment of minimum penalties for violations of program rules and procedures which can be imposed against stations, contractors and inspectors. The legal authority for establishing and imposing penalties, civil fines, license suspensions and revocations must be included in the SIP. State quality assurance officials shall have the authority to temporarily suspend station and/or inspector licenses immediately upon finding a violation that directly affects emission reduction benefits, unless constitutionally prohibited. An official opinion explaining any state constitutional impediments to immediate suspension authority must be included in the submittal. The SIP shall describe the administrative and judicial procedures and responsibilities relevant to the enforcement process, including which agencies, courts and jurisdictions are involved, who will prosecute and adjudicate cases and the resources and sources of those resources which will support this function.

A detailed description of this part of the program including minimum penalties and statutory suspension authority was submitted. See June 15, 1998 state submittal at p. 22 and C.G.S. section 14–164c(e). But Connecticut did not provide a description of administrative and judicial procedures and responsibilities. Connecticut has in the I/M SIP submittal committed to submit this information by a date certain (July 1, 1999) within one year of conditional approval of the SIP.

Data Collection—40 CFR 51.365

Accurate data collection is essential to the management, evaluation and enforcement of an I/M program. The federal I/M regulation requires data to be gathered on each individual test conducted and on the results of the quality control checks of test equipment required under 40 CFR 51.359.

The Connecticut SIP provides a commitment to meet all of the data collection requirements and has listed all the required data which will be collected. This part of the submittal meets all applicable requirements of this section set forth in the federal I/M rule and is part of the basis for conditional approval of the Connecticut I/M SIP.

Data Analysis and Reporting—40 CFR 51.366

Data analysis and reporting are required to allow for monitoring and evaluation of the program by the state and EPA. The federal I/M regulation requires annual reports to be submitted which provide information and statistics and summarize activities performed for each of the following programs: testing, quality assurance, quality control and enforcement. These reports are to be submitted by July and shall provide statistics for the period of January to December of the previous year. A biennial report shall be submitted to EPA which addresses changes in program design, regulations, legal authority, program procedures and any weaknesses in the program found during the two year period and how these problems will be or were corrected.

The Connecticut has committed to meet all of the data analysis and reporting requirements of this section. The contractor will be required to meet most of these requirements and submit them to the state, and the state will submit the reports to EPA as required. This part of the submittal meets all applicable requirements of this section as set forth in the federal I/M rule and is part of the basis for conditional approval of the Connecticut I/M SIP.

Inspector Training and Licensing or Certification—40 CFR 51.367

The federal I/M regulation requires all inspectors to be formally trained and licensed or certified to perform inspections.

The Connecticut I/M SIP requires training and certification of inspectors as required in the I/M rule. This portion of the submittal meets all applicable requirements of this section of the federal I/M rule and is part of the basis for conditional approval of the Connecticut I/M SIP.

Public Information and Consumer Protection—40 CFR 51.368

The federal I/M rule requires the SIP to include public information and consumer protection programs. The Connecticut inspection program has an existing public awareness and consumer protection plan, however, it does not meet all the requirements of this section. The State has committed in the I/M SIP to submit by a date certain (July 1, 1999) additional information to show compliance with all aspects of this section.

Improving Repair Effectiveness—40 CFR 51.369

Effective repairs are the key to achieving program goals. The federal regulation requires states to take steps to ensure that the capability exists in the repair industry to repair vehicles. The SIP must include a description of the technical assistance program to be implemented, a description of the procedures and criteria to be used in meeting the performance monitoring requirements required in the federal

regulation, and a description of the repair technician training resources available in the community. Connecticut has included all of these required elements in its SIP submittal. See June 15, 1998 State submittal at pp. 28–29.

This part of the submittal meets all applicable requirements of this section set forth in the federal I/M rule and is part of the basis for conditional approval of the Connecticut I/M SIP.

Compliance With Recall Notices—40 CFR 51.370

The federal regulation requires the states to establish methods to ensure that vehicles that are subject to enhanced I/M and are included in a emission related recall receive the required repairs prior to completing the emission test and/or renewing the vehicle registration.

Most of the requirements of this section are met by the Connecticut submittal, however, the requirement for a quality assurance plan for this section is not addressed. The state has committed in the I/M SIP to submit by a date certain (July 1, 1999) a quality assurance plan for this section meeting the requirements of this section.

On-road Testing—40 CFR 51.371

On-road testing is required in enhanced I/M areas. The use of either remote sensing devices (RSD) or roadside pullovers including tailpipe emission testing can be used to meet the federal regulations. The program must include on-road testing of 0.5% of the subject fleet or 20,000 vehicles, whichever is less, in the nonattainment area or the I/M program area. Motorists that have passed an emission test and are found to be high emitters as a result of an on-road test shall be required to pass an out-of-cycle test.

The Connecticut SIP submittal outlines an on-road testing program which could meet the requirements of the federal I/M rule. More detail is needed to determine if all of the requirements of this section will be met. The State in the I/M SIP submittal has committed to submit by a date certain (July 1, 1999) an on-road testing program meeting the requirements of this section.

II. Final Action

EPA is conditionally approving the enhanced I/M program SIP revision submitted by the State of Connecticut on June 24, 1998 and November 13, 1998 as revisions to the SIP. The State must submit to EPA by July 1, 1999 a revision to the deficiencies described in detail above to satisfy the requirements of the following sections of EPA's enhanced I/M regulation: Network Type and Program Evaluation—40 CFR 51.353, Waivers and Compliance Via Diagnostic Inspection—40 CFR 51.360, Motorist Compliance Enforcement Program Oversight—40 CFR 51.362, Quality Assurance—40 CFR 51.363, Enforcement Against Contractors, Stations and Inspectors—40 CFR 51.364, Public Information and Consumer Protection—40 CFR 51.368, Compliance with Recall Notices—40 CFR 51.370, and On-road Testing—40 CFR 51.371. If the State fails to do so, this approval will convert to a limited approval and limited disapproval on that date. EPA will notify the State by letter that this action has occurred. At that time, the I/M program will remain an enforceable part of the Connecticut SIP, but it will be disapproved for the purposes of meeting CAA section 182 (c)(3)(C). EPA subsequently will publish a document in the **Federal Register** notifying the public that the conditional approval automatically converted to a limited approval and limited disapproval. If the State meets its commitment, within the applicable time frame, the conditionally approved submission will remain a part of the SIP until EPA takes final action approving or disapproving the new submittal. If EPA disapproves the new submittal or portions of it, the conditionally approved portions will be disapproved at that time. If EPA approves the submittal, the inspection and maintenance program will be fully approved in its entirety and replace the conditionally approved program in the SIP.

If the conditional approval is converted to a limited approval and limited disapproval, such action will trigger EPA's authority to impose sanctions under section 110(m) and 179 of the CAA at the time EPA issues the final disapproval or on the date EPA notifies the State that it has failed to meet its commitment. In the latter case, EPA will notify the State by letter that the conditional approval has been converted to a limited approval and limited disapproval and that EPA's sanctions authority has been triggered. In addition, the final disapproval triggers the federal implementation plan (FIP) requirement under section 110(c). In any case, the I/M program would remain in the SIP pursuant to this limited approval for the purposes of strengthening the SIP.

EPA is approving the southwest Connecticut CO redesignation because the State has addressed compliance with the requirements of section 107(d)(3)(E) for redesignation and EPA is approving the maintenance plan because it addresses the requirements set forth in section 175A of the CAA. This only applies to the Connecticut Portion of the New York—N. New Jersey—Long Island Area. The New York and New Jersey portions of the CO nonattainment area will remain designated nonattainment until such time that redesignation requests are submitted and approved by EPA for those states. Furthermore, nothing in this action should be interpreted as a formal action on the part of EPA which would affect in any way any area within the New York—Northern New Jersey—Long Island carbon monoxide nonattainment area, except for the southwest Connecticut portion of that area.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This action will be effective May 10, 1999 without further notice unless the Agency receives relevant adverse comments by April 9, 1999.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute another comment period on this action. Any parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on May 10, 1999 and no further action will be taken on the proposed rule.

EPA's conditional approval of the I/M program depends on the approval of the 15 percent plan being approved elsewhere in today's **Federal Register**. In the event that the 15 percent plan approval is withdrawn, EPA will correspondingly withdraw this I/M program conditional approval and the CO redesignation request.

III. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. 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 E.O. 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 E.O. 13045 because it is not economically significant and does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 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 E.O. 13084 do not apply to this rule.

E. 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 rule will not have a significant impact on a substantial number of small entities because conditional approvals of SIP submittals under section 110 and 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 Federal SIP approval does not impose 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).

If the conditional approval is converted to a limited approval/limited disapproval under section 110(k), based on the state's failure to meet the commitment, it will not affect any existing state requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's limited disapproval of the submittal does not impose a new Federal requirement. Therefore, I certify that this disapproval action will not have a significant economic impact on a substantial number of small entities because it does not remove existing requirements nor does it substitute a new federal requirement.

F. 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 the approval action promulgated 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.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other

required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

H. 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 May 10, 1999. 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).) EPA encourages interested parties to comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Note: Incorporation by reference of the State Implementation Plan for the State of Connecticut was approved by the Director of the Federal Register on July 1, 1982.

Dated: January 15, 1999.

John P. DeVillars,

Regional Administrator, Region I.

Part 52 of 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 H—Connecticut

2. Section 52.369 is added to read as follows:

§ 52.369 Identification of plan—Conditional approval

(a) Elements of the I/M revision to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on June 24, 1998 which address the following sections of the I/M regulation are conditionally approved: Network Type and Program Evaluation—40 CFR 51.353, Waivers and Compliance Via Diagnostic Inspection—40 CFR 51.360, Motorist Compliance Enforcement Program Oversight—40 CFR 51.362, Quality Assurance—40 CFR 51.363, Enforcement Against Contractors, Stations and Inspectors—40 CFR 51.364, Public Information and Consumer Protection—40 CFR 51.368, Compliance with Recall Notices—40 CFR 51.370, and On-road Testing—40 CFR 51.371. If Connecticut fails to submit SIP revisions to meet these conditions by July 1, 1999 at the latest, the conditional approval of these sections of the Enhanced I/M SIP will automatically convert to a disapproval as explained under § 110(k) of the Clean Air Act.

(b) EPA is also approving this I/M SIP revision under § 110(k) of the Clean Air Act for its strengthening effect on the plan. The I/M SIP shall remain an enforceable SIP requirement even if Connecticut fails to meet the conditions set forth in § 369(a).

3. Section 52.370 is amended by adding paragraph (c)(78) to read as follows:

§ 52.370 Identification of plan.

* * * * *

(c) * * *

(78) Revision to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on June 24, 1998.

(i) Incorporation by reference.

(A) State of Connecticut Regulation of Department of Environmental Protection Section 22a–174–27, Emission Standards for Periodic Motor Vehicle Inspection and Maintenance as revised on March 26, 1998.

(B) State of Connecticut Regulation of Department of Motor Vehicles Concerning Periodic Motor Vehicle Emissions Inspection and Maintenance Section 14–164c as revised on April 7, 1998.

(ii) Additional Materials.

(A) Letter from the Connecticut Department of Environmental Protection dated June 24, 1998 submitting a revision to the Connecticut State Implementation Plan.

(B) Letter from Connecticut Department of Environmental Protection dated November 13, 1998, submitting a revision to the Connecticut State Implementation Plan.

3. Section 52.374 is amended by revising the table to read as follows:

§ 52.374 Attainment dates for national standards.

* * * * *

Air quality control region	Pollutant					
	SO_2		PM_{10}	NO_2	CO	O_3
	Primary	Secondary				
AQCR 41: Eastern Connecticut Intrastate (See 40 CFR 81.183)	[a]	[a]	[a]	[a]	[a]	[d]
AQCR 42: Hartford-New Haven-Springfield Interstate Area (See 40 CFR 81.26):						
All portions except City of New Haven	[a]	[a]	[a]	[a]	[a]	[d]
City of New Haven	[a]	[a]	[c]	[a]	[a]	[d]
AQCR 43: Connecticut Portion of the New Jersey-New York-Connecticut Interstate Area (See 40 CFR 81.13)	[a]	[a]	[a]	[a]	[a]	[e]
AQCR 44: Northwestern Connecticut Intrastate (See 40 CFR 81.184)	[a]	[a]	[a]	[a]	[a]	[d]

[a] Air quality levels presently below primary standards or area is unclassifiable.
[b] Air quality levels presently below secondary standards or area is unclassifiable.
[c] December 31, 1996 (two 1-year extensions granted).
[d] November 15, 1999.
[e] November 15, 2007.

4. Section 52.376 is amended by revising paragraphs (a) and (d) and adding paragraphs (e) and (f) to read as follows:

§ 52.376 Control Strategy: Carbon Monoxide.

(a) Approval—On January 12, 1993, the Connecticut Department of Environmental Protection submitted a revision to the carbon monoxide State Implementation Plan for the 1990 base year emission inventory. The inventory was submitted by the State of Connecticut to satisfy Federal requirements under sections 172(c)(3) and 187(a)(1) of the Clean Air Act as amended in 1990, as a revision to the carbon monoxide State Implementation Plan for the Hartford/New Britain/Middletown carbon monoxide nonattainment area, the New Haven/Meriden/Waterbury carbon monoxide nonattainment area, and the Connecticut Portion of the New York-N. New Jersey-Long Island carbon monoxide nonattainment area.

* * * * *

(d) Approval—On January 17, 1997, the Connecticut Department of Environmental Protection submitted a request to redesignate the New Haven/Meriden/Waterbury carbon monoxide nonattainment area to attainment for carbon monoxide. As part of the redesignation request, the State submitted a maintenance plan as required by 175A of the Clean Air Act, as amended in 1990. Elements of the section 175A maintenance plan include a base year emission inventory for carbon monoxide, a demonstration of maintenance of the carbon monoxide NAAQS with projected emission inventories to the year 2008 for carbon monoxide, a plan to verify continued attainment, a contingency plan, and an obligation to submit a subsequent maintenance plan revision in 8 years as required by the Clean Air Act. If the area records a violation of the carbon monoxide NAAQS (which must be confirmed by the State), Connecticut will implement one or more appropriate contingency measure(s) which are contained in the contingency plan. The menu of contingency measure includes reformulated gasoline and the enhanced motor vehicle inspection and maintenance program. The redesignation request establishes a motor vehicle emissions budget of 229 tons per day for carbon monoxide to be used in determining transportation conformity for the New Haven/Meriden/Waterbury area. The redesignation request and maintenance plan meet the redesignation requirements in sections 107(d)(3)(E) and 175A of the Act as amended in 1990, respectively.

(e) Approval—In December, 1996, the Connecticut Department of Environmental Protection submitted a revision to the carbon monoxide State Implementation Plan for the 1993 periodic emission inventory. The inventory was submitted by the State of Connecticut to satisfy Federal requirements under section 187(a)(5) of the Clean Air Act as amended in 1990, as a revision to the carbon monoxide State Implementation Plan.

(f) Approval—On May 29, 1998, the Connecticut Department of Environmental Protection submitted a request to redesignate the Connecticut portion of the New York-N. New Jersey-Long Island carbon monoxide nonattainment area to attainment for carbon monoxide. As part of the redesignation request, the State submitted a maintenance plan as required by 175A of the Clean Air Act, as amended in 1990. Elements of the section 175A maintenance plan include a periodic emission inventory for carbon monoxide, a demonstration of maintenance of the carbon monoxide NAAQS with projected emission inventories to the year 2010 for carbon monoxide, a plan to verify continued attainment, a contingency plan, and an obligation to submit a subsequent maintenance plan revision in 8 years as required by the Clean Air Act. If the area records an exceedance of the carbon monoxide NAAQS (which must be confirmed by the State), Connecticut will implement one or more appropriate contingency measure(s) which are contained in the contingency plan. The menu of contingency measure includes investigating local traffic conditions, the enhanced motor vehicle inspection and maintenance program, and the low emissions vehicles program (LEV). The redesignation request establishes a motor vehicle emissions budget of 205 tons per day for carbon monoxide to be used in determining transportation conformity in the Connecticut Portion of the New York-N. New Jersey-Long Island Area. The redesignation request and maintenance plan meet the redesignation requirements in sections 107(d)(3)(E) and 175A of the Act as amended in 1990, respectively.

PART 81—[AMENDED]

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

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

Subpart C—Section 107 Attainment Status Designations

2. The table in 81.307 entitled ''Connecticut-Carbon Monoxide'' is revised to read as follows:

§ 81.307 Connecticut.

* * * * *

CONNECTICUT-CARBON MONOXIDE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Hartford-New Britain-Middletown Area:				
Hartford County (part)	1/2/96	Attainment		
Bristol City, Burlington Town, Avon Town, Bloomfield Town, Canton Town, E. Granby Town, E. Hartford Town, E. Windsor Town, Enfield Town, Farmington Town, Glastonbury Town, Granby Town, Hartford city, Manchester Town, Marlborough Town, Newington Town, Rocky Hill Town, Simsbury Town, S. Windsor Town, Suffield Town, W. Hartford Town, Wethersfield Town, Windsor Town, Windsor Locks Town, Berlin Town, New Britain city, Plainville Town, and Southington Town				
Litchfield County (part)	1/2/96	Attainment		
Plymouth Town				
Middlesex County (part)	1/2/96	Attainment		
Cromwell Town, Durham Town, E. Hampton Town, Haddam Town, Middlefield Town, Middletown City, Portland Town, E. Haddam Town				
Tolland County (part)	1/2/96	Attainment		

CONNECTICUT-CARBON MONOXIDE—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Andover Town, Bolton Town, Ellington Town, Hebron Town, Somers Town, Tolland Town, and Vernon Town				
New Haven—Meriden—Waterbury Area:				
Fairfield County (part)	12/4/98	Attainment		
Shelton City				
Litchfield County (part)	12/4/98	Attainment		
Bethlehem Town, Thomaston Town, Watertown, Woodbury Town				
New Haven County	12/4/98	Attainment		
New York-N. ew Jersey-Long Island Area:				
Fairfield County (part)	5/10/99	Attainment		
All cities and townships except Shelton City				
Litchfield County (part)	5/10/99	Attainment		
Bridgewater Town, New Milford Town				
AQCR 041 Eastern Connecticut Intrastate	.....	Unclassifiable/ Attainment		
Middlesex County (part)				
All portions except cities and towns in Hartford Area				
New London County				
Tolland County (part)				
All portions except cities and towns in Hartford Area				
Windham County				
AQCR 044 Northwestern Connecticut Intrastate	.....	Unclassifiable/ Attainment		
Hartford County (part) Hartland Township				
Litchfield County (part)				
All portions except cities and towns in Hartford, New Haven, and New York Areas				

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

* * * * *

[FR Doc. 99–2976 Filed 3–9–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CT–7209a; A–1–FRL–6225–2]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; 15 Percent Rate-of-Progress and Contingency Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan (SIP) revisions submitted by the State of Connecticut. These revisions establish 15 percent rate-of-progress (ROP) and contingency plans for ozone nonattainment areas in the State. The intended effect of this action is to approve these plans in accordance with the Clean Air Act.

EFFECTIVE DATE: This rule is effective on May 10, 1999.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA; and the Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

FOR FURTHER INFORMATION CONTACT: Robert McConnell, (617) 918–1046.

SUPPLEMENTARY INFORMATION: Section 182(b)(1) of the Act requires ozone nonattainment areas classified as moderate or above to develop plans to reduce VOC emissions by 15 percent from 1990 baseline levels. There are two ozone nonattainment areas in Connecticut, one classified as a serious area, the other as a severe area. The areas are referred to as the Connecticut portion of the New York, New Jersey, Connecticut severe area (the ''NY–NJ–CT area''), and the Greater Hartford serious ozone nonattainment area (the ''Hartford area''). The State is, therefore, subject to the 15 percent ROP requirement.

I. Background

On October 24, 1997 (62 FR 55368), EPA published a Notice of Proposed Rulemaking (NPR) for the State of Connecticut. The NPR proposed conditional approval of the State's 15 percent ROP and contingency plans. The formal SIP revision was submitted by Connecticut on December 30, 1994. The conditions listed in the proposed approval of the Connecticut 15 percent ROP plans, and the status of each, are as follows:

Condition 1—By January 1, 1998, Connecticut must begin testing motor vehicles using the ASM 25/25 program which is described within the State's August 22, 1997 letter to EPA.

Status of Condition 1—Connecticut began its motor vehicle emission testing program on January 2, 1998, thereby meeting the requirements of condition 1.

Condition 2—By April 1, 1998, Connecticut must submit revised 15 percent and contingency plans as revisions to the State's SIP which show that the emission reductions from the ASM 25/25 automobile emission testing program, when coupled with emission reductions from other measures, will meet the emission reduction goals of these requirements.

Status of Condition 2—On May 8, 1998, Connecticut submitted revisions to its 15 percent ROP and contingency plans which adequately demonstrate that the required level of emission reductions will be achieved. The submittal included a revised emission target level calculation performed in accordance with EPA guidance

memoranda of August 13, 1996, entitled ''Date by which States Need to Achieve all the Reductions Needed for the 15% Plan from I/M and Guidance for Recalculation'' and December 23, 1996, entitled ''Modeling 15% VOC Reduction(s) from I/M in 1999—Supplemental Guidance.'' The revised calculations submitted by the State indicate that sufficient emission reduction surpluses are available to cover the contingency measure emission reduction obligation for each nonattainment area. The State's original proposal to use NO_X emission reductions from stationary sources to form a portion of the contingency plan for the Greater Hartford area is therefore not required. The contingency plan for each of the State's ozone nonattainment areas consist of excess emission reductions achieved by the measures identified within the State's 15 percent ROP plans.

The State's May 8, 1998 submittal contained a minor adjustment to the credit claimed from national rules for architectural and industrial maintenance coatings, and incorporated into its 15 percent ROP plans emission reductions expected from a national rule on consumer and commercial products of 0.9 tons per summer day (tpsd) in the State's portion of the NY–NJ–CT area, and reductions of 2.7 tpsd in the Greater Hartford area. The State properly determined the amount of emission reduction which will accrue from implementation of these two national rules. The State's submittal also made an adjustment to the reporting frequency contained within the cutback asphalt rule effectiveness improvement portion of the 15 percent plan. EPA approves this revision in light of support documentation submitted by the State verifying the compliance status of municipalities with this rule.

Although the State's submittal was made later than the date specified in EPA's proposed conditional approval, the content of the submittal adequately addresses EPA's concern's as expressed in the condition.

Condition 3—By April 1, 1998, Connecticut must submit a revised I/M program as a revision to the State's SIP.

Status of Condition 3—On June 24, 1998, Connecticut submitted a revised automobile emissions inspection and maintenance program to EPA as a revision to the State's SIP. Although the State's submittal was made later than the date specified in EPA's proposed conditional approval of the Connecticut 15 percent plans, the content of the submittal adequately addresses EPA's concerns. A final conditional approval of the Connecticut I/M program is being published in the rules section of today's **Federal Register**.

EPA has considered whether the 15 percent plans for the State should also be conditionally approved, and determined that full approval of the 15 percent plans is more appropriate. The State began its motor vehicle emissions testing program on January 2, 1998, and has continued to operate the program since that time without encountering major difficulties. It is the testing of motor vehicles and subsequent requirement that high polluting vehicles be repaired to emit less pollution that achieves the emission reductions attributable to automobile I/M programs. The conditions contained within EPA's approval of the Connecticut I/M program pertain to requirements that the State fully document that the State's I/M program complies with the provisions of section 182(c)(3) of the CAA. Achievement of these conditions, although necessary for full approval of the I/M program, are not prerequisite to achieving the emission reductions from the program on which these 15 percent plans rely. The I/M program as currently implemented is accomplishing the necessary emission reductions to support the 15 percent plans, and the largely procedural requirements of EPA's conditions on the I/M program are not necessary to achieve that level of emissions control.

A final conditional approval of Connecticut regulations which define reasonably available control technology (RACT) for specific categories of industrial sources that emit VOCs is being published in the rules section of today's **Federal Register**. Although the Connecticut 15 percent ROP plans rely on emission reductions from the VOC RACT rules which are being conditionally approved in today's **Federal Register**, the achievement of the emission reductions from these rules which Connecticut has relied upon within its 15 percent ROP plans in no way depends upon the fulfillment of the conditions outlined within that final rule. The conditions in the VOC RACT final rule relate to the State's obligation to ensure that its SIP complies with the provisions of section 183(b) of the CAA pertaining to new control technique guidelines (CTGs). The State has not assumed emission reductions from new CTGs within its 15 percent ROP plans. Therefore, EPA will not condition full approval of the State's 15 percent ROP plans upon fulfillment of the conditions outlined within today's document regarding the State's VOC RACT rules.

The State of Connecticut has addressed the conditions contained within the EPA's October 24, 1997 proposed conditional approval. Additionally, the conditions EPA is attaching to approval of Connecticut's I/M and VOC RACT regulations do not effect the emissions reductions on which these 15 percent plans rely. Accordingly, EPA believes that full approval of the State's 15 percent plans is appropriate.

Transportation Conformity Budgets

Under EPA's transportation conformity rule the 15 percent plans are a control strategy SIP. The plans for Connecticut establish VOC emission budgets for on-road mobile sources within the respective nonattainment areas. These plans do not establish NO_X emission budgets for on-road mobile sources. However, Connecticut has submitted a complete SIP revision consisting of reasonable further progress plans to achieve a 9 percent emission reduction in ozone precursor emissions after 1996 (post-96 plans). Connecticut submitted post-96 plan to EPA on December 31, 1997. These revisions establish the VOC and NO_X emission budgets for 1999 shown in Table 1.

TABLE 1.—1999 EMISSION BUDGETS FOR ON-ROAD MOBILE SOURCES

Nonattainment area	VOC Budget tons per summer day	NO_X Budget tons per summer day
CT portion of NY–NJ–CT area	20.5	39.4
Greater Hartford area	61.6	125.3

EPA believes that the VOC and NO_X budgets established by the post-96 plans for Connecticut are currently the controlling budgets for conformity determinations for 1999 and later years. The budgets in the post-1996 plans specifically address the 1999 reasonable further progress milestone year, whereas the 15 percent plan establishes a budget for the prior reasonable further progress milestone year of 1996. The time period for the budget in the 15 percent plans has passed. Additionally, the post-96 plan establishes a more stringent budget.

EPA's rationale for granting approval to these plans, and the details of the State's submittal are contained in the NPR and the accompanying technical support document and will not be restated here.

II. Public Comments and EPA Responses

EPA received a letter in response to the October 24, 1997 NPR from the Connecticut Department of

Environmental Protection (CT–DEP). The following discussion summarizes and responds to the comments received on the October 24, 1997 NPR.

Comment 1. CT–DEP commented that the State's submittal only took credit for a 15 percent reduction from architectural and industrial maintenance coatings, not a 20 percent reduction as referenced in the NPR and allowed by current EPA guidance. The CT–DEP indicated that a revision would be made to the 15 percent plan to take the full 20 percent emission reduction credit from this source category.

Response 1. EPA agrees that Connecticut's December 30, 1994 15 percent ROP plan only claimed a 15 percent emission reduction for this source category. EPA acknowledges receipt of revisions to the State's plan on May 8, 1998, which contain a revised emission reduction calculation for this source category using the 20 percent reduction. Based on this recalculation, Connecticut is able to claim an additional 0.5 ton per summer day (tpsd) VOC emission reduction in the State's portion of the NY–NJ–CT severe area, for a total reduction of 2.1 tpsd in this area. Additionally, the state can claim an additional 1.6 tpsd VOC reduction in the Greater Hartford serious area, for a total reduction of 6.5 tpsd.

Comment 2. The CT–DEP commented that the EPA's approval of the NO_X budget for mobile sources is inappropriate, as 15 percent plans are only required to reduce VOC emissions. The DEP notes that although the State's plan does rely upon NO_X emission reductions to achieve contingency measure emission reductions, this does not create a requirement for approval of a NO_X budget for mobile sources.

Response 2. Connecticut's initial reliance on NO_X emission reductions to form a part of its original contingency plans created a need to establish NO_X emission budgets. However, on May 8, 1998, Connecticut submitted revised 15 percent and contingency plans to EPA which demonstrated that the required contingency measure emission reduction obligation for both ozone nonattainment areas within the State could be met utilizing VOC emission reduction surpluses generated by the measures within the 15 percent plans. Accordingly, EPA agrees that a NO_X emission budget does not need to be established for the 15 percent ROP plans. For the reasons discussed above, however, EPA is setting VOC and NO_X emission budgets based on the 1999 projections in Connecticut's post-1996 plans.

Comment 3. The CT–DEP commented that the EPA's notice implies that the State is not meeting a statutory requirement, by suggesting that the employee commute option is not being implemented. CT–DEP notes that, as allowed by the CAA, it has amended its employee commute option (ECO) legislation to create a voluntary traffic reduction program, which is being implemented. CT–DEP further notes that it is not, at this time, seeking to adopt this program into the SIP.

Response 3. EPA acknowledges the existence of Connecticut's voluntary traffic reduction program as an acceptable alternative to an enforceable ECO program. However, as noted in the State's comment, the traffic reduction program has not been adopted into the State's SIP, and is therefore not a program from which the State can derive emission reductions for use within its 15 percent ROP demonstrations.

III. Final Action

EPA is approving the Connecticut 15 percent ROP and contingency plans as revisions to the Connecticut SIP. This rule will become effective on May 10, 1999, which corresponds to the effective date for EPA's direct final rules on Connecticut's automobile inspection and maintenance program and stationary source volatile organic compound (VOC) regulations which are referenced in this document, unless EPA receives relevant adverse comments on either of those direct final rules. In the event relevant adverse comments are received on either of those rules, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule and the corresponding direct final rule or rules will not take effect.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Orders 12866

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

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. 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 E.O. 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 E.O. 13045 because it is not an ''economically significant'' action under Executive Order 12866.

D. Executive Order 13084

Under E.O. 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 E.O. 13084 do not apply to this rule.

E. 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 rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the 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).

F. Unfunded Mandates

Under sections 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 the approval action promulgated 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.

G. Submission to Congress and the Comptroller General

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

H. 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 May 10, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone.

Note: Incorporation by reference of the State Implementation Plan for the State of Connecticut was approved by the Director of the Federal Register on July 1, 1982.

Dated: January 15, 1999.

John P. DeVillars,

Regional Administrator, Region I.

Part 52 of 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 H—Connecticut

2. Section 52.370 is amended by adding paragraph (c)(77) to read as follows:

§ 52.370 Identification of plan.

* * * * * *

(c) * * *

(77) Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on December 30, 1994, and May 8, 1998. This revision is for the purpose of satisfying the rate-of-progress requirement of section 182(b) and the contingency measure requirements of sections 172(c)(9) and 182(c)(9) of the Clean Air Act, for the Greater Hartford serious ozone nonattainment area, and the Connecticut portion of the NY–NJ–CT severe ozone nonattainment area.

(i) Incorporation by reference.

(A) Letter from the Connecticut Department of Environmental Protection dated December 30, 1994, submitting a revision to the Connecticut State Implementation Plan.

(B) Letter from the Connecticut Department of Environmental Protection dated May 8, 1998, submitting a revision to the Connecticut State Implementation Plan.

[FR Doc. 99–2980 Filed 3–9–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CT–17–1–6536a; A–1–FRL–6225–4]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; VOC RACT Catch-Up

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Connecticut. The revision consists of approving revisions to subsections 22a–174–20(s), 22a–174–20(v), and 22a–174–20(ee) of Connecticut's regulations, which define reasonably available control technology (RACT) for specific categories of industrial sources which emit volatile organic compounds (VOC), as meeting the requirements of the CAA. This action also involves the conditional approval of a new section 22a–174–32 which defines RACT for sources of VOC which do not fall into any of the other industry-specific categories of Connecticut's VOC control regulations. This action is being taken in accordance with the Clean Air Act.

DATES: This direct final rule is effective on May 10, 1999 without further notice, unless EPA receives adverse comment by April 9, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA and the Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

FOR FURTHER INFORMATION CONTACT: Steven A. Rapp, at (617) 918–1048, or at Rapp.Steve@EPAMAIL.EPA.GOV.

SUPPLEMENTARY INFORMATION: On January 5, 1994, the Connecticut DEP submitted a revision to its State Implementation Plan (SIP). The revision consists of changes made pursuant to the requirements of § 182(b)(2) of the Act to the following Connecticut Regulations for the Abatement of Air Pollution: §§ 22a–174–20(s), Miscellaneous Metal Parts and Products, §§ 22a–174–20(v), Graphic Arts Rotogravures and Flexography, §§ 22a–174–20(ee), Reasonably Available Control Technology for Large Sources, and the addition of § 22a–174–32, Reasonably Available Control Technology for Volatile Organic Compounds. VOCs contribute to the production of ground level ozone and smog. These rules were adopted as part of an effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone.

On November 9, 1994, EPA published a notice of proposed rulemaking (NPR) in the **Federal Register** (59 FR 55824) which proposed full approval of the revisions to sections 22a–174–20(s), 22a–174–20(v), and 22a–174–20(ee) and limited approval/limited disapproval of the new section 22a–174–32. Given additional documentation submitted by Connecticut, however, EPA now believes that section 22a–174–32 is now conditionally approvable. Therefore, this direct final rulemaking action supersedes the November 1994 NPR. The conditional approval of section 22a–174–32 is discussed below. The reader may also want to refer to the November 1994 NPR for additional information regarding EPA's earlier evaluation of Connecticut's submittal.

I. Background

Under the pre-amended Clean Air Act (i.e., the Clean Air Act before the enactment of the amendments of November 15, 1990), ozone nonattainment areas were required to adopt RACT rules for sources of VOC emissions. EPA issued three sets of control technique guideline (CTG) documents, establishing a ''presumptive norm'' for RACT for various categories of VOC sources. The three sets of CTGs were: (1) Group I—issued before January 1978 (15 CTGs); (2) Group II—issued in 1978 (9 CTGs); and (3) Group III—issued in the early 1980's (5 CTGs). Those sources not covered by a CTG were called non-CTG sources. EPA determined that the area's SIP-approved attainment date established which RACT rules the area needed to adopt and implement. Under Section 172(a)(1), ozone nonattainment areas were generally required to attain the ozone standard by December 31, 1982. Those areas that submitted an attainment demonstration projecting attainment by that date were required to adopt RACT for sources covered by the Group I and II CTGs. Those areas that sought an extension of the attainment date under Section 172(a)(2) to as late as December 31, 1987 were required to adopt RACT for all CTG sources and for all major (i.e., 100 ton per year or more of VOC emissions) non-CTG sources.

Under the pre-amended Clean Air Act, Connecticut was designated as nonattainment for ozone and sought an extension of the attainment date under Section 172(a)(2) to December 31, 1987. Therefore, the State was required to adopt RACT for all CTG sources and for all major (i.e., 100 ton per year or more of VOC emissions) non-CTG sources. However, the State of Connecticut did not attain the ozone standard by the approved attainment date. On May 25, 1988, EPA notified the Governor of Connecticut that portions of the SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call).

On November 15, 1990, amendments to the Clean Air Act were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. §§ 7401–7671q. In Section 182(a)(2)(A) of the amended Act, Congress adopted the requirement that pre-enactment ozone nonattainment areas that retained their designation of nonattainment and were classified as marginal or above fix their deficient RACT rules for ozone by May 15, 1991. All of Connecticut, with the exception of the portion of Connecticut located in the New York-New Jersey-Long Island Consolidated Statistical Metropolitan Area (NY–NJ–CT CMSA), was classified as serious nonattainment for ozone. The remaining portion of the State, i.e., the Connecticut portion of the NY–NJ–CT CMSA, was classified as severe nonattainment for ozone. 56 FR 56694 (Nov. 6, 1991). The State submitted revisions to meet the RACT fix-up requirement and EPA approved those revisions to the Connecticut SIP on October 18, 1991 (56 FR 52205).

Section 182(b)(2) of the amended Act requires States to adopt RACT rules for all areas designated nonattainment for ozone and classified as moderate or above. There are three parts to the Section 182(b)(2) RACT requirement: (A) RACT for sources covered by an existing CTG—i.e., a CTG issued prior to the enactment of the 1990 amendments to the Act; (B) RACT for sources covered by a post-enactment CTG; and (C) all major sources not covered by a CTG, i.e., non-CTG sources. This RACT requirement applies to nonattainment areas that were previously exempt from certain RACT requirements to ''catch up'' to those nonattainment areas that became subject to such requirements during an earlier period. In addition, it

requires newly designated ozone nonattainment areas to adopt RACT rules consistent with those for previously designated nonattainment areas.

Because Connecticut was previously required to adopt RACT regulations for all the CTG and major non-CTG sources to meet the RACT ''catch-up'' requirement, the State did not need to adopt any additional RACT rules. However, under Section 182 of the Act, the major source definition for serious and severe nonattainment areas was lowered to include sources that have a potential to emit greater than 50 or greater than 25 tons per year of VOC, respectively. Therefore, the State needed to lower the applicability cutoff of its CTG-based and/or relevant non-CTG regulations to include newly classified major sources in these categories.

The following is a summary of EPA's evaluation of the changes to Connecticut's Regulations for the Abatement of Air Pollution, subsection 22a–174–20(s), subsection 22a–174–20(v), subsection 22a–174–20(ee), and the addition of section 22a–174–32. Additional information concerning EPA's evaluation of all the submitted regulations is detailed in a memorandum, dated June 17, 1998 entitled ''Technical Support Document—Connecticut—VOC RACT Catch-ups—Final.'' Copies of that document are available, upon request, from the EPA Regional Office listed in the *ADDRESSES* section of this document.

II. EPA Evaluation

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the Act and EPA regulations, as found in section 110 and Part D of the Act and 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). EPA's interpretation of these requirements, which forms the basis for today's action, appears in various EPA policy guidance documents. The specific guidance relied on for this action is referenced within the technical support document and this document.

For the purpose of assisting State and local agencies in developing RACT rules, EPA prepared a series of CTG documents. The CTGs are based on the underlying requirements of the Act and specify presumptive norms for RACT for specific source categories. EPA has not yet developed CTGs to cover all sources of VOC emissions. Further interpretations of EPA policy are found in, but not limited to, the following: (1) the proposed Post-1987 ozone and carbon monoxide policy, 52 FR 45044 (November 24, 1987); (2) the document entitled, ''Issues Relating to VOC Regulation Cut points, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice,'' otherwise known as the ''Blue Book'' (notice of availability was published in the **Federal Register** on May 25, 1988 and in the existing CTGs); and (3) the ''Model Volatile Organic Compound Rules for Reasonably Available Technology,'' (Model VOC RACT Rules) issued as a staff working draft in June of 1992. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

The VOC regulations that were included in Connecticut's January 5, 1994 submittal are briefly summarized below.

Subsection 22a–174–20(s)

This regulation was amended to include an exemption for noncompliant coatings used in amounts less than 55 gallons in the aggregate for any consecutive 12 month period at a miscellaneous metal parts facility. The change is consistent with EPA's August 10, 1990 policy memorandum from G. T. Helms, Chief of the Ozone/Carbon Monoxide Programs Branch of the Office of Air Quality Planning and Standards, entitled, ''Exemption for Low-Use Coatings.'' Section 193 of the Clean Air Act (i.e., the General Savings Clause), requires that any regulation in effect before the date of the enactment of the Clean Air Act Amendments of 1990 in any nonattainment area may only be modified if the modification insures equivalent or greater reductions of the same pollutant. Although the proposed change to 22a–174–20(s) represents a small relaxation of an existing control requirement, the requirements of Section 193 are met by the reductions resulting from other changes being proposed in this notice.

Subsection 22a–174–20(v)

This regulation was amended to define RACT for graphic arts sources with potential emissions from all printing operations of 50 tons or more per year in the serious ozone nonattainment area or, 25 tons or more per year in the severe ozone nonattainment area, which were not previously subject to the rule. The adopted regulation maintains the applicability of any printing line with actual emissions of 40 pounds or more per day. This change is consistent with the requirements of Section 182 of the Act.

Subsection 22a–174–20(ee)

Most of this subsection has been deleted and replaced with a reference to the new Section 32, entitled, ''Reasonably Available Control Technology for Volatile Organic Compounds.'' The amended regulation removes the previous major source limits on applicability and refers all sources of VOC to Section 32. Sources previously subject to 22a–174–20(ee) that have enforceable consent orders or permits which currently define RACT at those facilities will continue to be regulated by those orders until Connecticut decides otherwise.

Section 22a–174–32

For major non-CTG sources of VOCs, the addition of this section sets forth both presumptive RACT norms and processes by which RACT can be established for sources that cannot meet the presumptive norms. The first two options of Section 22a–174–32 define presumptive norms for RACT, and are consistent with EPA's Model VOC RACT Rules for ''Other Facilities that Emit Volatile Organic Compounds.'' The other options describe a process by which RACT can be defined on a case-by-case basis but do not specify RACT emission limitations or technology standards.

Issues

As discussed in the November 1994 NPR, EPA has two major issues with section 22a–174–32 as submitted in January 1994. One issue is the open-ended nature of two of the compliance options of section 22a–174–32, the non-CTG RACT rule. Essentially, the non-CTG RACT rule contains four compliance options. Two of the options explicitly define presumptive norms for RACT. The third and fourth options, however, describe processes by which RACT can be defined on a case-by-case basis (i.e., as a credit trade or as a relaxation from the presumptive RACT standards) rather than explicit RACT emission limits or technology standards.

Ordinarily, the two process options by themselves would not be approvable as defining explicit RACT requirements. However, as discussed in the November 1994 NPR, the rule could be fully approved by EPA if Connecticut defined explicitly, and had approved by EPA, case-specific RACT determinations for all of those sources which do not conform to the two presumptive RACT options outlined in the regulation. Alternatively, the NPR went on to say that if EPA determined that none of the

affected sources relied on the open-ended compliance options to implement RACT, section 22a–174–32 could be fully approved upon Connecticut making such a demonstration.

On October 27, 1997, Connecticut sent EPA a list of the sources subject to the rule and the compliance option used by each of the sources. The list demonstrates that there are no sources in the State complying by using either of the process options. Given this documentation, EPA believes that the rule is now approvable as defining RACT for all sources subject to the regulation.

The second issue discussed in the November 1994 NPR relates to the applicability of section 22a–174–32. As described in the background section of this notice, Section 182(b)(2) of the CAA requires Connecticut to develop regulations or case-specific RACT determinations for major stationary sources of VOCs which fall into one of the 13 categories articulated in Appendix E of the Title I General Preamble (57 FR 18077). According to Appendix E, States are required to adopt RACT rules for major sources in these categories, even if EPA does not publish a CTG for each category.

On November 15, 1993, EPA published CTGs for two of the categories listed in Appendix E, namely synthetic organic chemical manufacturing industry (SOCMI) distillation and reactor vessels (58 FR 60197). On January 20, 1994, however, EPA announced that the finalization of the remaining eleven CTGs would be delayed. Connecticut had anticipated EPA's issuance of the other 11 CTGs prior to the adoption of section 22a–174–32. For that reason, the applicability of the regulations, specifically subsection 22a–174–32(b)(3)(C), was written to exclude VOC-emitting equipment which fall into one of the remaining CTG categories.

Therefore, although section 22a–174–32 is now fully approvable as defining RACT for those sources subject to the regulation, Connecticut does not have regulations which define RACT for VOC emitting processes which fall into one of the eleven delayed CTG categories. In order for the regulation to fulfill the non-CTG requirements of section 182(b)(2), section 22a–174–32 would need to be revised to remove the exclusion of such sources from the applicability of the rule. In the November 1994 NPR, EPA stated that if the exclusion was removed, section 22a–174–32 could be used to determine RACT for VOC sources which fall into one of the categories for which the CTG has been delayed.

Since the publication of the November 1994 NPR, there have been numerous discussions, letters, and correspondences between the EPA and the Connecticut DEP regarding the issues articulated in the NPR. These correspondences have included letters dated November 25, 1994, and December 8, 1997, from EPA to Connecticut as well as electronic mail messages from Connecticut to EPA in October 27, 1997, February 27, 1998, and May 11, 1998. Copies of these communications can be found in the docket located at the address listed in the **ADDRESSES** section above.

On December 16, 1997, Connecticut sent a letter to EPA committing to make revisions to the applicability of section 22a–74–32 in order to establish RACT for sources not yet covered by Connecticut's RACT requirements. The letter expresses Connecticut's intent to revise the regulations within 9 months of starting the drafting process. EPA received a draft revision to section 22a–174–32 by electronic mail on November 16, 1998 indicating the start of the drafting process. Given the formal commitment to make the changes within nine months of the start of the drafting process (i.e., by the end of August 1999), EPA is hereby conditionally approving section 22a–174–32.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This action will be effective May 10, 1999 without further notice unless the Agency receives relevant adverse comments by April 9, 1999.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. All parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on May 10, 1999 and no further action will be taken on the proposed rule.

II. Final Action

EPA is taking two actions. First, EPA is fully approving the changes to sections 22a–174–20(s), 22a–174–20(v), and 22a–174–20(ee) of Connecticut's regulations as submitted as a SIP revision on January 5, 1994.

EPA is also conditionally approving section 22a–174–32 as submitted by Connecticut as a SIP revision on January 5, 1994. In addition to the adopted regulation, the State has formally committed to submit to EPA, by September 1, 1999, a revised section 22a–174–32 which removes certain applicability exclusions of the current regulation.

If the State meets its commitment, within the applicable time frame, the conditionally approved submission will remain a part of the SIP until EPA takes final rulemaking action approving or disapproving the new regulation. If EPA approves the revised section 22a–174–32, it will be fully approved in its entirety and replace the conditionally approved section 22a–174–32 in the SIP. If the State meets its commitment to submit a revised regulation within the applicable time frame but EPA disapproves the new submittal, or if the State fails to meet the commitment to submit revised regulations, this conditional approval will convert to a limited approval/limited disapproval. EPA will notify the State by letter that such an action has occurred. EPA subsequently will publish a document in the **Federal Register** notifying the public that the conditional approval converted to a limited approval/limited disapproval.

EPA believes that converting the conditional approval to a limited approval/limited disapproval would be appropriate because limited approval of the current section 22a–174–32 would strengthen the SIP even though the rule does not meet all of the requirements of the CAA. The approval would be limited because EPA's action also would include a limited disapproval, due to the fact that the current rule would not meet the requirement of Section 182(b)(2) because of the deficiencies noted above. In light of the deficiencies, EPA could not grant full approval of the current rule under section 110(k)(3) and Part D. However, EPA can grant a limited approval of the submitted rule under Section 110(k)(3) and EPA's authority pursuant to Section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP.

If the State fails to meet its commitment or submits a regulation that is not fully approvable, EPA would also issue a limited disapproval action because of deficiencies that have not been corrected as the Act requires. Under Section 179(a)(2), if the Administrator disapproves a submission

under Section 110(k) for an area designated nonattainment based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in Section 179(b) unless the deficiency has been corrected within 18 months of such disapproval. Section 179(b) provides two sanctions available to the Administrator: highway funding and offsets. The 18-month period referred to in Section 179(a) will begin at the effective date established in this limited disapproval. Moreover, the final disapproval triggers the federal implementation plan (FIP) requirement under section 110(c).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

III. Administrative Requirements

A. Executive Order 12866

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

This regulatory action has been submitted to the Office of Management and Budget (OMB) for Executive Order 12866 review.

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. 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 E.O. 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 E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks and is not economically significant under E.O. 12866.

D. Executive Order 13084

Under E.O. 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 E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

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 rule will not have a significant impact on a substantial number of small entities because approvals of SIP submittals under section 110 and 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 Federal SIP approval does not impose 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).

If the conditional approval is converted to a disapproval under section 110(k), based on the state's failure to meet the commitment, it will not affect any existing state requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal would not impose a new Federal requirement. Therefore, I certify that the potential disapproval action will not have a significant economic impact on a substantial number of small entities because it would not remove existing requirements nor would it substitute a new federal requirement.

F. Unfunded Mandates

Under Sections 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 the approval action promulgated 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.

G. Submission to Congress and the Comptroller General

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

H. 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 May 10, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Note: Incorporation by reference of the State Implementation Plan for the State of Connecticut was approved by the Director of the Federal Register on July 1, 1982.

Dated: January 18, 1999.

John P. DeVillars,

Regional Administrator Region I.

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 H—Connecticut

2. Section 52.369 is amended by adding paragraph (c) to read as follows:

§ 52.369 Identification of plan—Conditional approval.

* * * * *

(c) Elements of the revision to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on January 5, 1994 which establish reasonably available control technology requirements for major stationary sources of volatile organic compounds. If Connecticut fails to meet these conditions by September 1, 1999, the conditional approval of section 22a–174–32 will automatically convert to a limited approval/limited disapproval as explained under section 110(k) of the Clean Air Act.

3. Section 52.370 is amended by adding paragraphs (c)(75) and (c)(76) to read as follows:

§ 52.370 Identification of plan.

* * * * * *

(c) * * *

(75) Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on January 5, 1994.

(i) Incorporation by reference.

(A) Letter from the Connecticut Department of Environmental Protection dated January 5, 1994 submitting a revision to the Connecticut State Implementation Plan.

(B) Regulations sections 22a–174–20(s), ''Miscellaneous Metal Parts and Products,'' sections 22a–174–20(v), ''Graphic Arts Rotogravures and Flexography,'' sections 22a–174–20(ee), ''Reasonably Available Control Technology for Large Sources,'' adopted and effective on November 18, 1993, which establish reasonably available control technology requirements for major stationary sources of volatile organic compounds.

(76) Revision to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on January 5, 1994.

(i) Incorporation by reference.

(A) Letter from the Connecticut Department of Environmental Protection dated January 5, 1994 submitting a revision to the Connecticut State Implementation Plan.

(B) Regulation section 22a–174–32, ''Reasonably Available Control Technology for Volatile Organic Compounds,'' adopted and effective on November 18, 1993, which establishes reasonably available control technology requirements for major stationary sources of volatile organic compounds.

(ii) Additional materials.

(A) Letter from Connecticut dated June 27, 1994 clarifying language in section 22a–174–32(A).

4. In § 52.385, Table 52.385 is amended by adding a new entry under the state citation for Section 22a–174–20, ''Control of Organic Compound Emissions'' and by adding a new state citation for Section 22a–174–32 to read as follows:

§ 52.385—EPA-approved Connecticut Regulations

* * * * *

TABLE 52.385.—EPA-APPROVED RULES AND REGULATIONS

Connecticut State citation	Title/Subject	Dates		Federal Register citation	52.370	Comments/description
		Date adopted by State	Date approved by EPA			
*	*	*	*	*	*	*
22a–174–20	Control of organic compound emissions.	11/18/93	3/10/99	[Insert *FR* citation from published date].	(c)(75)	Changes to subsection 22a–174–20(s), 20(v), and 20(ee).
*	*	*	*	*	*	*
22a–174–32	Reasonably Available Control Technology for Volatile Organic Compounds.	11/18/93	3/10/99	[Insert *FR* citation from published date].	(c)(76)	Conditional approval of the addition of non-CTG VOC RACT requirements.
*	*	*	*	*	*	*

[FR Doc. 99–2977 Filed 3–9–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[CT008–7210b; A–1–FRL–6224–9]

Approval and Promulgation of Air Quality Implementation Plans and Designations of Areas for Air Quality Planning Purposes; Connecticut; Enhanced Motor Vehicle Inspection and Maintenance Program; Approval of Maintenance Plan, Carbon Monoxide Redesignation Plan and Emissions Inventory for the Connecticut Portion of the New York-N. New Jersey-Long Island Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing conditional approval of a State Implementation Plan (SIP) revision submitted by the State of Connecticut. This revision establishes and requires implementation of a motor vehicle inspection and maintenance program. In the Final Rules section of this **Federal Register**, EPA is approving with conditions the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

The EPA is also reproposing the redesignation request and maintenance plan for the Connecticut portion of the New York-N. New Jersey-Long Island Area carbon monoxide nonattainment area to attainment for carbon monoxide (CO) that was originally proposed for approval on November 2, 1998 (62 FR 58637) in the **Federal Register**. Based on public comments received on the original proposal and direct final rulemaking, EPA is removing the amendments published on that date in a separate document in this **Federal Register**.

DATES: Written comments must be received on or before April 9, 1999.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, One Congress St., Suite 1100, Boston, MA 02114–2023. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA and (the Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

FOR FURTHER INFORMATION CONTACT: Peter Hagerty, (617) 918–1049 or Jeff Butensky, (617) 918–1665.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: January 15, 1999.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 99–2991 Filed 3–9–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CT–17–1–6536b; A–1–FRL–6225–3]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; VOC RACT Catch-up

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Connecticut. This action approves a revision to the Connecticut State Implementation Plan (SIP). The revision consists of approving revisions to subsections 22a–174–20(s), 22a–174–20(v), and 22a–174–20(ee) of Connecticut's regulations, which define reasonably available control technology (RACT) for certain types of sources of volatile organic compounds (VOCs), as meeting the requirements of the CAA. This action also involves the conditional approval of a new section 22a–174–32 which defines RACT for certain types of sources of VOCs. 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 amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this proposal. Any parties interested in commenting on this proposal should do so at this time.

DATES: Written comments must be received on or before April 9, 1999.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA and the Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

FOR FURTHER INFORMATION CONTACT: Steven A. Rapp, at (617) 918–1048 or at Rapp.Steve@EPAMAIL.EPA.GOV.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

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

Dated: January 15, 1999.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 99–2978 Filed 3–9–99; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Wednesday
March 10, 1999

Part III

Department of Housing and Urban Development

Notice of Funding Availability; Economic Development and Supportive Services Carryover Funding Competition; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4453–N–01]

Notice of Funding Availability; Economic Development and Supportive Services Carryover Funding Competition

AGENCY: Office of Public and Indian Housing, HUD.

ACTION: Notice of Funding Availability (NOFA).

SUMMARY: *Purpose of the Program.* The purpose of the Economic Development and Supportive Services (EDSS) program is to provide grants to public housing agencies (PHAs), and Tribes or tribally designated housing entities (TDHEs) to enable them to establish and implement programs that increase resident self-sufficiency, and support continued independent living for elderly or disabled residents.

Available Funds. Approximately $23.5 million in carryover funding is being made available for the EDSS program under this NOFA.

Eligible Applicants. PHAs, and Tribes or TDHEs that have not received a previous EDSS grant are eligible recipients under this NOFA.

Application Deadline. Completed applications (one original and two copies) must be submitted, no later than 12:00 midnight local time on April 26, 1999 for this Program;

Match. All grants require a match of at least 25% of the grant amount. This match does not have to be a cash match. It can be in-kind and/or cash contributions. (See section IV. (A)(3) for more detailed requirements.)

ADDITIONAL INFORMATION: If you are interested in applying for funding under this program, please review carefully the following information:

I. Application Due Date, Application Kits, and Technical Assistance

Application Due Date: Completed applications (one original and two copies) must be submitted, no later than 12:00 midnight local time on April 26, 1999 for this Program;

Address for Submitting Applications: An original and two copies of the application must be received by the application due date at the local Field Office with delegated public housing responsibilities, attention: Director, Office of Public Housing or, in the case of Tribes or TDHEs, to the Administrator, Area Office of Native American Programs (AONAP), as appropriate. A list of HUD Field Office addresses is available as part of the application kit.

Mailed Applications: Applications will be considered timely if postmarked on or before 12:00 midnight on the application due date and received by the local HUD Field Office or AONAP.

Applications Sent by Overnight/Express Mail Delivery: Applications sent by overnight delivery or express mail will be considered timely filed if received on or before the application due date, or upon submission of documentary evidence that they had been placed in transit with the overnight delivery service by no later than the specified application due date.

Hand Carried Applications: Hand carried applications to Local HUD Field Offices or AONAPs will be accepted during normal business hours on or before the application due date.

For Application Kits, Further Information and Technical Assistance

For Application Kits. For an application kit and any supplemental information please call the Public and Indian Housing Information and Resource Center at 1–800–955–2232. Persons with hearing or speech impairments may call the Center's TTY number at 1–800-HUD–2209. When requesting an application kit, please refer to EDSS and provide your name, address (including zip code), and telephone number (including area code). The application kit also will be available on the Internet through the HUD web site at http://www.hud.gov.

For Further Information and Technical Assistance. For answers to your questions, you have several options. You may call the local HUD field office with delegated responsibilities over the pertinent housing agency/authority, or in the case of a Tribe or a TDHE applying for EDSS grants, the AONAP with jurisdiction over the Tribe/TDHE. Answers may also be obtained by calling the Public and Indian Housing Information and Resource Center at 1–800–955–2232. Persons with hearing or speech impairments may access this number via TTY (text telephone) by calling the Federal Information Relay Service at 1–800–877–8339 (this is a toll free number). Information on this NOFA may also be obtained through the HUD web site on the Internet at http://www.hud.gov.

II. Amount Allocated

(A) *Total Amount.* Approximately $23.5 million in funding is being made available under this NOFA for eligible PHAs, Tribes and TDHEs. This amount is comprised of $6,727,034 from the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997, (Pub. L. 104–204, 110 Stat. 2874, approved September 26, 1996), and $16,772,966 from the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1998 (Pub. L. 105–65, 111 Stat. 1344, approved October 27, 1997). To the extent that there are a sufficient number of qualified applications from Tribes/TDHEs, HUD is setting aside up to $1.4 million to fund applications from Tribes/TDHEs. The remaining funds will be awarded to eligible applications from PHAs in accordance with the requirements set forth in this NOFA.

(B) *Allocation By Grant Category.* Both the amount for Tribes/TDHEs and PHAs will be allocated as follows: 60% will be allocated to Family Economic Development and Supportive Services (EDSS) category grants; and the remaining 40% will be allocated to Elderly and Disabled Supportive Services (SS) category grants.

(C) *Maximum Grant Awards.* The maximum grant awards are limited as follows:

(1) For the Family EDSS category, no more than $250 per occupied unit up to the below listed maximums:

(a) For PHAs, Tribes/TDHEs with 1 to 780 occupied units, the maximum grant award is $150,000.

(b) For PHAs, Tribes/TDHEs with 781 to 7,300 occupied units, the maximum grant award is $500,000.

(c) For PHAs, Tribes/TDHEs with 7,301 or more occupied units, the maximum grant award is $1,000,000.

(2) For Elderly and Disabled SS category, no more than $250 per occupied unit up to the below listed maximums:

(a) For PHAs, Tribes/TDHEs with 1 to 217 units occupied by elderly residents or persons with disabilities, the maximum grant award is $54,250.

(b) For PHAs, Tribes/TDHEs with 218 to 1,155 units occupied by elderly residents or persons with disabilities, the maximum grant award is $200,000.

(c) For PHAs, Tribes/TDHEs with 1,156 or more units occupied by elderly residents or persons with disabilities, the maximum grant award is $300,000.

(D) *Units Counted.* Tribes/TDHEs should use the number of units counted as Formula Current Assisted Stock for Fiscal Year 1998 as defined in 24 CFR 1000.316. Tribes who have not previously received funds from the Department under the 1937 Act should count housing units under management that are owned and operated by the tribe and are identified in their housing inventory as of September 30, 1997.

(E) *Limitation on Multiple Applications.* A PHA, Tribe/TDHE may submit one application under the Family EDSS grant category and/or one application under the Elderly and Disabled SS grant category. The maximum number of applications that a HA may submit is two. If an applicant is applying for both funding categories, then it must submit two separate applications in which the total amount requested must not exceed the maximum grant amount available for its size under the Family EDSS category.

III. Program Description; Eligible Applicants; Eligible Activities

(A) *Program Description.* The Economic Development and Supportive Services program is designed to provide PHAs, Tribes, or TDHEs with a range of resources that broaden the number of opportunities for families to overcome barriers to economic self-sufficiency, particularly those affected by welfare reform. EDSS funding also provides resources that address the needs of elderly or disabled persons so that they can continue independent living without institutionalization.

EDSS represents a major HUD initiative to improve the targeting and management of available resources for resident self-sufficiency. The goal is to most effectively focus these resources on ''welfare to work'' and on independent living for the elderly or persons with disabilities. HUD believes that it is imperative that housing authorities and residents work together to meet the challenge of welfare reform. Therefore, HUD is interested in innovative approaches that demonstrate collaboration with other resource providers at the local, State and Federal levels.

Applicants should take care in reviewing section III. of this NOFA to ensure they are eligible to apply for funds and that they meet the program requirements and limitations described for this program.

(B) *Eligible Applicants.* PHAs, Tribes or their TDHEs that have not received a previous EDSS grant are eligible applicants.

(C) *Eligible Activities.* EDSS Program funds may be used for the activities described below in this section. At least 75 percent of the persons participating and receiving benefits from these activities must be residents of conventional Public Housing, or HUD-assisted Indian Housing. Any other persons (up to 25 percent per grantee) participating or receiving benefits from these programs must be recipients of Section 8 assistance.

(1) *Economic Development Activities.* These are activities essential to facilitate economic uplift and provide access to the skills and resources needed for self-development and business development. Economic development activities may include:

(a) *Entrepreneurship Training*—which may include literacy training, computer skills training, and business development planning.

(b) *Entrepreneurship Development*—which may include developing an entrepreneurship training curriculum and entrepreneurship courses.

(c) *Micro/Loan Fund Development.* Developing a strategy for establishing a revolving micro/loan fund and/or capitalizing a loan fund for economic development costs including licensing, bonding, and insurance needed to operate a business.

(d) *Developing credit unions.* Developing a strategy to establish on-site credit union(s) to provide financial and economic development initiatives to PHA/Tribal/TDHE residents. (EDSS grant funds cannot be used to capitalize a credit union.) The credit union could support the normal financial management needs of the community (i.e., check cashing, savings, consumer loans, micro-businesses and other revolving loans).

(e) *Employment training and counseling*—including job training (such as Step-Up programs), preparation and counseling, job search assistance, job development and placement, and continued follow-up assistance.

(f) *Employer linkage and job placement.*

(2) *Supportive Services Activities.* These activities consist of the provision of services to assist eligible residents to become economically self-sufficient, particularly families with children where the head of household would benefit from the receipt of supportive services and is working, seeking work, or is preparing for work by participating in job-training or educational programs. Supportive services may include:

(a) Child care, of a type that provides sufficient hours of operation and serves appropriate ages as needed to facilitate parental access to education and job opportunities.

(b) Computer based educational opportunities and skills training.

(c) Homeownership training and counseling, development of feasibility studies and preparation of homeownership plans/proposals.

(d) Educational services and assistance, including but not limited to: remedial education; computer skills training; career counseling; literacy training; assistance in the attainment of certificates of high school equivalency; two-year college tuition assistance; trade school assistance; youth leadership skills training and related activities, which may include training in peer leadership roles for youth counselors, peer pressure reversal, life skills, and goal planning).

(e) Youth mentoring of a type that mobilizes a potential pool of role models to serve as mentors to public or Indian housing youth. Mentor activities may include after-school tutoring, help with problem resolution issues, illegal drugs avoidance, job counseling, or mental health counseling.

(f) Transportation costs, as necessary to enable any participating family member to commute to his or her training or supportive services activities or place of employment.

(g) Personal well being (e.g., family/parental development counseling, parenting skills training for adult and teenage parents, and self-development counseling).

(h) Supportive health care services (e.g., outreach and referral services to mental health or substance and alcohol abuse treatment and counseling).

(i) Contracting for case management services contracts or employment of case managers, either of which must ensure confidentiality about resident's disabilities.

(3) *Elderly and Disabled Supportive Services Activities.* Supportive Services for the elderly or for persons with disabilities include:

(a) Meal service adequate to meet nutritional need;

(b) Assistance with daily activities;

(c) Housekeeping aid;

(d) Transportation services;

(e) Wellness programs, preventive health education, referral to community resources;

(f) Personal emergency response; and

(g) Congregate services—includes supportive services that are provided in a congregate setting at a conventional HA development.

(4) *Employment of or Contracting for Service Coordinators.* For the purposes of this NOFA, a service coordinator is any person who is responsible for one or more of the following functions:

(a) Under Family EDSS category grants, assessing the training and supportive service needs of eligible residents;

(b) Working with community service providers to coordinate the provision of services and to tailor services to the needs and characteristics of eligible residents;

(c) Establishing a system to monitor and evaluate the delivery, impact, effectiveness and outcomes of supportive services under this program;

(d) Coordinating this program with other independent living or self-sufficiency, education and employment programs;

(e) Performing duties and functions that are appropriate to assist eligible public and Indian housing residents to become economically self-sufficient;

(f) Performing duties and functions to assist residents to remain independent, and to prevent unnecessary institutionalization;

(g) Mobilizing national and local public/private resources and partnerships; and

(h) Providing any other services and resources, appropriate to assist eligible residents, that are proposed by the applicant, approved by HUD, and authorized by the 1998 Appropriations Act.

(D) *Ineligible Activities.* The following activities are ineligible for funding under the EDSS Program:

(1) Payment of wages or salaries to participants receiving supportive services or training programs, except that grant funds may be used to hire a resident(s) to coordinate training program activities.

(2) Purchase or rental of land or buildings or any improvements to land or buildings.

(3) Building material and construction costs.

(4) The hiring of service coordinators for the same housing development under the Elderly and Disabled SS category in this NOFA if the applicant received a Service Coordinators Program grant under the FY 1998 NOFA.

(5) The purchase of vehicles.

IV. Program Requirements

(A) *Adhere to the Grant Agreement.* After an application has been approved, HUD and the applicant shall enter into a grant agreement (Form HUD–1044 and attachments) incorporating the entire application except as modified by HUD and setting forth the amount of the grant and its applicable terms, conditions, financial controls, payment mechanism (which except under extraordinary conditions will operate under HUD's Line of Credit Control System (LOCCS) and special conditions, including requiring adherence to the appropriate OMB circulars and other government wide requirements and specifying sanctions for violation of the agreement. The grant agreement will include additional information regarding Insurance/Indemnification, Freedom of Information Act, grant staff personnel, exclusion period, earnings and benefits, reports, closeouts, and treatment of income.

(B) *Internet Access.* Prior to the initial draw down, all EDSS grantees shall have secured on-line access to the internet as a means to communicate with HUD on grant matters and EDSS grantees shall have provided 75% of the required MTCS data to HUD. Tribes and TDHEs are exempt from MTCS reporting.

(C) *Risk Management.* Grantees and subgrantees are required to implement, administer and monitor programs so as to minimize the risk of fraud, waste, abuse, and liability for losses from adversarial legal action.

(D) *Administrative Costs.* Administrative costs must not exceed 15% of the grant amount.

(E) *Stipends.* No more than $200 per participant per month of the grant award may be used for stipends for active trainees and EDSS program participants to cover the reasonable costs related to participation in training and other EDSS activities.

(F) *Grant Term.* The grantee must complete its grant activities within two years of the execution of the grant agreement.

(G) *Definitions.* The following definitions apply for this NOFA:

Community Facility means a non-dwelling structure that provides space for multiple supportive services for the benefit of public and Indian housing residents (as well as others eligible for the services provided) that may include but are not limited to:

(1) Child care;

(2) After-school activities for youth;

(3) Job training;

(4) Campus of Learner activities; and

(5) English as a Second Language (ESL) classes.

Contract Administrator means an overall administrator and/or a financial management agent that oversees the financial aspects of a grant and assists in the entire implementation of the grant. Examples of qualified organizations that can serve as a Contract Administrator are:

(1) Local housing authorities; and

(2) Community based organizations such as Community Development Corporations (CDCs), community churches, and State/Regional Associations/Organizations.

Development has the same meaning as the term ''Project'' below.

Firmly Committed means there must be a signed, written agreement to provide the resources. This written agreement may be contingent upon an applicant receiving an award.

Elderly person means a person who is at least 62 years of age.

Person with disabilities means an adult person who:

(1) Has a condition defined as a disability in section 223 of the Social Security Act;

(2) Has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance Bill of Rights Act. Such a term shall not exclude persons who have the disease of acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome; or

(3) Is determined, pursuant to regulations issued by the Secretary, to have a physical, mental, or emotional impairment which:

(i) Is expected to be of long-continued and indefinite duration;

(ii) Substantially impedes his or her ability to live independently; and

(iii) Is of such a nature that such ability could be improved by more suitable housing conditions.

(4) The definition provided above for persons with disabilities is the proper definition for determining program qualifications. However, the definition of a person with disabilities contained in section 504 of the Rehabilitation Act of 1973 and its implementing regulations must be used for purposes of the requirements of Fair Housing laws, including providing reasonable accommodations.

Project is the same as ''low-income housing project'' as defined in section 3(b)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*) (1937 Act).

(H) *Statutory Requirements.* To be eligible for funding under this NOFA, you, the applicant, must meet all applicable statutory and regulatory requirements. If you need copies of regulations, they are available at the HUD web site located at http://www.HUD.gov. HUD may reject an application from further funding consideration if the activities or projects proposed in the application are not eligible activities and projects, or HUD may eliminate the ineligible activities from funding consideration and reduce the grant amount accordingly.

(I) *Threshold Requirements—Compliance with Fair Housing and Civil Rights Laws.* With the exception of Federally recognized Indian tribes, all applicants and their subrecipients must comply with all Fair Housing and civil rights laws, statutes, regulations and executive orders as enumerated in 24 CFR 5.105(a). If you are a Federally recognized Indian tribe, you must comply with the Age Discrimination Act of 1975, section 504 of the Rehabilitation Act of 1973, and the Indian Civil Rights Act.

If you, the applicant: (a) have been charged with a systemic violation of the Fair Housing Act by the Secretary alleging ongoing discrimination; (b) are the defendant in a Fair Housing Act lawsuit filed by the Department of Justice alleging an ongoing pattern or practice of discrimination; or (c) have received a letter of noncompliance findings under Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, or section 109 of the Housing and Community Development Act of 1974, your application will not be evaluated under this NOFA if, prior to the application deadline, the charge, lawsuit, or letter of findings has not been resolved to the satisfaction of the Department. HUD's decision regarding whether a charge, lawsuit, or a letter of findings has been satisfactorily resolved will be based upon whether appropriate actions have been taken necessary to address allegations of ongoing discrimination in the policies or practices involved in the charge, lawsuit, or letter of findings.

(J) *Additional Nondiscrimination Requirements.* You, the applicant, must comply with the Americans with Disabilities Act, and Title IX of the Education Amendments Act of 1972.

(K) *Affirmatively Furthering Fair Housing.* If you are a successful applicant, you will have a duty to affirmatively further fair housing. You, the applicant, should include in your application or work plan the specific steps that you will take to:

(1) Address the elimination of impediments to fair housing that were identified in the jurisdiction's Analysis of Impediments (AI) to Fair Housing Choice;

(2) Remedy discrimination in housing; or

(3) Promote fair housing rights and fair housing choice.

Further, you, the applicant, have a duty to carry out the specific activities provided in your responses to the NOFA rating factors that address affirmatively furthering fair housing.

(L) *Economic Opportunities for Low and Very Low-Income Persons (Section 3).* Recipients of HUD assistance in certain programs must comply with section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (Economic Opportunities for Low and Very Low-Income Persons) and the HUD regulations at 24 CFR part 135, including the reporting requirements subpart E. Section 3 requires recipients to ensure that, to the greatest extent feasible, training, employment and other economic opportunities will be directed to (1) low and very low income persons, particularly those who are recipients of government assistance for housing and (2) business concerns which provide economic opportunities to low and very low income persons.

(M) *Relocation.* Any person (including individuals, partnerships, corporations or associations) who moves from real property or moves personal property from real property directly (1) because of a written notice to acquire real property in whole or in part, or (2) because of the acquisition of the real property, in whole or in part, for a HUD-assisted activity is covered by Federal relocation statute and regulations. Specifically, this type of move is covered by the acquisition policies and procedures and the relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and the implementing governmentwide regulation at 49 CFR part 24. The relocation requirements of the URA and the governmentwide regulations cover any person who moves permanently from real property or moves personal property from real property directly because of rehabilitation or demolition for an activity undertaken with HUD assistance.

(N) *Forms, Certifications and Assurances.* You, the applicant, are required to submit signed copies of the standard forms, certifications, and assurances, listed in this section, as follows:

(1) Standard Form for Application for Federal Assistance (SF–424);

(2) Standard Form for Budget Information—Non-Construction Programs (SF–424A);

(3) Standard Form for Assurances—Non-Construction Programs (SF–424B);

(4) Drug-Free Workplace Certification (Form HUD–50070);

(5) Certification and Disclosure Form Regarding Lobbying (SF-LLL); (Tribes and tribally designated housing entities (THDEs) established by an Indian tribe as a result of the exercise of the tribe's sovereign power are not required to submit this certification. Tribes and TDHEs established under State law are required to submit this certification.)

(6) Applicant/Recipient Disclosure Update Report (HUD–2880);

(7) Certification that the applicant will comply with the requirements of the Fair Housing Act, Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing. CDBG recipients also must certify to compliance with section 109 of the Housing and Community Development Act. Federally recognized Indian tribes must certify that they will comply with the requirements of the Age Discrimination Act of 1975, section 504 of the Rehabilitation Act of 1973, and the Indian Civil Rights Act.

(8) Certification required by 24 CFR 24.510. (The provisions of 24 CFR part 24 apply to the employment, engagement of services, awarding of contracts, subgrants, or funding of any recipients, or contractors or subcontractors, during any period of debarment, suspension, or placement in ineligibility status, and a certification is required.)

(O) *OMB Circulars.* Certain OMB circulars also apply to this NOFA. The policies, guidances, and requirements of OMB Circular No. A–87 (Cost Principles Applicable to Grants, Contracts and Other Agreements with State and Local Governments), OMB Circular No. A–122 (Cost Principles for Nonprofit Organizations), 24 CFR part 84 (Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations) and 24 CFR part 85 (Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Federally recognized Indian tribal governments) may apply to the award, acceptance and use of assistance under this program, and to the remedies for noncompliance, except when inconsistent with the provisions of the FY 1999 HUD Appropriations Act, other Federal statutes or the provisions of this NOFA. Copies of the OMB Circulars may be obtained from EOP Publications, Room 2200, New Executive Office Building, Washington, DC 10503, telephone (202) 395–7332 (this is not a toll free number).

(P) *Environmental requirements.* In accordance with 24 CFR 50.19(b)(3),(9), (12) and (14) of the HUD regulations, activities assisted under the EDSS program are categorically excluded from the requirements of the National Environmental Policy Act and are not subject to environmental review under related laws and authorities.

(Q) *Conflicts of Interest.* If you are a consultant or expert who is assisting HUD in rating and ranking applicants for funding under this NOFA, you are subject to 18 U.S.C. 208, the Federal criminal conflict of interest statute, and the Standards of Ethical Conduct for Employees of the Executive Branch regulation published at 5 CFR part 2635. As a result, if you have assisted or plan to assist applicants with preparing applications for this NOFA, you may not serve on a selection panel and you may not serve as a technical advisor to HUD for this NOFA. All individuals involved in rating and ranking this NOFA, including experts and

consultants, must avoid conflicts of interest or the appearance of conflicts. Individuals involved in the rating and ranking of applications must disclose to HUD's General Counsel or HUD's Ethic Law Division the following information if applicable: the selection or non-selection of any applicant under this NOFA will affect the individual's financial interests, as provided in 18 U.S.C. 208; or the application process involves a party with whom the individual has a covered relationship under 5 CFR 2635.502. The individual must disclose this information prior to participating in any matter regarding this NOFA. If you have questions regarding these provisions or if you have questions concerning a conflict of interest, you may call the Office of General Counsel, Ethics Law Division, at 202–708–3815 and ask to speak to one of HUD's attorneys in this division.

V. Application Selection Process

Three types of reviews will be conducted: a screening to determine if the application submission is complete and on time; a threshold review to determine applicant eligibility; and a technical review to rate the application based on the rating factors in section V.(B) of this NOFA.

(A) *Additional Threshold Criteria For Funding Consideration.* In addition to the threshold requirements listed in section IV.(I) of this NOFA, under the threshold review, the applicant will be rejected from the competition if the applicant is not in compliance with the threshold requirements of this NOFA and if the following additional standards are not met:

(1) *Focus on Residents Affected by Welfare Reform.* The Family EDSS application must demonstrate that at least 51% or more of the public or Indian housing residents to be included in the proposed program are affected by the welfare reform legislation, including Temporary Assistance for Needy Families (TANF) recipients, legal immigrants, and disabled SSI recipients.

(2) *Accessible Community Facility.* The application must provide evidence (e.g. through an executed use agreement if the facility is to be provided by an entity other than the PHA/Tribe/TDHE) that a majority of the proposed activities will be administered at community facilities within easy transportation access of the applicant's property. These facilities must be within walking distance or accessible by direct (no transfers required), convenient, inexpensive and reliable transport. The community facilities must also meet the structural accessibility requirements of Section 504 of the Rehabilitation Act and the Americans With Disabilities Act.

(3) *Match Requirement.* (a) The applicant must supplement grant funds with an in-kind and/or cash match of not less than 25% of the grant amount. This match does not have to be a cash match. The match may include: the value of in-kind services, contributions or administrative costs provided to the applicant; funds from Federal sources (but not EDSS funds); funds from any State, Tribal or local government sources; and funds from private contributions.

(b) The application must demonstrate that the cash or in-kind resources and services, which the applicant will use as match amounts (including resources from the applicant's Comprehensive Grant, other governmental units/agencies of any type, and/or private sources, whether for-profit or not-for-profit), are firmly committed and will support the proposed grant activities. ''Firmly committed'' means there must be a signed, written agreement to provide the resources and services. The written agreement may be contingent upon an applicant receiving a grant award.

(c) The following are guidelines for valuing certain types of in-kind contributions:

(i) The value of volunteer time and services shall be computed at a rate of six dollars per hour except that the value of volunteer time and services involving professional and other special skills shall be computed on the basis of the usual and customary hourly rate paid for the service in the community where the EDSS activity is located.

(ii) The value of any donated material, equipment, building, or lease shall be computed based on the fair market value at time of donation. Such value shall be documented by bills of sales, advertised prices, appraisals, or other information for comparable property similarly situated not more than one-year old taken from the community where the item or EDSS activity is located, as appropriate.

(4) *Compliance with Current Programs.* The applicant must provide certification in the format provided in the application kit that it is not in default at the time of application submission with respect to grants for the following programs: the Family Investment Center Program; the Youth Development Initiative under the Family Investment Center Program; the Youth Apprenticeship Program; the Apprenticeship Demonstration in the Construction Trades Program; the Urban Youth Corps Program; the HOPE 1 Program; the Public Housing Service Coordinator Program; the Public Housing Drug Elimination Program; and the Youth Sports Program. ''Default'' for purposes of this certification means any unresolved findings and/or outstanding recommendations from prior HUD reviews or audits undertaken by HUD, HUD-Office of Inspector General, the General Accounting Office (GAO) or independent public accountants (IPAs).

(5) *PHMAP Score.* In the case of a PHA that is designated as ''troubled'' as a result of its PHMAP score, the PHA must provide documentation that a Contract Administrator (or equivalent organization that is qualified to administer federal grants, contracts, or cooperative agreements as evidence by information submitted in this document) will be deployed in the administration of this proposed grant. An applicant cannot have a PHMAP score less than a ''C'' for Indicator #6, Financial Management, and Indicator #7, Resident Initiatives and Community Building, on its most recent PHMAP.

(B) *Factors for Award Used to Evaluate and Rate EDSS Applications.* The factors for rating and ranking applicants and maximum points for each factor are provided below. The maximum number of points for this program is 102. This includes two Empowerment Zone/Enterprise Community (EZ/EC) bonus points, as described in the General Section of the SuperNOFA. An EDSS application must receive a total of 75 points to be eligible for funding.

Rating Factor 1: Capacity of the Applicant and Relevant Organizational Experience (20 Points)

This factor addresses the extent to which the applicant has the organizational resources necessary to successfully implement the proposed activities in a timely manner. In rating this factor HUD will consider the extent to which the proposal demonstrates:

(1) *Proposed Program Staffing (7 Points)*

(a) *Experience.* (4 Points): The knowledge and experience of the proposed project director and staff, including the day-to-day program manager, sub-recipients and partners in planning and managing programs for which funding is being requested. Experience will be judged in terms of recent, relevant and successful experience of the applicant's staff to undertake eligible program activities.

(b) *Sufficiency.* (3 Points): The applicant, its sub-recipients, and partners have sufficient personnel or will be able to quickly access qualified experts or professionals, to deliver the proposed activities in each proposed

service area in a timely and effective fashion, including the readiness and ability of the applicant to immediately begin the proposed work program. To demonstrate sufficiency, the applicant must submit the proposed number of staff years to be allocated to the project by employees and experts, the titles and relevant professional background and experience of each employee and expert proposed to be assigned to the project, and the roles to be performed by each identified employee and expert.

(2) *Program Administration and Fiscal Management* (7 Points)

(a) *Program Administration.* (4 Points): The soundness of the proposed management of the proposed EDSS program. In order to receive a high score, an applicant must provide a comprehensive description of the project management structure. The narrative must provide a description of how any co-applicants, subgrantees and other partner agencies relate to the program administrator as well as the lines of authority and accountability among all components of the proposed program.

(b) *Fiscal Management.* (3 Points): The soundness of the applicant's proposed fiscal management. In order to receive a high score an applicant must provide a comprehensive description of the fiscal management structure, including, but not limited to, budgeting, fiscal controls and accounting. The application must identify the staff responsible for fiscal management, and the processes and timetable for implementation during the proposed grant period.

(3) *Applicant/Administrator Track Record* (6 Points): Based on the applicant's, or if a Contract Administrator is proposed, the Administrator's, prior performance in successfully carrying out grant programs designed to assist residents in increasing their self-sufficiency, security or independence. In order to receive a high score, the applicant must demonstrate its (or the proposed Administrator's) program compliance and successful implementation of any resident self-sufficiency, security or independence oriented grants (including those listed below) awarded to the applicant or overseen by the Administrator. Applicants or Administrators with no prior experience in operating programs that foster resident self-sufficiency, security or independence will receive a score of 0 on this factor. The applicant's past experience may include, but is not limited to, administering the following grants: the Family Investment Center Program; the Youth Development Initiative under the Family Investment Center Program; the Youth Apprenticeship Program; the Apprenticeship Demonstration in the Construction Trades Program; the Urban Youth Corps Program; the HOPE I Program; the Public Housing Service Coordinator Program; the Public Housing Drug Elimination Program; and the Youth Sports Program.

Rating Factor 2: Need/Extent of the Problem (20 Points)

This factor addresses the extent to which there is a need for funding the proposed program activities to address a documented problem in the target area. Applicants will be evaluated on the extent to which they document a critical level of need in the development or the proposed activities in the area where activities will be carried out. In responding to this factor, applicants will be evaluated on:

(1) *A Needs Assessment Document* (18 Points): HUD will award up to 18 points based on the quality and comprehensiveness of the needs assessment document.

(a) In order to obtain maximum points for Family EDSS Category applications, this document must contain statistical data which provides:

(i) A thorough socioeconomic profile of the eligible residents to be served by the grant, in relationship to PHA-wide and national public and Indian housing data on residents who are on TANF, SSI benefits, or other fixed income arrangements; in job training, entrepreneurship, or community service programs; and employed.

(ii) Specific information on training, contracting and employment through the PHA.

(iii) An assessment of the current service delivery system as it relates to the needs of the target population, including the number and type of services, the location of services, and community facilities currently in use;

(iv) A description of the goals, objectives, and program strategies that will result in successful transition of residents from welfare-to-work.

(b) In order to obtain maximum points for Elderly and Disabled SS Category applications, the needs assessment document should contain statistical data which provides:

(i) The numbers of residents indicating need for assistance for activities of daily living.

(ii) An assessment of the current service delivery system as it relates to the needs of the target population, including the number and type of services, the location of services, and community facilities currently in use.

(iii) A description of the goals, objectives, and program strategies that will result in increased independence for proposed program participants.

(2) *Level of Priority in Consolidated Plan.* (2 Points): Documentation of the level of priority the locality's, or in the case of small cities, the State's, Consolidated Plan has placed on addressing the needs. Applicants may also address needs in terms of fulfilling the requirements of court actions or other legal decisions or which expand upon the Analysis of Impediments to Fair Housing Choice (AI) to further fair housing. Applicants that address needs that are in the community's Consolidated Plan, AI, or a court decision, or identify and substantiate needs in addition to those in the AI, will receive a greater number points than applicants who do not relate their proposed program to the approved Consolidated Plan or AI or court action. There must be a clear relationship between the proposed activities, community needs and the purpose of the program funding for an applicant to receive points for this factor. For Tribes/TDHEs, the Indian Housing Plan would be the document to review for this information.

Rating Factor 3: Soundness of Approach (40 Points)

This factor addresses the quality and cost-effectiveness of the applicant's proposed work plan. In rating this factor HUD will consider: the viability and comprehensiveness of strategies to address the needs of residents; budget appropriateness/efficient use of grant; the speed at which the applicant can realistically accomplish the goals of the proposed EDSS program; the soundness of the applicant's plan to evaluate the success of its proposed EDSS program at completion and during program implementation; and resident and other partnerships; and policy priorities.

(1) *Viability and comprehensiveness of the strategies to address the needs of residents* (19 Points): The score under this subfactor will be based on the viability and comprehensiveness of strategies to address the needs of residents. HUD will award up to 19 points based on the following:

(a) *Services* (13 Points for Family EDSS applicants and 19 Points for Elderly and Disabled SS applicants; more points are awarded in the Elderly and Disabled SS application in order to balance other sections of the rating criteria where points are not applicable to an Elderly and Disabled SS applicant) The score under this subfactor will be based on the following:

(i) For Family EDSS Category applications, the extent to which an applicant's plan provides services that specifically address the successful transition from welfare to work of non-elderly families. To receive a high score, the applicant's plan should include case management/counseling, job training/development/placement (and/or business training/development/startup), child care, and transportation services. Also, in order to receive maximum points, the goals and objectives of the proposed plan must represent significant achievements related to welfare-to-work and other self-sufficiency/independence goals. Specifically for those residents affected by welfare reform, the number of residents employed or resident businesses started are preferable to the number of residents receiving training.

(ii) For Elderly and Disabled SS Category applications, services in the applicant's plan should include case management, health care, congregate services and transportation. To obtain maximum points, the services must be located in a community facility and be available on a 12 hour basis or as needed by the eligible residents.

(b) *Resident Contracting and Employment* (3 Points): The score in this factor will be based on the extent to which residents will achieve self-sufficiency through the applicant's contracts with resident-owned businesses and through resident employment. A high score will be awarded where there is documentation (a letter or resolution from the applicant's governing body) describing the applicant's commitment to hire or contract with at least 15% of residents and a narrative describing the number of resident jobs or contracts involved, as well as the training processes related to the Comprehensive Plan. Elderly and Disabled SS Category applications will not be scored on the criterion in this subcategory.

(c) *Rent and Occupancy Incentives.* (3 Points): The score in this factor will be based on the degree to which the applicant has implemented, proposes to implement, or collaborates with, a public welfare department to implement incentives designed to promote resident self-sufficiency, including but not limited to: ceiling rents, rent exclusions, rent escrows, occupancy preferences for applicants who work or who are in a self-sufficiency program, stipends, or income disregards. A high score is received if the applicant can show how the incentives complement the purposes of the program activities for which the applicant is seeking funding. Elderly and Disabled SS Category applications will not be scored on this criterion.

(2) *Budget Appropriateness/Efficient Use of Grant* (5 Points): The score in this factor will be based on the following:

(a) *Detailed Budget Break-Out.* The extent to which the application includes a detailed budget break-out for each budget category in the SF–424A.

(b) *Reasonable Administrative Costs.* The extent to which the application includes administrative costs below the 15% administrative cost ceiling.

(c) *Budget Efficiency.* The extent to which the application requests funds commensurate with the level of effort necessary to accomplish the goals and objectives, and the extent to which the requested funding is reasonable in relationship to the anticipated results.

(3) *Reasonableness of the Timetable* (2 Points for Family EDSS applicants and 4 Points for Elderly and Disabled SS applicants; more points are awarded in the Elderly and Disabled SS application in order to balance other sections of the rating criteria where points are not applicable to Elderly and Disabled SS applicant):

The score in this factor will be based on the speed of response at which the applicant can accomplish the goals of the proposed EDSS program. To receive a high score, the applicant must demonstrate that it will make substantial program implementation progress within the first six months after grant execution, including putting staff in place, finalizing partnership arrangements, completing the development of requests for proposals, and achieving other milestones that are prerequisites for implementation of the program. In addition the applicant must demonstrate that the proposed timetable for all components of the proposed program is reasonable considering the size of the grant and its activities and that it can accomplish its objectives within the 24 month time limit.

(4) *Program Assessment.* (3 Points for Family EDSS and Elderly and Disabled SS): The score in this factor will be based on the soundness of the applicant's plan to evaluate the success of its proposed EDSS program both at the completion of the program and during program implementation. At a minimum, the applicant must track the goals and objectives of the proposed work plan program, which must include, if applicable, a plan for monitoring the applicant's Contract Administrator. HUD will rate more favorably applicants who can track specific measurable achievements for the use of program funds, such as number of residents employed, salary scales of jobs obtained, persons removed from welfare roles 12 months or longer, number of elderly or disabled residents receiving from supportive services, and number of persons receiving certificates for successful completion of training in careers such as computer technology.

(5) *Resident and Other Partnerships* (9 Points for Family EDSS applicants and 7 Points for Elderly and Disabled SS applicants)

(a) *Resident Involvement in ED/SS Activities* (3 Points for Family EDSS applicants and 4 Points for Elderly and Disabled SS applicants; more points are awarded in the Elderly and Disabled SS application in order to balance other sections of the rating criteria where points are not applicable to and Elderly and Disabled SS applicants): The score in this factor will be based on the extent of resident involvement in developing the proposed EDSS program as well as the extent of proposed resident involvement in implementing the proposed EDSS program. In order to receive a high score on this factor the applicant must provide documentation that describes the involvement of residents in the planning phase for this program, and a commitment to provide continued involvement in grant implementation. In order to receive the maximum number of points, a memorandum of understanding or other written agreement between the applicant and Resident Associations must be included.

(b) *Other Partnerships* (3 Points): The score in this factor will be based on the successful integration of partners into implementation of the proposed EDSS program. In order to receive a high score, an applicant must provide a signed Memorandum of Understanding (MOU) or other equivalent signed documentation that delineates the roles and responsibilities of each of the parties in the program and the benefits they will receive. In assessing this subfactor, HUD will examine a number of aspects of the proposed partnership, including:

(i) The division of responsibilities/management structure of the proposed partnership relative to the expertise and resources of the partners;

(ii) The extent to which the partnership as a whole addresses a broader level of unmet resident needs; and

(iii) The extent to which the addition of the partners provides the ability to meet needs that the applicant could not meet without the partner(s).

(c) *Overall Relationship/TOP Coordination* (3 Points for Family EDSS only): For Family EDSS applicants, the score in this factor will be based on the extent of coordination between the

applicant's proposed EDSS program and any existing or proposed TOP programs sponsored by RAs within the applicant's jurisdiction. In order to receive a high score, the application must contain an MOU that describes collaboration between the applicant's staff and residents on all of the specific components related to the work plan of both the proposed or current TOP and EDSS programs. To receive points, at a minimum, there must a narrative description of this collaboration. If there are no existing and no proposed TOP grants within the jurisdiction of the applicant, the score for this factor will be 0. Elderly and Disabled SS applications will not be scored on this criterion. In addition, if all of the resident groups eligible to apply for TOP within the applicant's jurisdiction have already received TOP grants and will have completed the activities, the applicant will not be scored on this criterion.

(6) *Policy Priorities* (2 Points for Family EDSS and Elderly and Disabled SS): Documentation of the extent to which policy priorities of the Department are furthered by the proposed activities. Such Department policy priorities are: affirmatively furthering fair housing by promoting greater opportunities for housing choice for minorities and the disabled; promoting healthy homes; providing opportunities for self-sufficiency, particularly for persons enrolled in welfare to work programs; providing enhanced economic, social and/or living environments in Empowerment Zones or Enterprise communities; and, providing educational and job training opportunities through such initiatives as Neighborhood Networks or Campus of Learners, and linking programs to AmeriCorps activities. To obtain the full two points in this category, at least three of these five policy priorities must be addressed.

Rating Factor 4: Leveraging Resources (10 Points)

This factor addresses the ability of the applicant to secure community resources (note: financing is a community resource) which can be combined with HUD's program resources to achieve program purposes. In evaluating this factor HUD will consider:

The extent to which the applicant has partnered with other entities to secure additional resources to increase the effectiveness of the proposed program activities. The budget, the work plan, and commitments for additional resources and services, other than the grant, must show that these resources are firmly committed, will support the proposed grant activities and will, in combined amount (including in-kind contributions of personnel, space and/or equipment, and monetary contributions) equal at least 25% of the EDSS grant amount proposed in this application. ''Firmly committed'' means there must be a signed, written agreement with the provider of resources. The signed, written agreement may be contingent upon an applicant receiving a grant award. Other resources and services may include: the value of in-kind services, contributions or administrative costs provided to the applicant; funds from Federal sources (not including EDSS funds); funds from any State or local government sources; and funds from private contributions. Applicants may also partner with other program funding recipients to coordinate the use of resources in the target area.

Applicants must provide evidence of leveraging/partnerships by including in the application letters of firm commitments, memoranda of understanding, or agreements to participate from those entities identified as partners in the application. To be firmly committed there must be a signed, written agreement with the provider of resources. This agreement may be contingent upon an applicant receiving a grant award. Each letter of commitment, memorandum of understanding, or agreement to participate should include the organization's name, proposed level of commitment and responsibilities as they relate to the proposed program. The commitment must also be signed by an official of the organization legally able to make commitments on behalf of the organization.

Rating Factor 5: Comprehensiveness and Coordination (10 Points)

This factor addresses the extent to which the applicant's program reflects a coordinated, community-based process of identifying needs and building a system to address the needs by using available HUD funding resources and other resources available to the community.

In evaluating this factor HUD will consider the extent to which the application addresses:

(1) *Coordination with the Consolidated Plan* (2 Points for Family EDSS applicants and 6 points for Elderly and Disabled SS applicants; more points are awarded in the Elderly and Disabled SS application in order to balance other sections of the rating criteria where points are not applicable to an Elderly and Disabled SS application.) Demonstrates the applicant has reviewed the community's Consolidated Plan and/or Analysis of Impediments to Fair Housing Choice, and has proposed activities that address the priorities, needs, goals or objectives in those documents; or substantially further fair housing choice in the community. For tribes/TDHEs the Indian Housing Plan would be the document to review for information.

(2) *For Family EDSS Applications, Coordination with the State or Tribal Welfare Plan* (4 Points): Provides evidence that the proposed EDSS program has been coordinated with and supports the applicant's efforts to increase resident self-sufficiency and is coordinated and consistent with the State or Tribal Welfare Plan.

(3) *Coordination with Other Activities* (4 Points): Demonstrates that the applicant, in carrying out program activities, will develop linkages with: other HUD funded program activities proposed or on-going in the community; or other State, Federal or locally funded activities proposed or on-going in the community which, taken as a whole, support and sustain a comprehensive system to address the needs.

(C) *Selections.* In order to be considered for funding under the EDSS program, an applicant must receive a minimum score of 75. Applications will be rated and ranked under the rating factors in section V.(B), above, and funded in rank order. If two or more applications have the same number of points, the application with the most points for Factor 3, Soundness of Approach shall be selected. If there is still a tie, the application with the most points for Factor 4, Leveraging Resources shall be selected.

VI. Application Submission Requirements

The applicant must submit the following, which are further described in the application kit:

(A) Needs Assessment Report which includes statistical or survey information on the needs of the recipient population; please use the appropriate format provided in the application kit.

(B) A two-year work plan for implementing EDSS activities which includes goals, budget, timetable and strategies. In addition to a narrative, please use the formats provided in the application kits to chart the following:

(1) Activity plan summary;

(2) Activity breakout;

(3) Budget breakout;

(4) Summary budget;

(5) Program resources; and

(6) Program staffing;

(C) Information on the applicant's and/or administrator's track record. Please provide the chart and/or certification format provided in the application kit;

(D) Signed certifications and assurances referenced in this NOFA.

(E) Signed memorandum of Understanding/Agreement; commitment letters; and other required documentation of partnerships.

VII. Correction to Deficient Applications

After the application due date, HUD may not, consistent with 24 CFR part 4, subpart B, consider unsolicited information from an applicant. HUD may contact an applicant, however, to clarify an item in the application or to correct technical deficiencies.

Applicants should note, however, that HUD may not seek clarification of items or responses that improve the substantive quality of the applicant's response to any eligibility or selection criterion. Examples of curable technical deficiencies include failure to submit the proper certifications or failure to submit an application containing an original signature by an authorized official. In each case, HUD will notify the applicant in writing by describing the clarification or technical deficiency. HUD will notify applicants by facsimile or by return receipt requested.

Applicants must submit clarifications or corrections of technical deficiencies in accordance with information provided by HUD within 14 calendar days of the date of receipt of the HUD notification. If the deficiency is not corrected within this time period, HUD will reject the application as incomplete.

VIII. Findings and Certifications

(A) *Paperwork Reduction Act Statement.* The information collection requirements contained in this NOFA have been approved by the Office of Management and Budget under OMB Approval No. 2577–0211. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

(B) *Environmental Impact.* This NOFA does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate property acquisition, disposition, lease, rehabilitation, alteration, demolition, or new construction, or set out or provide for standards for construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this NOFA is categorically excluded from environmental review under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321).

(C) *Federalism, Executive Order 12612.* The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this NOFA will not have substantial direct effects on States or their political subdivisions, or on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Specifically, the NOFA solicits applicants to help eligible families make the transition from welfare to work, and does not impinge upon the relationships between the Federal government and State and local governments. As a result, the NOFA is not subject to review under the Order.

(D) *Prohibition Against Lobbying Activities.* You, the applicant, are subject to the provisions of section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991, 31 U.S.C. 1352 (the Byrd Amendment), which prohibits recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, grant, or loan. You are required to certify, using the certification found at Appendix A to 24 CFR part 87, that they will not, and have not, used appropriated funds for any prohibited lobbying activities. In addition, you must disclose, using Standard Form-LLL, ''Disclosure of Lobbying Activities,'' any funds, other than Federally appropriated funds, that will be or have been used to influence Federal employees, members of Congress, and congressional staff regarding specific grants or contracts. Tribes and tribally designated housing entities (THDEs) established by an Indian tribe as a result of the exercise of the tribe's sovereign power are excluded from coverage of the Byrd Amendment, but tribes and TDHEs established under State law are not excluded from the statute's coverage.)

(E) *Section 102 of the HUD Reform Act; Documentation and Public Access Requirements.* Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545) (HUD Reform Act) and the regulations codified in 24 CFR part 4, subpart A, contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992 (57 FR 1942), HUD published a notice that also provides information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 apply to assistance awarded under this NOFA as follows:

(1) *Documentation and public access requirements.* HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a 5-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations in 24 CFR part 15.

(2) *Disclosures.* HUD will make available to the public for 5 years all applicant disclosure reports (Form HUD–2880) submitted in connection with this NOFA. Update reports (also Form HUD–2880) will be made available along with the applicant disclosure reports, but in no case for a period less than 3 years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 5.

(3) *Publication of Recipients of HUD Funding.* HUD's regulations at 24 CFR 4.7 provide that HUD will publish a notice in the **Federal Register** on at least a quarterly basis to notify the public of all decisions made by the Department to provide:

(i) Assistance subject to section 102(a) of the HUD Reform Act; or

(ii) Assistance that is provided through grants or cooperative agreements on a discretionary (non-formula, non-demand) basis, but that is not provided on the basis of a competition.

(F) *Section 103 HUD Reform Act.* HUD's regulations implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3537a), codified in 24 CFR part 4, apply to this funding competition. The regulations continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by the regulations from providing advance information to any person (other than an authorized employee of HUD)

concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Ethics Law Division at (202) 708–3815. (This is not a toll-free number.) For HUD employees who have specific program questions, the employee should contact the appropriate field office counsel, or Headquarters counsel for the program to which the question pertains.

(G) *Catalog of Federal Domestic Assistance Numbers.* The Catalog of Federal Domestic Assistance number for this program is 14.863.

IX. Authority

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Pub. L. 104–204, 110 Stat. 2874, at 2887, approved September 26, 1996) and the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1998 (Pub. L. 105–65, 111 Stat. 1344, at 1356, approved October 27, 1997).

Dated: March 4, 1999.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 99–5860 Filed 3–9–99; 8:45 am]

BILLING CODE 4210–33–P

Federal Register

Wednesday
March 10, 1999

Part IV

Department of Housing and Urban Development

Fiscal Year 1999 Notice of Funding Availability; Secondary Market for Non-Conforming Loans to Low-Wealth Borrowers Demonstration Program; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4348–N–02]

Fiscal Year 1999 Notice of Funding Availability; Secondary Market for Non-Conforming Loans to Low-Wealth Borrowers Demonstration Program

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of funding availability (NOFA) for Fiscal Year 1999.

SUMMARY: This NOFA announces the availability of $10,000,000 in funding for grants to qualified nonprofit organizations to demonstrate methods of expanding the secondary market for non-conforming home mortgage loans to low-wealth borrowers. The NOFA is issued under the HOME Investment Partnership Program.

Purpose. To enhance homeownership opportunities for low-wealth borrowers by enabling nonprofit intermediaries (including Community Development Financial Institutions) to purchase non-conforming home loans from conventional lenders, document the performance of these pools of affordable mortgages, and thereby encourage the secondary market and institutional investors to expand purchases of, or investments in, loans made to low-income home buyers. The goal of the demonstration is to expand the secondary market by ensuring that non-conforming loans have a receptive and dependable outlet.

Available Funding. $10,000,000.

APPLICATION DUE DATE: Requests for funding must be physically received by 4:30 p.m. Eastern Time on May 10, 1999. It is NOT sufficient for a request to bear a postmark within the deadline. *Requests for funding sent by facsimile (FAX) will not be accepted.* The deadline is firm as to date and hour, and HUD will treat as ineligible for consideration requests for funding received after the deadline. Respondents should take this policy into account and consider early submission to avoid any risk of loss of eligibility brought about by any unanticipated or delivery-related problems.

ADDRESS FOR SUBMITTING REQUESTS FOR FUNDING: One original and two copies of the request for funding must be submitted to HUD Headquarters, Office of Insured Single Family Housing, Room 9266, 451 Seventh Street, SW, Washington, DC 20410, *ATTN: Secondary Market Demonstration Program*.

FOR FURTHER INFORMATION CONTACT: Vance T. Morris, Director, Home Mortgage Insurance Division, Department of Housing and Urban Development, Room 9266, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–2700, ext. 2204. (This is not a toll-free number.) Hearing- or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background—Building on the Advance Notice of Demonstration Program

On August 4, 1998 (63 FR 41703), HUD published an Advance Notice of Demonstration in the **Federal Register**. In this notice, HUD advised the public of its intent to establish a program that would demonstrate methods of expanding homeownership opportunities for low-income borrowers by expanding the secondary market for non-conforming home mortgage loans to low-wealth borrowers. In this notice, HUD also presented questions to solicit public comment on several issues. Public comments were received from seven entities. HUD's questions and a summary of the comments received are set forth below.

Question 1: What should be the desired and expected outcomes of the demonstration program?

Responses:

(a) The program should be developed to ensure that new/additional loans are made to low-wealth borrowers rather than just providing for additional liquidity for lenders.

(b) Other goals include increasing the number of:

(i) Lenders engaged in non-conforming lending; and

(ii) Non-conforming loans made by private lenders and purchased by secondary market providers.

Question 2: How should HUD define a ''low-wealth'' borrower for this demonstration program?

Responses:

(a) Use an asset test.

(b) Require that borrowers have liquid assets of less than 80% of the national median net worth.

(c) Define a low-wealth borrower to be a borrower who:

(i) Is a first-time homebuyer;

(ii) Has a loan-to value ratio of 95% or more; and

(iii) Has income at or below 80% of area median income.

(d) Limit using demo funds for borrowers under 80% of area median income families, but strongly recommended studying borrowers at or below 115% of area median income.

(e) Pay particular attention to families with incomes under $20,000 a year.

Question 3: What would be the characteristics of an effective strategy?

Responses:

(a) Commenters listed the following characteristics:

(i) Obtains a great deal of data;

(ii) Leverages demonstration funds;

(iii) Results in a significant level of additional loans to low-wealth borrowers;

(iv) Provides thorough documentation of loan performance;

(v) Provides pre-purchase and post-purchase housing counseling.

(b) Should involve current secondary mortgage makers whose recordkeeping and administrative systems would lend credibility to the results.

Question 4: What are the best measures to assess a strategy's potential impact on the future availability of private credit to low-wealth borrowers?

Responses: Long term, it (the program) should be able to measure and account for the results in a predictable manner. Shorter term, it should measure the number of additional non-conforming loans made by participating lenders that would not otherwise have been made.

Question 5: What factors might HUD consider in defining ''experience working with lenders'' for this demonstration program? What factors might be more (or less) relevant in an applicant's experience working with lenders?

Responses:

(a) Commenters indicated that relevant legal agreements, such as loan sale and loan servicing agreements, could be indicators of experience.

(b) Other factors include:

(i) Number of years the secondary market provider has worked with private lenders;

(ii) Total number of non-conforming loans purchased and the extent to which a participating private lender's underwriting criteria is influenced by the secondary market provider's purchase requirements.

Question 6: A ''non-conforming loan'' is generally defined as a loan that does not meet Fannie Mae and Freddie Mac underwriting criteria. Should other definitions be considered?

Responses:

(a) For a demonstration, the definition should be as expansive as possible. It should be any loan that is so classified by the originating lender *at time of origination* and which they would otherwise hold in portfolio.

(b) The demonstration should not include a loan which at time of purchase has a poor payment record.

(c) The following loans are inappropriate for the demonstration:

(i) Unseasoned loan;

(ii) A loan that may require a second mortgage loan committee review; or

(iii) A loan that does not meet conventional appraisal standards.

(d) Should include lack of mortgage insurance because the existing secondary market does not buy loans without mortgage insurance.

Question 7: How should HUD assess the applicant's experience in expanding the secondary market for such loans for this demonstration program?

Responses:

(a) Assessment should be based on experience in expanding the secondary market for non-conforming loans based on originating, purchasing and selling non-conforming loans. Applicant should have experience with 3 of the following:

(i) Fannie Mae;

(ii) Freddie Mac;

(iii) The capital markets; and

(iv) Private mortgage insurance companies.

(b) Should include direct experience in operating a secondary market by factors such as:

(i) Volume of loans purchased;

(ii) Geographic diversity; and

(iii) Performance of portfolio.

(c) Should include current experience evidenced by special loan products offered by the secondary market.

(d) Should include experience of applicant or its affiliates in originating non-conforming loans by factors such as:

(i) Volume;

(ii) Loan performance record; and

(iii) Geographic diversity, including urban and rural mix.

Question 8: The House Report indicates that the demonstration portfolios should consist of loans that are non-conforming due to high loan-to-value ratio, missed payments, credit blemishes, or a lack of credit. Are these factors adequate, or are there other factors that HUD should evaluate?

Responses:

(a) Should not include missed payments on the loan involved. Should maintain a distinction between ''nonperforming'' loans and ''non-conforming'' loans. HUD should consider front and back debt ratios, amount of down payment and the property location.

(b) Other factors could include loans for properties that the secondary market might regard as obsolete, loans in neighborhoods that may be regarded as high-risk, or loans to borrowers with low credit scores.

(c) The entire list of common reasons that Fannie Mae, Freddie Mac, and private mortgage insurance companies decline loans should be candidates for evaluation.

Question 9: Are there any compensating characteristics among such borrowers that are not criteria recognized in conventional or standard underwriting guidelines?

Responses: The demonstration could consider macro compensating characteristics such as:

(a) Lower default rates among low-income homebuyers as compared to middle-and high-income families; and

(b) Benefits of pre-and post-purchase homeownership counseling and early foreclosure prevention intervention.

Question 10: How should HUD determine ''demonstrated success'' for this program?

Responses:

(a) By evidence of actual receipt of non-Federal grants and actual loan closing on concessionary terms to support secondary market-related activities during a two-year period;

(b) By documenting performance and loss characteristics on loans made or facilitated; and

(c) By examining working relationships with lenders who make non-conforming loans to low-income borrowers.

Question 11: For purposes of the demonstration program, is there a preferred use of the funds? Should the efficiency of leverage in the use of the funds be a requirement?

Responses:

(a) There should be a 10:1 leverage ratio with the preferred use of funds being as capital reserves. Demonstration funds should not be used solely to originate or purchase loans. Using these funds for capital reserves, loan guarantees, and loan loss reserves would generate more funding through leveraging.

(b) The preferred use of funds should not be established at the application stage.

Question 12: The FY 1998 Appropriations Act also requires that the selected applicant must ''have demonstrated the ability to provide data on the performance of such loans sufficient to allow for future analysis of the investment risk of such loans.'' What information does HUD need to collect?

Responses:

(a) Recommended that awardees collect the following information:

(i) Demographics of borrower;

(ii) Reasons why loan is classified as non-conforming;

(iii) Front-end and back-end debt ratios;

(iv) Age of loan at time of purchase;

(v) Whether borrower received pre-purchase counseling;

(vi) Who provided the counseling and the type/extent of counseling;

(vii) Delinquencies (number of loans and percentage of portfolio at 30, 60, and 90 days);

(viii) For loans at least 60 days delinquent, actions taken or planned to address loan delinquency;

(ix) Number of loans and percentage of portfolio in default (more than 90 days delinquent);

(x) Actions taken to correct default;

(xi) Number and percentage of loans restructured;

(xii) For each loan restructured, the specific terms of the restructuring; and

(xiii) For each loan in default an indication whether the borrower received post-purchase counseling.

(b) Information to be tracked should be predefined and ultimately uniform, but HUD should let the awardees develop the content and specific format.

(c) The information used should be standard data used by the secondary market.

Question 13: How frequently and for how long a duration of time should this information be reported?

Responses:

(a) The information should be reported annually in an aggregated manner.

(b) The information should be maintained and collected for at least 8 years.

(c) Awardees should be able to use a modest portion of the grant to defray additional administrative costs during the reporting period.

Question 14: In order to maximize the credibility and impact of the demonstration, the conferees expect HUD to give priority to applicants that have ''sophisticated existing data collection capabilities, including adequate loan portfolio monitoring and analysis.'' How might HUD assess data collection capability?

Responses:

(a) HUD can assess the capability through a narrative section of the application which would include:

(i) A statement of whether the applicant or affiliate has a designated data collection unit where data collection and analysis rests;

(ii) The number of staff directly responsible for these task and their percentage of time;

(iii) The qualifications of data collection and analysis managers and staff; and

(iv) A detailed statement of the types of data currently collected, the

frequency of collection, and an explanation of how the data are collected, maintained and used.

(b) HUD may consider a statement from the applicant which includes:

(i) The applicant's hardware and software capabilities;

(ii) The number of loans in the applicant's system;

(iii) The current data collection mechanisms;

(iv) The staff capacity for data collection responsibilities;

(v) The applicant's experience with formal reporting on lending activities; and

(vi) The ability to provide a longitudinal analysis that is based upon years of lending experience.

Question 15: The conferees expect the Secretary to give priority to organizations that have statewide or multi-state service areas, and have a mix of urban and rural loans. How important is a diversified portfolio in assessing investment risk for purposes of the criterion described above?

Responses: Two commenters stressed geographic diversity and urban, suburban and rural representation. One commenter recommended that at least 80 percent of a portfolio be from inner cities and rural areas.

Question 16: Should automated mortgage finance tools, such as credit or mortgage scoring, be evaluated in this demonstration? Are there other tools that should be examined?

Responses: Commenters gave both answers: No, because the scale of the program is too small and the length of the program is too short to reach any conclusion on credit or mortgage scoring. Yes, because the objective should be to determine the degree to which the average scores and mortgage scores on approved loans in a study differ from those on a similar category of approved loans by the secondary market providers.

II. The Demonstration Program for Secondary Market for Non-Conforming Loans to Low-Wealth Borrowers—Purpose and Substantive Description

(A) *Authority.* The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 (Pub.L. 105–65, 111 Stat. 1344, 1359, approved October 27, 1997) (the ''FY 1998 Appropriations Act'') set aside $10 million from the HOME Investment Partnerships program for grants for up to three organizations (including Community Development Financial Institutions) that are exempt from Federal taxation under section 501(a) pursuant to section 501 (c)(3) of the Internal Revenue Code of 1986, selected on a competitive basis, to demonstrate methods of expanding homeownership opportunities for low-wealth borrowers through expanding the secondary market for non-conforming home mortgage loans. No separate implementing regulations will be issued.

(B) *Purpose of the Demonstration Program and Requirements.* As noted earlier, the Secondary Market Demonstration Program is intended to demonstrate methods of expanding homeownership opportunities for low-income borrowers through expanding the secondary market for non-conforming home mortgage loans made to low-wealth borrowers. The applicant is required to go beyond addressing the immediate credit needs of lower-income borrowers to one of developing a *strategy* for expanding the secondary market for affordable home mortgage loans. The use of loan loss pools to support the purchase, holding and subsequent sale of non-conforming loans from lenders is highly desirable. The goal is for the lenders involved in this demonstration to use the proceeds from such sales to make additional non-conforming loans to low-wealth borrowers. Because of the demonstration nature of this project, successful grantees *must* be able to show the ability to adequately collect data on the underwriting and performance of the loans purchased.

(C) *Applicable Definitions for Purposes of this Demonstration.*

Low Wealth means a borrower who:

(1) Is a first-time homebuyer;

(2) Has a loan-to-value ratio of 95% or more;

(3) Has income at or below 80% of area median income; and

(4) Has insufficient funds required for downpayment and closing costs associated with the mortgage transaction.

Non-conforming mortgages are defined to include loans which are classified by the originating lender *at the time of origination* as non-conforming and which the lender would otherwise plan to hold in portfolio because there is not a predictable secondary market outlet for it. Examples of non-conforming loans include, but are not limited to, loans in neighborhoods that may be regarded as high-risk, a unseasoned loan, or loans to borrowers with low credit scores. It does not include loans that have, at the time of purchase, missed payments on that particular loan.

(D) *Eligibility Criteria.* In selecting the grantees for this demonstration program, the FY 1998 Appropriations Act provides the criteria for participating in this demonstration program. The applicant must address each in its proposal:

(1) Verification that the applicant is exempt from Federal Taxation under section 501(a) pursuant to 501(c)(3) of the Internal Revenue Code of 1986;

(2) Experience working with lenders who make non-conforming loans to low-wealth borrowers;

(3) Experience in expanding the secondary market for such loans (to low-wealth borrowers);

(4) Demonstrated success in carrying out such activities, including raising non-Federal grants and capital on concessionary terms for the purpose of expanding the secondary market for loans in the previous two years in amounts equal or exceeding the amount awarded; and

(5) Demonstrated ability to collect and provide data on the performance of such loans purchased, and sufficient enough in size to allow for future analysis of the investment risk of such loans.

(E) *Threshold Requirements.* Applicants must provide proof/certification of:

(1) *Exempt from Federal Taxation.* The applicant must submit proof that it is exempt from Federal Taxation under section 501 (a) pursuant to section 501 (c)(3) of the Internal Revenue Code of 1986.

(2) *Compliance with Fair Housing and Civil Rights Laws.* Applicants must comply with all fair housing and civil rights laws, statutes, regulations, and executive orders as enumerated in 24 CFR 5.105(a). If an applicant: (a) has been charged with a systemic violation of the Fair Housing Act by the Secretary alleging ongoing discrimination; (b) is the defendant in a Fair Housing Act lawsuit filed by the Department of Justice alleging an ongoing pattern or practice of discrimination; or (c) has received a letter of noncompliance findings under Title VI of the Civil Rights Act, section 504 of the Rehabilitation Act of 1973, or section 109 of the Housing and Community Development Act, the application will not be evaluated under this NOFA if, prior to the application deadline, the charge, lawsuit, or letter of findings has not been resolved to the satisfaction of the Department. HUD's decision regarding whether a charge, lawsuit, or a letter of findings has been satisfactorily resolved will be based upon whether appropriate actions have been taken necessary to address allegations of ongoing discrimination in the policies or practices involved in the charge, lawsuit, or letter of findings.

(3) *Additional Nondiscrimination Requirements.* Applicants also must comply with the Americans with Disabilities Act, and Title IX of the Education Amendments Act of 1972, as applicable.

(4) *Affirmatively Furthering Fair Housing.* Successful applicants have a duty to affirmatively further fair housing. Applicants should include in their work plans the specific steps that they will take to promote fair housing rights and fair housing choice.

(5) *Forms, Certifications and Assurances.* Applicants are required to submit signed copies of the standard forms, certifications, and assurances that are included as attachments to this NOFA.

(6) *OMB Circulars.* The policies, guidance, and requirements of OMB Circular No. A–122 (Cost Principles for Nonprofit Organizations) and OMB Circular No. A–133 (Audits of States, Local Governments, and Non-Profit Organizations), and the requirements of 24 CFR part 84 (Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations) apply to the award, acceptance and use of assistance under this NOFA, and to the remedies for noncompliance, except when inconsistent with the provisions of the FY 1998 HUD Appropriations Act, other Federal statutes or the provisions of this NOFA. Copies of the OMB Circulars may be obtained from EOP Publications, Room 2200, New Executive Office Building, Washington, DC 10503, telephone (202) 395–7332 (this is not a toll free number).

(7) *Coastal Barriers and Flood Insurance.* Pursuant to the Coastal Barriers Resources Act (16 U.S.C. 3501), recipients may not use funds provided under this NOFA to purchase mortgages on properties located within the Coastal Barriers Resource System.

Pursuant to the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001–4128), recipients may not use funds provided under this NOFA to purchase mortgages on properties located in special flood hazard areas designated by the Federal Emergency Management Agency (FEMA) unless:

(1) The community in which the property is located is participating in the National Flood Insurance Program, or less than one year has passed since FEMA notification regarding such hazards; and

(2) Where the community is participating in the National Flood Insurance Program, flood insurance covering the building or mobile home and any personal property has been obtained and is a condition of the mortgage.

Review of Eligibility Criteria and Threshold Requirements. HUD will review each application to determine whether the application meets all of the eligibility criteria and threshold requirements listed in Sections II.D and E of this NOFA and will conduct a review of the required certifications and information listed in this section. HUD may check to independently verify information contained in the request for funding or request additional information from the respondent. HUD may contact the applicant, however, to clarify an item in the application or to correct *technical* deficiencies. HUD may not seek clarification of items or responses that improve the substantive quality of the applicant's response to any eligibility or selection factors. *Examples* of curable (correctable) technical deficiencies include the failure to submit the proper certifications or the failure to submit an application that contains an original signature by an authorized official. In each case, HUD will notify the applicant in writing by describing the clarification or technical deficiency. HUD will notify applicants by facsimile or by return receipt requested. Applicants must submit clarifications or corrections of technical deficiencies in accordance with the information provided by HUD by no later than 4:30 p.m. (eastern time) on the 14th calendar day after the date of receipt of the HUD notification. If the deficiency is not corrected within this time period, HUD will reject the application as incomplete, and it will not be considered for funding.

(F) *Application Selection Process.* Applicants that meet the threshold review described above, will have their proposal reviewed and scored by HUD Headquarters staff based on selection factors listed in Section II.H below. Applications will be funded in rank order.

(G) *Number of Applicants to be Selected.* Up to three applicants meeting the requirements outlined in this NOFA will be selected for funding. Funding may not be awarded in equal amounts if more than one applicant is selected. HUD reserves the right to fund less than the full amount requested in any application to ensure the fair distribution of the funds and ensure that the purposes of the demonstration are met. HUD may choose not to fund portion of the applications that are ineligible for funding under applicable statutory requirements or which do not meet the demonstration requirements. If funds remain after funding the highest ranking applications, HUD may fund part of the next highest ranking application. If the applicant turns down the award offer, HUD will make the same determination for the next highest ranking application.

(H) *Rating and Ranking Factors.*

Rating factor 1: Experience of the Applicant as determined by HUD (25 points).

Applicants will be rated on the narrative and supporting materials which document the experience level of the applicant.

(1) The applicant should provide substantive examples of its experience working with lenders who make non-conforming loans to low-wealth borrowers. Substantive examples means that the applicant describes previous projects (and outcomes) relevant to this demonstration. (10 points)

(2) The applicant should describe the demographic data on the pool(s) of loans purchased or otherwise obtained, including, number of loans (pool size), target markets and explanations of why purchased along with characteristics of selected areas (median income, etc.), Borrower demographics (income, age, sex, race, national origin, familial status, and persons with disabilities) and collateral characteristics (property value). (10 points)

(3) The applicant should describe the origination requirements (required ratios, downpayment requirements, loan-to-value, etc.), counseling requirements, both pre- and post purchase and servicing intervention techniques, a provide the default rate on these loans (if available). (3 points)

(4) The applicant should describe how previous programs have specifically benefited borrowers. (2 points)

The applicant will receive higher scores for narratives which include projects with several lenders and include large pools with loans in statewide or multi-state areas and both urban and rural areas. In addition, higher scores will be granted for those applicants demonstrating specific counseling requirements and servicing intervention techniques.

Rating Factor 2: Data Collection and Analysis Capabilities of the Applicant as determined by HUD (20 points).

Applicants will be rated on the narrative and supporting materials which clearly document the data collection and analytical capabilities of the applicant. The applicant must provide a description of:

(1) The applicant's experience with formal reporting on lending activities and samples of reports currently used (or a format for the reports which will

be submitted to the Department) to capture the information needed for this demonstration and for reports to Congress. (6 points)

(2) A description of the current data collection capabilities; (6 points)

(3) The professional staff available for data collection and analysis; (3 points)

(4) The applicant's hardware and software capabilities; (3 points)

(5) The number of loans currently in the applicant's system. (2 points)

Applicants will receive higher scores for demonstrating *existing* data collection capabilities including loan portfolio and monitoring/analysis systems. In addition, the applicant must have professional staff on hand, adequate computer systems (Pentium or higher processor) and present samples of reports which indicate that the applicant is able to efficiently collect and report data on this demonstration.

Rating Factor 3: Adequacy of the activities proposed by the applicant in response to this NOFA (35 points).

The applicant will be rated on the narrative and supporting materials which document how the grant funds will be used, if awarded, to expand the secondary market. The applicant must provide:

(1) The extent to which the funds awarded will be used. A comprehensive approach is preferable to an approach which simply provides *only* for the purchase or origination of loans). A description of the proposed program and how it will operate, (e.g., how it will be used to purchase, hold, and/or sell non-conforming loans or how a loan loss reserve will be used). The materials should provide information on the following:

(a) Target market to be reached (both the location of borrowers and their demographic characteristics);

(b) How the proposed program meets a market niche (for example, an explanation of how the target borrowers are underserved by both conventional and governmental loan programs);

(c) Origination, servicing, loss mitigation, counseling requirements; the Department *requires* the applicant to maintain a record of credit scores for all loans involved in this demonstration. The credit score should not be used to qualify borrowers. This information will be used to determine if there is a correlation between credit scores and loan performance;

(d) Credit enhancements;

(e) Investor requirements, if applicable and;

(f) A description of the expected characteristics of loans in the portfolio it will evaluate in its proposal (i.e., those elements that make the loans non-conforming), and describe how it will determine if there are compensating factors associated with those mortgages in the portfolio that are not recognized in traditional or standard underwriting. (20 points)

(2) How the funds awarded will be matched with non-Federal funds. (5 points)

(3) How the funds will be leveraged (lender commitments are expected). (5 points)

(4) A sample of the proposed quarterly report which will be submitted to the Department and other aspects of the program must be described including, but not limited to, the administrative structure and program monitoring and the identification of participating lenders. The program description must be complete and demonstrate that the respondent can fulfill programmatic obligations within 24 months. Reports on the loan performance are required for an additional 60 months. In describing the program, respondents must include a program schedule and performance benchmarks for the 24 month period of the grant agreement. Finally, a budget which includes the sources and uses of all funds, including program income and accrued interest, a description of the respondent's cash management system and proposed distribution of funds among participating organizations. (3 points)

(5) Key staff who will be responsible for implementing the program must be identified along with adequate descriptions of their qualifications. (2 points)

Applicants will be given higher scores for comprehensive approaches, lender commitments to participate with the applicant in this program, and a plan which indicates a specific market niche to be reached and how the applicant's program meets that market. Applicants will lose points if they do not indicate that they will collect credit scores for analytical purposes.

Rating Factor 4: Evidence of success in carrying out activities such as these including raising non-Federal grants and capital on concessionary terms for the purpose of expanding the secondary market for loans in the previous two years in amounts equal to or exceeding the amount awarded (20 points).

(1) The applicant will be rated on the narrative and supporting documentation which support at least *two years* experience in leveraging non-Federal funds. (10 points)

(2) The applicant must show evidence of the prior financial commitments (letters and written agreements) that were used to administer previous programs. These letters and agreements should indicate the date of award, the amount of funds awarded and information regarding how these funds were used to expand the secondary market. (10 points)

Applicants will be given higher scores for demonstrating a longer track record of leveraging public sector funds and a willingness to match funds awarded under this demonstration with non-Federal funds.

(I) *Other Federal Requirements.* HUD may reject an application from further funding consideration if the activities or projects proposed in the application are not eligible activities and projects, or HUD may eliminate the ineligible activities from funding consideration and reduce the grant amount accordingly.

(J) *Unused and Recaptured Funds.* HUD will recapture undisbursed amounts from the grantees who fail to substantially fulfill, or improperly fulfill, these obligations within 24 months. Reports will be required for 60 additional months. The successful grantees will be paid according to a draw schedule that will allocate between 25–50% of the funds at the time of grant award and the remainder following the receipt and detailed reviews of quarterly reports outlining the progress of the demonstration. If the grantee fails to fulfill, or improperly fulfills its obligations, HUD at its discretion may either:

(1) Recapture the funds and use for other purposes (as permitted);

(2) Readvertise availability of funds that have been recaptured; or

(3) Choose to fund alternate applicants that submitted requests for funding in response to this NOFA in accordance with the selection process described elsewhere in this document.

III. Request for Funding-Organization of the Proposal Package

Application Submission Requirements. The information submitted to HUD should be placed in a three ring binder, tabbed appropriately and appear in the following order:

(1) Evidence of the respondent's nonprofit status, such as a copy of a current IRS ruling that the respondent is exempt from taxation under section 501(a) pursuant to section 501(c)(3) of the Internal Revenue Code of 1986.

(2) Required certifications (listed below):

(a) Evidence of adequate existing financial control procedures, indicating how it meets 24 CFR 84.21, ''Standards for Financial Management Systems.'' In

addition, respondents must provide a copy of their most recent audit.

(b) OMB Standard Form 424, Request for Federal Assistance.

(c) Form HUD–2880, Applicant/Recipient Disclosure Update Report as required under subpart C of 24 CFR part 4, subpart A, ''Accountability in the Provision of HUD Assistance.''

(d) Standard Form 424B, Assurances-Non-Construction Programs.

(e) Certification Concerning Use of Federal Funds for Lobbying, Form SF–LLL.

(f) Form HUD–2992 regarding the employment, engagement of services, awarding of contracts, subgrants, or funding of any recipients, or contractors or subcontractors, during any period of debarment, suspension, or placement in ineligibility status.

(3) Information to address the experience level of the applicant (Rating Factor 1);

(4) Information to address the data capabilities of the applicant (Rating Factor 2);

(5) Information to address the adequacy of the proposed activities of the applicant (Rating Factor 3) and;

(6) Information to address the applicant's success in raising non-Federal grant and capital on concessionary terms (Rating Factor 4).

IV. Findings and Certifications

Paperwork Reduction Act Statement

The information collection requirements contained in this NOFA have been reviewed by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and 5 CFR 1320.13 and have been assigned OMB control number 2502–0535. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection unless the collection displays a valid control number.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made for the program in accordance with HUD regulations at 24 CFR part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW, Washington, DC 20410.

Conflicts of Interest

If the selection or non-selection of any applicant under this NOFA affects the individual's financial interests set forth in 18 U.S.C. 208 or involves any party with whom the individual has a covered relationship under 5 CFR 2635.502, that individual must, prior to participating in any matter regarding this NOFA, disclose this fact to the General Counsel or the Ethics Law Division.

Federalism Executive Order

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism,* has determined that the policies contained in this NOFA will not have substantial direct effects on States or their political subdivisions, or on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Specifically, the NOFA solicits applicants to demonstrate methods of expanding the secondary market for non-conforming home mortgage loans to low-wealth borrowers, and does not impinge upon the relationships between the Federal government and State and local governments. As a result, the NOFA is not subject to review under the Order.

Section 102 of the HUD Reform Act; Documentation and Public Access Requirements

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545) (HUD Reform Act) and the regulations codified in 24 CFR part 4, subpart A, contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992 (57 FR 1942), HUD published a notice that also provides information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 apply to assistance awarded under this NOFA as follows:

(1) *Documentation and public access requirements.* HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a 5-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations in 24 CFR part 15.

(2) *Disclosures.* HUD will make available to the public for 5 years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than 3 years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 5.

Section 103 HUD Reform Act

HUD's regulations implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3537a), codified in 24 CFR part 4, apply to this funding competition. The regulations continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by the regulations from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition must confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Ethics Law Division at (202) 708–3815. (This is not a toll-free number.) For HUD employees who have specific program questions, the employee should contact the appropriate field office counsel, or Headquarters counsel for the program to which the question pertains.

Prohibition Against Lobbying Activities

Applicants for funding under this NOFA are subject to the provisions of Section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991, 31 U.S.C. Section 1352 (the Byrd Amendment) and to the provisions of the Lobbying Disclosure Act of 1995, P.L. 104–65 (December 19, 1995).

The Byrd Amendment, which is implemented in regulations at 24 CFR Part 87, prohibits applicants for Federal contracts and grants from using appropriated funds to attempt to influence Federal Executive or legislative officers or employees in connection with obtaining such

assistance, or with its extension, continuation, renewal, amendment or modification. The Byrd Amendment applies to the funds that are the subject of this NOFA. Therefore, applicants must file a certification stating that they have not made and will not make any prohibited payments and, if any payments or agreement to make payments of nonappropriated funds for these purposes have been made, a form SF–LLL disclosing such payments must be submitted. The certification and the SF–LLL are included in the application package.

The Lobbying Disclosure Act of 1995, P.L. 104–65 (December 19, 1995), which repealed Section 112 of the HUD Reform Act and resulted in the elimination of the regulations at 24 CFR Part 86, requires all persons and entities who lobby covered Executive or Legislative Branch officials to register with the Secretary of the Senate and the Clerk of the House of Representatives and file reports concerning their lobbying activities.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number for the Program is 14.196.

Date: March 3, 1999.

William C. Apgar,

Assistant Secretary for Housing-Federal Housing Commissioner.

BILLING CODE 4210–27–P

Application for Federal Assistance

OMB Approval No. 0348-0043

	2. Date Submitted	Applicant Identifier
1. **Type of Submission**	3. Date Received by State	State Application Identifier
Application ☐ Construction ☐ Non-Construction **Preapplication** ☐ Construction ☐ Non-Construction	4. Date Received by Federal Agency	Federal Identifier

5. **Applicant Information**

Legal Name	Organizational Unit
Address (give city, county, State, and zip code)	Name, telephone number, and facsimile number of the person to be contacted on matters involving this application (give area codes)

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 Non-profit
O Public Housing Agency
P. 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** **Use form HUD-424-M (Matrix)**		
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," explain below or 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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form **SF-424** (4/92)
Prescribed by OMB Circular A-102

Instructions for the SF-424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Please do not return your completed form to the Office of Management and Budget; send it to the address provided by the sponsoring agency .

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 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) and 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 the 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:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding budget period for a project with a projected completion date.
   - "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 requested.

I11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

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

I17. 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.)

Disclosure of Lobbying Activities

Approved by OMB 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse side for Instructions.)

Public Reporting Burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Please do not return your completed form to the Office of Management and Budget; send it to the address provided by the sponsoring agency .

1. **Type of Federal Action** (enter appropriate letter) ☐ a. contract ☐ b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. **Status of Federal Action** (enter appropriate letter) ☐ a. bid/offer/application b. initial award c. post-award	3. **Report Type** (enter appropriate letter) ☐ a. initial filing b. material change **For Material Change Only** year _____ quarter _____ date of last report _____

4. **Name and Address of Reporting Entity** ☐ Prime ☐ Subawardee Tier , if known **Congressional District,** if known	5. **If Reporting Entity in No. 4 is Subawardee, enter Name and Address of Prime** **Congressional District,** if known
6. **Federal Department/Agency**	7. **Federal Program Name/Description** **CFDA Number,** if applicable
8. **Federal Action Number,** if known	9. **Award Amount,** if known $
10a. **Name and Address of Lobbying Registrant** (if individual, last name, first name, MI)	b. **Individuals Performing Services** (including address if different from No. 10a.) (last name, first name, MI)

11. Information requested through this form is authorized by Sec.319, Pub. L. 101-121, 103 Stat. 750, as amended by sec. 10; Pub. L. 104-65, Stat. 700 (31 U.S.C. 1352). This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature

Print Name

Title

Telephone No.

Date

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Standard Form-LLL (1/96)

Instructions for Completion of SF-LLL, Disclosure of Lobbying Activities

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5.If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient, Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9.For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Assurances—Non-Construction Programs

OMB Approval No. 0348-0040

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Please do not return your completed form to the Office of Management and Budget; send it to the address provided by the sponsoring agency .

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.O. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 36701 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a and 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (e) evaluation of flood hazards in flood plains in accordance with EO 11988; (e) assurance of

project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the national Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984 or OMB Circular No. A-133, Audits of Institutions of Higher Learning and other Non-profit Institutions.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Signature of Authorized Certifying Official	Title
Applicant Organization	Date Submitted

Applicant/Recipient Disclosure/Update Report

U.S. Department of Housing and Urban Development
Office of Ethics

OMB Approval No. 2510-0011
& 2506-0167 (exp. 1/31/99)

Instructions. (See Public Reporting Statement and Privacy Act Statement and detailed instructions on page 4.)

Part I Applicant/Recipient Information **Indicate whether this is an Initial Report** ☐ **or an Update Report** ☐

1. Applicant/Recipient Name, Address, and Phone (include area code)	Social Security Number or Employer ID Number

2. Project Assisted/ to be Assisted (Project/Activity name and/or number and its location by Street address, City, and State)

3. Assistance Requested/Received	4. HUD Program	5. Amount Requested/Received
		$

Part II. Threshold Determinations -- Applicants Only

1. Are you requesting HUD assistance for a specific project or activity, as provided by 24 CFR Part 12, Subpart C, **and** have you received, or can you reasonably expect to receive, an aggregate amount of all forms of covered assistance from HUD, States, and units of general local government, in excess of $200,000 during the Federal fiscal year (October 1 through September 30) in which the application is submitted? ☐ Yes ☐ No

   If Yes, you must complete the remainder of this report.

   If No, you must sign the certification below and answer the next question.

   I hereby certify that this information is true. (Signature)_____ Date _____

2. Is this application for a specific housing project that involves other government assistance? ☐ Yes ☐ No

   If Yes, you must complete the remainder of this report.

   If No, you must sign this certification.

   I hereby certify that this information is true. (Signature)_____ Date _____

If your answers to both questions are No, you do not need to complete Parts III, IV, or V, but you must sign the certification at the end of the report.

Part III. Other Government Assistance Provided/Requested

Department/State/Local Agency Name and Address	Program	Type of Assistance	Amount Requested/Provided

Is there other government assistance that is reportable in this Part and in Part V, but that is reported only in Part V? ☐ Yes ☐ No

If there is no other government assistance, you must certify that this information is true.

I hereby certify that this information is true. (Signature) _____ Date _____

form **HUD-2880** (3/92)
ref. Sec 102, HRA 1989; PL. 101 - 235

Part IV. Interested Parties

Alphabetical list of all persons with a reportable financial interest in the project or activity (for individuals, give the last name first)	Social Security Number or Employee ID Number	Type of Participation in Project/Activity	Financial Interest in Project/Activity ($ and %)

If there are no persons with a reportable financial interest, you must certify that this information is true.

I hereby certify that this information is true. (Signature) _____ Date _____

form **HUD-2880** (3/92)
ref. Sec 102, HRA 1989; PL. 101 - 235

Part V. Report on Expected Sources and Uses of Funds

Source

If there are no sources of funds, you must certify that this information is true.

I hereby certify that this information is true. (Signature) _____ Date _____

Use

If there are no uses of funds, you must certify that this information is true.

I hereby certify that this information is true. (Signature) _____ Date _____

Certification

Warning: If you knowingly make a false statement on this form, you may be subject to civil or criminal penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosure of information, including intentional non-disclosure, is subject to civil money penalty not to exceed $10,000 for each violation.

I certify that this information is true and complete.

Signature	Date

Public reporting burden for this collection of information is estimated to average 2.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection information unless that collecton displays a valid OMB control number.

Privacy Act Statement. Except for Social Security Numbers (SSNs) and Employer Identification Numbers (EINs), the Department of Housing and Urban Development (HUD) is authorized to collect all the information required by this form under section 102 of the Department of Housing and Urban Development Reform Act of 1989, 42 U.S.C. 3531. Disclosure of SSNs and EINs is optional. The SSN or EIN is used as a unique identifier. The information you provide will enable HUD to carry out its responsibilities under Sections 102(b), (c), and (d) of the Department of Housing and Urban Development Reform Act of 1989, Pub. L. 101-235, approved December 15, 1989. These provisions will help ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. They will also help ensure that HUD assistance for a specific housing project under Section 102(d) is not more than is necessary to make the project feasible after taking account of other government assistance. HUD will make available to the public all applicant disclosure reports for five years in the case of applications for competitive assistance, and for generally three years in the case of other applications. Update reports will be made available along with the disclosure reports, but in no case for a period generally less than three years. All reports, both initial reports and update reports, will be made available in accordance with the Freedom of Information Act (5 U.S.C. §552) and HUD's implementing regulations at 24 CFR Part 15. HUD will use the information in evaluating individual assistance applications and in performing internal administrative analyses to assist in the management of specific HUD programs. The information will also be used in making the determination under Section 102(d) whether HUD assistance for a specific housing project is more than is necessary to make the project feasible after taking account of other government assistance. You must provide all the required information. Failure to provide any required information may delay the processing of your application, and may result in sanctions and penalties, including imposition of the administrative and civil money penalties specified under 24 CFR §12.34.

Note: This form only covers assistance made available by the Department. States and units of general local government that carry out responsibilities under Sections 102(b) and (c) of the Reform Act must develop their own procedures for complying with the Act.

Instructions (See Note 1 on last page.)

I. Overview. Subpart C of 24 CFR Part 12 provides for (1) initial reports from applicants for HUD assistance and (2) update reports from recipients of HUD assistance. An overview of these requirements follows.

A. Applicant disclosure (initial) reports: General. All applicants for assistance from HUD for a specific project or activity must make a number of disclosures, if the applicant meets a dollar threshold for the receipt of covered assistance during the fiscal year in which the application is submitted. The applicant must also make the disclosures if it requests assistance from HUD for a specific housing project that involves assistance from other governmental sources.

Applicants subject to Subpart C must make the following disclosures:

Assistance from other government sources in connection with the project,

The financial interests of persons in the project,

The sources of funds to be made available for the project, and

The uses to which the funds are to be put.

B. Update reports: General. All recipients of covered assistance must submit update reports to the Department to reflect substantial changes to the initial applicant disclosure reports.

C. Applicant disclosure reports: Specific guidance. The applicant must complete all parts of this disclosure form if **either** of the following **two** circumstances in paragraph 1. or 2., below, applies:

1.a. Nature of Assistance. The applicant submits an application for assistance for a specific project or activity (See Note 2) in which:

HUD makes assistance available to a recipient for a specific project or activity; or

HUD makes assistance available to an entity (other than a State or a unit of general local government), such as a public housing agency (PHA), for a specific project or activity, where the application is required by statute or regulation to be submitted to HUD for any purpose; **and**

b. Dollar Threshold. The applicant has received, or can reasonably expect to receive, an aggregate amount of all forms of assistance (See Note 3) from HUD, States, and units of general local government, in excess of $200,000 during the Federal fiscal year (October 1 through September 30) in which the application is submitted. (See Note 4)

2. The applicant submits an application for assistance for a specific housing project that involves other government assistance. (See Note 5) Note: There is no dollar threshold for this criterion: **any** other government assistance triggers the requirement. (See Note 6)

If the Application meets **neither** of these two criteria, the applicant need only complete Parts I and II of this report, as well as the certification at the end of the report. If the Application meets **either** of these criteria, the applicant must complete the entire report.

The applicant disclosure report must be submitted with the application for the assistance involved.

D. Update reports: Specific guidance. During the period in which an application for covered assistance is pending, or in which the assistance is being provided (as indicated in the relevant grant or other agreement), the applicant must make the following additional disclosures:

1. Any information that should have been disclosed in connection with the application, but that was omitted.

2. Any information that would have been subject to disclosure in connection with the application, but that arose at a later time, including information concerning an interested party that now meets the applicable disclosure threshold referred to in Part IV, below.

3. For changes in previously disclosed other government assistance:

For programs administered by the Assistant Secretary for Community Planning and Development, any change in other government assistance that exceeds the amount of such assistance that was previously disclosed by $250,000 or by 10 percent of the assistance (whichever is lower).

For all other programs, any change in other government assistance that exceeds the amount of such assistance that was previously disclosed.

4. For changes in previously disclosed financial interests, any change in the amount of the financial interest of a person that exceeds the amount of the previously disclosed interests by $50,000 or by 10 percent of such interests (whichever is lower).

5. For changes in previously disclosed sources or uses of funds:

a. For programs administered by the Assistant Secretary for Community Planning and Development:

Any change in a source of funds that exceeds the amount of all previously disclosed sources of funds by $250,000 or by 10 percent of those sources (whichever is lower); and

Any change in a use of funds under paragraph (b)(1)(iii) that exceeds the amount of all previously disclosed uses of funds by $250,000 or by 10 percent of those uses (whichever is lower).

b. For all programs, other than those administered by the Assistant Secretary for Community Planning and Development:

For projects receiving a tax credit under Federal, State, or local law, any change in a source of funds that was previously disclosed.

For all other projects, any change in a source of funds that exceeds the lower of:

The amount previously disclosed for that source of funds by $250,000, or by 10 percent of the amount previously disclosed for that source, whichever is lower; or

The amount previously disclosed for all sources of funds by $250,000, or by 10 percent of the amount previously disclosed for all sources of funds, whichever is lower.

c. For all programs, other than those administered by the Assistant Secretary for Community Planning and Development:

For projects receiving a tax credit under Federal, State, or local law, any change in a use of funds that was previously disclosed.

For all other projects, any change in a use of funds that exceeds the lower of:

The amount previously disclosed for that use of funds by $250,000, or by 10 percent of the amount previously disclosed for that use, whichever is lower; or

The amount previously disclosed for all uses of funds by $250,000, or by 10 percent of the amount previously disclosed for all uses of funds, whichever is lower.

Note: Update reports must be submitted within 30 days of the change requiring the update. The requirement to provide update reports only applies if the application for the underlying assistance was submitted on or after the effective date of Subpart C.

II. Line-by-Line Instructions.

A. Part I. Applicant/Recipient Information.

All applicants for HUD assistance specified in Section I.C.1.a., above, as well as all recipients required to submit an update report under Section I.D., above, must complete the information required by Part I. The applicant/recipient must indicate whether the disclosure is an initial or an update report. Line-by-line guidance for Part I follows:

1. Enter the full name, address, city, State, zip code, and telephone number (including area code) of the applicant/recipient. Where the applicant/recipient is an individual, the last name, first name, and middle initial must be entered. Entry of the applicant/recipient's SSN or EIN, as appropriate, is optional.

2. Applicants enter the name and full address of the project or activity for which the HUD assistance is sought. Recipients enter the name and full address of the HUD-assisted project or activity to which the update report relates. The most appropriate government identifying number must be used (e.g., RFP No.; IFB No.; grant announcement No.; or contract, grant, or loan No.) Include prefixes.

3. Applicants describe the HUD assistance referred to in Section I.C.1.a. that is being requested. Recipients describe the HUD assistance to which the update report relates.

4. Applicants enter the HUD program name under which the assistance is being requested. Recipients enter the HUD program name under which the assistance, that relates to the update report, was provided.

5. Applicants enter the amount of HUD assistance that is being requested. Recipients enter the amount of HUD assistance that has been provided and to which the update report relates. The amounts are those stated in the application or award documentation. NOTE: In the case of assistance that is provided pursuant to contract over a period of time (such as project-based assistance under section 8 of the United States Housing Act of 1937), the amount of assistance to be reported includes all amounts that are to be provided over the term of the contract, irrespective of when they are to be received.

Note: In the case of Mortgage Insurance under 24 CFR Subtitle B, Chapter II, the mortgagor is responsible for making the applicant disclosures, and the mortgagee is responsible for furnishing the mortgagor's disclosures to the Department. Update reports must be submitted directly to HUD by the mortgagor.

Note: In the case of the Project-Based Certificate program under 24 CFR Part 882, Subpart G, the owner is responsible for making the applicant disclosures, and the PHA is responsible for furnishing the owner's disclosures to HUD. Update reports must be submitted through the PHA by the owner.

B. Part II. Threshold Determinations — Applicants Only

Part II contains information to help the applicant determine whether the remainder of the form must be completed. **Recipients filing Update Reports should not complete this Part.**

1. The first question asks whether the applicant meets the Nature of Assistance and Dollar Threshold requirements set forth in Section I.C.1. above.

If the answer is Yes, the applicant must complete the remainder of the form. If the answer is No, the form asks the applicant to certify that its response is correct, and to complete the next question.

2. The second question asks whether the application is for a specific housing project that involves other government assistance, as described in Section I.C.2. above.

If the answer is Yes, the applicant must complete the remainder of the form. If the answer is No, the form asks the applicant to certify that its response is correct.

If the answer to both questions1 and 2 is No, the applicant need not complete Parts III, IV, or V of the report, but must sign the certification at the end of the form.

C. Part III. Other Government Assistance.

This Part is to be completed by both applicants filing applicant disclosure reports and recipients filing update reports. Applicants must report any other government assistance involved in the project or activity for which assistance is sought. Recipients must report any other government assistance involved in the project or activity, to the extent required under Section I.D.1., 2., or 3., above.

Other government assistance is defined in note 5 on the last page. For purposes of this definition, other government assistance is expected to be made available if, based on an assessment of all the circumstances involved, there are reasonable grounds to anticipate that the assistance will be forthcoming.

Both applicant and recipient disclosures must include all other government assistance involved with the HUD assistance, as well as any other government assistance that was made available before the request, but that has continuing vitality at the time of the request. Examples of this latter category include tax credits that provide for a number of years of tax benefits, and grant assistance that continues to benefit the project at the time of the assistance request.

The following information must be provided:

1. Enter the name and address, city, State, and zip code of the government agency making the assistance available. Include at least one organizational level below the agency name. For example, U.S. Department of Transportation, U.S. Coast Guard; Department of Safety, Highway Patrol.

2. Enter the program name and any relevant identifying numbers, or other means of identification, for the other government assistance.

3. State the type of other government assistance (e.g., loan, grant, loan insurance).

4. Enter the dollar amount of the other government assistance that is, or is expected to be, made available with respect to the project or activities for which the HUD assistance is sought (applicants) or has been provided (recipients).

If the applicant has no other government assistance to disclose, it must certify that this assertion is correct.

To avoid duplication, if there is other government assistance under this Part and Part V, the applicant/recipient should check the appropriate box in this Part and list the information in Part V, clearly designating which sources are other government assistance.

D. Part IV. Interested Parties.

This Part is to be completed by both applicants filing applicant disclosure reports and recipients filing update reports.

Applicants must provide information on:

(1) All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and

(2) any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds $50,000 or 10 percent of the assistance (whichever is lower).

Recipients must make the additional disclosures refferred to in Section I.D.1.,2., or 4, above.

Note: A financial interest means any financial involvement in the project or activity, including (but not limited to) situations in which an individual or entity has an equity interest in the project or activity, shares in any profit on resale or any distribution of surplus cash or other assets of the project or activity, or receives compensation for any goods or services provided in connection with the project or activity. Residency of an individual in housing for which assistance is being sought is not, by itself, considered a covered financial interest.

The information required below must be provided.

1. Enter the full names and addresses of all persons referred to in paragraph (1) or (2) of this Part. If the person is an entity, the listing must include the full name of each officer, director, and principal stockholder of the entity. All names must be listed alphabetically, and the names of individuals must be shown with their last names first.

2. Entry of the Social Security Number (SSN) or Employee Identification Number (EIN), as appropriate, for each person listed is optional.

3. Enter the type of participation in the project or activity for each person listed: i.e., the person's specific role in the project (e.g., contractor, consultant, planner, investor).

4. Enter the financial interest in the project or activity for each person listed. The interest must be expressed both as a dollar amount and as a percentage of the amount of the HUD assistance involved.

If the applicant has no persons with financial interests to disclose, it must certify that this assertion is correct.

5. Part V. Report on Sources and Uses of Funds. This Part is to be completed by both applicants filing applicant disclosure reports and recipients filing update reports.

The applicant disclosure report must specify all expected sources of funds — both from HUD and from any other source — that have been, or are to be, made available for the project or activity. Non-HUD sources of funds typically include (but are not limited to) other government assistance referred to in Part III, equity, and amounts from foundations and private contributions. The report must also specify all expected uses to which funds are to be put. All sources and uses of funds must be listed, if, based on an assessment of all the circumstances involved, there are reasonable grounds to anticipate that the source or use will be forthcoming.

Note that if any of the source/use information required by this report has been provided elsewhere in this application package, the applicant need not repeat the information, but need only refer to the form and location to incorporate it into this report. (It is likely that some of the information required by this report has been provided on SF 424A, and on various budget forms accompanying the application.) If this report requires information beyond that provided elsewhere in the application package, the applicant must include in this report all the additional information required.

Recipients must submit an update report for any change in previously disclosed sources and uses of funds as provided in Section I.D.5., above.

General Instructions — sources of funds

Each reportable source of funds must indicate:

a. The name and address, city, State, and zip code of the individual or entity making the assistance available. At least one organizational level below the agency name should be included. For example, U.S. Department of Transportation, U.S. Coast Guard; Department of Safety, Highway Patrol.

b. The program name and any relevant identifying numbers, or other means of identification, for the assistance.

c. The type of assistance (e.g., loan, grant, loan insurance).

Specific instructions — sources of funds.

(1) For programs administered by the Assistant Secretaries for Fair Housing and Equal Opportunity and Policy Development and Research, each source of funds must indicate the total amount of approved, and received; and must be listed in descending order according to the amount indicated.

(2) For programs administered by the Assistant Secretaries for Housing-Federal Housing Commissioner, Community Planning and Development, and Public and Indian Housing, each source of funds must indicate the total amount of funds involved, and must be listed in descending order according to the amount indicated.

(3) If Tax Credits are involved, the report must indicate all syndication proceeds and equity involved.

General instructions—uses of funds.

Each reportable use of funds must clearly identify the purpose to which they are to be put. Reasonable aggregations may be used, such as "total structure" to include a number of structural costs, such as roof, evevators, exterior masonry, etc.

Specific instructions -- uses of funds.

(1) For programs administered by the Assistant Secretaries for Fair Housing and Equal Opportunity and Policy Development and Research, each use of funds must indicate the total amount of funds involved; must be broken down by amount committed, budgeted, and planned; and must be listed in descending order according to the amount indicated.

(ii) For programs administered by the Assistant Secretaries for Housing-Federal Housing Commissioner, Community Planning and Development, and Public and Indian Housing, each use of funds must indicate the total amount of funds involved and must be listed in descending order according to the amount involved.

(iii) If any program administered by the Assistant Secretary for Housing-Federal Housing Commissioner is involved, the report must indicate all uses paid from HUD sources and other sources, including syndication proceeds. Uses paid should include the following amounts.

AMPO
Architect's fee — design
Architect's fee — supervision
Bond premium
Builder's general overhead
Builder's profit
Construction interest
Consultant fee
Contingency Reserve
Cost certification audit fee
FHA examination fee
FHA inspection fee
FHA MIP
Financing fee
FNMA / GNMA fee
General requirements
Insurance
Legal — construction
Legal — organization
Other fees
Purchase price
Supplemental management fund
Taxes
Title and recording
Operating deficit reserve
Resident initiative fund
Syndication expenses
Working capital reserve
Total land improvement
Total structures

Uses paid from syndication must include the following amounts:

Additional acquisition price and expenses
Bridge loan interest
Development fee
Operating deficit reserve
Resident initiative fund
Syndication expenses
Working capital reserve

Footnotes:

1. All citations are to 24 CFR Part 12, which was published in the Federal Register on March 14, 1991 at 56 Fed. Reg. 11032.
2. A list of the covered assistance programs can be found at 24 CFR §12.30, or in the rules or administrative instructions governing the program involved. Note: The list of covered programs will be updated perodically.
3. Assistance means any contract, grant, loan, cooperative agreement, or other form of assistance, including the insurance or guarantee of a loan or mortgage, that is provided with respect to a specific project or activity under a program administered by the Department. The term does not include contracts, such as procurements contracts, that are subject to the Federal Acquisition Regulation (FAR) (48 CFR Chapter 1).
4. See 24 CFR §§12.32 (a)(2) and (3) for detailed guidance on how the threshold is calculated.
5. "Other government assistance" is defined to include any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance from the Federal government (other than that requested from HUD in the application), a State, or a unit of general local government, or any agency or instrumentality thereof, that is, or is expected to be made, available with respect to the project or activities for which the assistance is sought.
6. For further guidance on this criterion, and for a list of covered programs, see 24 CFR §12.50.
7. For purposes of Part 12, a person means an individual (including a consultant, lobbyist, or lawyer); corporation; company; association; authority; firm; partnership; society; State, unit of general local government, or other government entity, or agency thereof (including a public housing agency); Indian tribe; and any other organization or group of people.

Certification Regarding Debarment and Suspension

U.S. Department of Housing and Urban Development

Certification A: Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief that its principals;

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal debarment or agency;

b. Have not within a three-year period preceding this proposal, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Certification (A)

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was place when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded**, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of these regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines this eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph (6) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

Certification B: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Certification (B)

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded**, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of these regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph (5) of these instructions, if a participant in a lower covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies including suspension and/or debarment.

Applicant	Date
Signature of Authorized Certifying Official	Title

[FR Doc. 99–5861 Filed 3–9–99; 8:45 am]
BILLING CODE 4210–27–C

Federal Register

Wednesday
March 10, 1999

Part V

Environmental Protection Agency

Pesticides; Registration Division's Fiscal Year 1999 Work Plan; Notice

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00574; FRL–6051–3]

Pesticides; Notice of the Registration Division's Fiscal Year 1999 Work Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is publishing the fiscal year 1999 (FY99) work plan for the Office of Prevention, Pesticides, and Toxic Substances, Office of Pesticide Programs, Registration Division (RD) in keeping with efforts to improve the transparency and flexibility in the pesticide registration process.

With the publication of this FY99 work plan, RD is placing a large emphasis on new chemical, new use, and inert registration actions. In no way, however, will RD neglect the many other actions (e.g., label amendments, me-too actions, and emergency exemption requests) that are currently pending or will soon be submitted to the Agency. This FY99 work plan represents our current list and schedules for these important actions; however, the Agency has included room for flexibility in this FY99 work plan to ensure a quick response should an emerging public health or environmental issue arise. While forecasting such issues can be difficult, the Agency is committed to working with all affected parties to address their needs on an expeditious basis. Any submission which creates a modification to the schedule will, of course, require the appropriate justification and scientific data which will allow the Agency to make a sound, health-based decision.

FOR FURTHER INFORMATION CONTACT: By mail: Steve Robbins (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 732D, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305-6439, fax: 703-305-6920, e-mail: robbins.steve@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: This **Federal Register** notice presents the FY99 work plan for the Registration Division (RD) in the Office of Prevention, Pesticides, and Toxic Substances (OPPTS) at the Environmental Protection Agency (EPA). EPA is publishing RD's FY 99 work plan in order to improve the transparency and predictability of the pesticide registration process, while maintaining sufficient flexibility to address emerging needs as appropriate.

I. General Information

A. Does This Notice Apply to Me?

You may be particularly interested in this notice if you are a producer or registrant of a pesticide product. Your interest in this notice may depend upon your interest in the chemicals for which the Registration Division plans on making a decision (new conventional active ingredient and/or new tolerance petition) in fiscal year 1999.

B. How Can I Get Additional Information or Copies of This Document or Other Documents?

1. *Electronically*. You may obtain electronic copies of this document from the EPA internet Home Page at: http://www.epa.gov/opprd001/workplan.

2. *In person or by phone*. If you have any questions or need additional information about this action, you may contact the technical person identified in the ''FOR FURTHER INFORMATION CONTACT'' section.

II. Background

Historically, the Agency has reviewed new registration applications and tolerance petitions based upon a system of ''first received, first reviewed.'' In 1993, the Agency switched its process for setting the review queue to a points based system. Under this points based system RD assigned priority points of differing values depending on the type of action (e.g. Section 18s = 75 points, Experimental Use Permits = 15 points, New Active Ingredients = 10 points). Priority points were also accrued for 'aging,'' i.e., the longer a submission remained in the Agency before being completed, the more priority points it accrued. Actions with the highest number of priority points were generally the first to be completed by each of the science review divisions. Shortcomings of the point-based priority system have included: difficulty in planning and predicting priorities; some registrant priorities have not been completed in order; little perceived incentive for the registrants to submit comprehensive submissions; and poor reflection of Agency resources allocated toward registration progress.

Despite an increase in registration productivity, backlogs for some critical registration actions remained. To address this concern and to create a more efficient, predictable and equitable review queue, in June of 1995 the Agency launched a pilot priority system limiting the registrants to five (5) priorities of their choice. Using this method, RD received approximately 170 priorities (designated #1-5) which were blended with Agency identified priorities (mainly IR-4 and repeat Section 18s) and placed into review. It was generally understood that priority #1 would be reviewed before priority #2 and priority #2 before #3, etc. PR Notice 95-6 (October 1995) officially announced the new priority policy and procedures, and requested that registrants submit their second round of five priorities (designated #6-10). This round of priorities included new active ingredients, new uses, and experimental use permits. The second round yielded 332 registrant priorities which were blended with EPA priorities.

In April 1997, EPA issued PR Notice 97-2 requesting a third round of 5 priorities (designated #11-15). The action eligibility for this round was expanded to include inerts and non-fast track amendments, including additional incentives to encourage more products for minor uses, methyl bromide substitutes, and alternatives to certain organophosphates. Registrants identified approximately 600 actions for prioritization in response to PR Notice 97-2. Changes required in the registration process by the Food Quality Protection Act have caused delays in completing the reviews for priorities 1 - 10; and delays in the scheduling of priorities 11 - 15.

Review of the registration process reveals a diversity of priority needs: there are statutory priorities such as minor use, me-too, and reduced risk actions; registrants frequently submit their top business priorities; USDA submits priorities on the basis of crop/pest combinations; priorities for grower groups are channeled directly to EPA or revealed by trends in Section 18 requests; and priorities for public interest groups are frequently related to contemporary issues, such as identifying methyl bromide replacement chemicals and alternatives to certain organophosphate pesticides. (Refer to Section C for definitions)

By publishing this FY99 RD work plan, the Agency expects to extend the transparency and predictability of the registration process. Based upon resource allocations for FY99, RD expects to make decisions on approximately 13 new conventional active ingredients, 75 (non Section 18) tolerance decisions and 23 food use inert ingredient decisions.

III. Overview

A. What are the Agency's Goals for This Work Plan?

By publishing this FY99 RD work plan, the Agency expects to extend the transparency and predictability of the registration process, while maintaining sufficient flexibility to address emerging needs as appropriate. Based upon resource allocations for FY99, RD expects to make decisions on approximately 13 new conventional active ingredients, 75 (non Section 18) tolerance decisions and 23 food use inert ingredient decisions.

With the implementation of the Government Performance and Result Act of 1993 (GPRA) OPP is tasked with doubling the annual number of registrations for reduced-risk new chemicals and bio-pesticides by the year 2005. To date RD has been *averaging 2.5* new conventional reduced-risk chemicals per year. All registration activities including registration of new conventional chemicals, new uses, me-toos, antimicrobials, etc. (Refer to Section C for definitions) will meet the applicable standards mandated by law.

For fiscal year 1999, the Agency had originally anticipated being able to issue registration decisions for 15 conventional pesticides. However, in light of recent reductions in RD's operating plan, the Agency has reassessed this goal to 13 registration decisions for conventional pesticides. Resource reductions in FY99 have further reduced expected outputs for FY2000.

B. What Information Does the Work Plan Include?

The Registration Division's FY99 work plan includes the following information: (a) the quarter in which RD believes it can make a *decision* (please note that a decision does not necessarily mean a registration); (b) the chemical for which a registration action is requested; (c) the Trade Name associated with the chemical's end-use product for which the registration action is requested; (d) uses associated with the requested registration action; (e) name of the Registrant who has submitted the request; and (f) any relevant comments associated with the requested action. The above information is for both new conventional chemicals and conventional chemical new uses for which RD has committed to making a decision in FY99. In addition to the new conventional chemicals and conventional chemical new uses lists, RD has included a list of food use inerts and safeners, which require Health Effects Division review during FY99. Additional food-use inert decisions (e.g., polymers) will also likely be made during FY99. Furthermore, EPA expects to issue 60 non-food use inert clearance decisions during FY99.

Once again, please note that RD is committing to decision dates and is not committing to registration dates. RD, in conjunction with the Health Effects Division and the Environmental Fate and Effects Division, has considered the amount of data associated with each requested actions in order to project a commitment date for decision making. These commitment dates could change or be delayed because of the following reasons: (a) data gaps; (b) significant risk issues; and (c) protracted negotiations on risk mitigation. With the publication of these commitment dates, RD is emphasizing new conventional chemicals, conventional chemical new uses, inerts and safeners but will not neglect the other actions (e.g., label amendments and me-too actions) pending or recently submitted to the Agency. Moreover, emerging needs will continue to be addressed as needed.

RD is posting the FY99 work plan on the EPA Internet web site [*http://www.epa.gov/opprd001/workplan*]. This web site will be updated periodically to provide current information on dates and other pertinent information for completed registration decisions and/or modified registration actions.

C. What are the Definitions of Certain Terms that are Used in the Work Plan?

1. *Active Ingredient*: means any substance (or group of structurally similar substances if specified by the Agency) that will prevent, destroy, repel or mitigate any pest, or that functions as a plant regulator, desiccant, or defoliant within the meaning of FIFRA sec. 2(a).

2. *Conventional Pesticide*: refers to any substance or mixture of substances intended for: a. Preventing, destroying, repelling, or mitigating any pest; b. Use as a plant regulator, defoliant, or desiccant, and c. Use as nitrogen stabilizer.
This shall not include any antimicrobial, biological or plant pesticides.

3. *Experimental Use Permits*: means a permit pursuant to section 5 of FIFRA, including permits requiring the establishment of a temporary tolerance. The permit may be for a new active ingredient or for a new use of an active ingredient contained in a registered product

4. *Inert*: means a non-pesticidal active component of a pesticide product such as a surfactant or emulsifier.

5. *IR-4*: refers to the Inter-Regional Research Project Number 4 funded by USDA and generates data to support minor use registrations, and coordinates the development of information on the clearance of these pesticides.

6. *Me-too*: refers to an application for registration of a pesticide product that is substantially similar or identical in its uses and formulation to products that are currently registered.

7. *Minor Uses*: refers to the use of a pesticide on an animal, on a commercial agricultural crop or site, or for the protection of public health where;

(A) the total United States acreage for the crop is less than 300,000 acres, as determined by the Secretary of Agriculture; or

(B) the Administrator, in consultation with the Secretary of Agriculture, determines that based on information provided by an applicant for registration or a registrant, the use does not provide sufficient economic incentive to support the registration or for such use and:

(i) there are insufficient efficacious alternative registered pesticides available for the use; and

(ii) the alternatives to the pesticide use pose greater risks to the environment or human health; and

(iii) the minor use pesticide plays or will play a significant part in managing pest resistance; or

(iv) the minor use pesticide plays or will play a significant part in an integrated pest management program.

8. *New Registration Application*: means any new application requiring Agency approval to register or amend a registration of a new or old chemical and its associated products.

9. *New Use*: when used with respect to a product containing a particular active ingredient, means:

a. Any proposed use pattern that would require the establishment of, the increase in, or the exemption from the requirement of, a tolerance or food additive regulation under section 408 of the Federal Food, Drug and Cosmetic Act;

b. Any aquatic, terrestrial, outdoor, or forestry use pattern, if no product containing the active ingredient is currently registered for that use pattern; or

c. Any additional use pattern that would result in a significant increase in the level of exposure, or a change in the route of exposure, to the active ingredient of man or other organisms.

10. *Non-fast Track Amendments*: involve label amendments where an active ingredient is registered for the use(s), but the product formulation is sufficiently different from existing products that product specific data are required to be submitted and reviewed. Data to be reviewed may include acute toxicity, product chemistry, and efficacy data.

11. *Organophosphate (OP) Alternative*: a non-organophosphate conventional registration application request for either a new active ingredient or new use for which the crop/pest combination provides a reduced-risk (to human health and/or the environment) alternative to a registered organophosphate.

12. *Polymer*: a macromolecule formed by the chemical union of five or more identical combining units called monomers.

13. *Reduced Risk*: a conventional reduced risk pesticide use is defined as one which: (1) reduces pesticide risks to human health; (2) reduces pesticide risks to non-target organisms; (3) reduces the potential for contamination of valued environmental resources; or (4) broadens adoption of integrated pest management strategies, or makes them more available or effective.

14. *Safener*: refers to an inert ingredient used to protect desired crop from the effects of the active ingredient, typically a herbicide.

15. *Section 18s*: means any action submitted under Section 18 of FIFRA which authorizes EPA to allow States to use a pesticide for an unregistered use for a limited time if EPA determines that emergency conditions exist.

16. *Tolerance Petition*: refers to a formal request to establish a new tolerance or modify (raise, lower or revoke) existing maximum residue levels.

IV. Registration Division's Fiscal Year 1999 Work Plan

A. New Chemical Registration Candidates

The Registration Division's FY 1999 Work Plan identifies 20 new chemical candidates for decision-making during the fiscal year. Eight (8) of these chemicals are for reduced-risk chemicals, include 4 potential alternatives for organophosphate insecticides. These 20 candidates cover approximately 31 crops. From these 20 candidates, the Agency anticipates making 13 registration decisions.

Quarter	Chemical	Trade Name	Pesticide Type	Uses	Registrant	Comments
1st Quarter	Tralkoxydim	Achieve	Herbicide	Wheat, Barley	Zeneca	Registered December 1998
2nd Quarter	Emamectin Benzoate	Proclaim	Insecticide	Cole Crops	Novartis	
2nd Quarter	CGA-248757	Action	Herbicide	Soybeans	Novartis	
2nd Quarter	s-Dimethenamid	BAS 656034	Herbicide	All rac's currently registered with dimethenamid	BASF	Reduced-Risk Chemical
2nd Quarter	Sulfosulfuron	MON 37500	Herbicide	Wheat	Monsanto	
2nd Quarter	Diflufenzopyr	Distinct	Herbicide	Corn	BASF	Registered January 1999 Reduced-Risk Chemical Joint Review with Canada
2nd Quarter	Lithium P. Sulfonate	Sulfotine	Insecticide	Wasp Bait Station	SC Johnson	
2nd Quarter	n-Methylneodecanamide	Expel	Repellent	Indoor Use	Colgate-Palmolive	
2nd Quarter	Bifenazate	Floramite	Insecticide	Ornamentals	Uniroyal	Reduced-Risk Chemical OP Alternative
2nd Quarter	Chlorfenapyr	Pirate	Insecticide	Cotton	American Cyanamid	
3rd Quarter	Propidine		Repellent	Insect Repellent	Bayer	
3rd Quarter	Azafenidin	Milestone	Herbicide	Citrus, Grape, Sugarcane, Vegetation Management	DuPont	
3rd Quarter	Fenhexamid	Elevate	Fungicide	Grapes, Strawberries, Ornamentals	Tomen Agro	Reduced-Risk Chemical Joint Review with Canada
3rd Quarter	Fenpyroximate		Insecticide	Import Tolerances for Hops, Wine Grapes	Nihon Nohyaku	
3rd Quarter	Pymetrozine	Rally/Fulfill	Insecticide	Cucurbits, Fruiting Vegs, Hops, Tobacco, Cotton	Novartis	Reduced-Risk Chemical OP Alternative
4th Quarter	Trifloxystrobin	Flint	Fungicide	Pome Fruit, Grapes, Cucurbits, Peanuts, Turf, Bananas	Novartis	Reduced-Risk Chemical
4th Quarter	Methoxyfenozide	Intrepid	Insecticide	Cotton, Pome Fruit	Rohm & Haas	Reduced-Risk Chemical OP Alternative
4th Quarter	DPX-MP062		Insecticide	Cotton, Tomato, Pepper, Cole Crops,	DuPont	Reduced-Risk Chemical OP Alternative
4th Quarter	Ethametsulfuron	Muster	Herbicide	Canola	DuPont	

Quarter	Chemical	Trade Name	Pesticide Type	Uses	Registrant	Comments
4th Quarter	Gentamicin	Agrigent	Fungicide	Pome Fruit	Quimica	Withdrawn December 1998

B. New Use Candidates for Already-Registered Chemicals

The listing below identifies approximately 120 potential new uses for 37 already-registered chemicals. Many of these new uses are for compounds currently classified as ''reduced-risk pesticides.'' As opportunities arise during the course of the fiscal year, additional new use candidates may be added to this list for decision-making. Any additions to this list will be subjected to the prioritization criteria outlined in Pesticide Registration Notice 97–2. From these new use candidates, the Agency anticipates issuing 100 new use decisions.

Quarter	Chemical	Trade Name	Pesticide Type	Uses	Registrant	Comments
1st Quarter	Dicamba	Banvel	Herbicide	Soybeans, Wheat, Cotton, Barley, Asparagus	BASF	Tolerance Published 01/06/99
1st Quarter	Picloram	Tordon	Herbicide	Sorghum	Dow Agrosciences	Tolerance Published 01/05/99
1st Quarter	Avermectin		Insecticide	Chili Peppers, Grapes	Novartis	
1st Quarter	Hexythiazox	Savy	Insecticide	Hops	Gowan	Tolerance Published 10/16/98
1st Quarter	Cymoxanil	Curzate	Fungicide	Grapes, Tomatoes	DuPont	Tolerance Published 02/10/99
1st Quarter	Tebuconazole	Elite, Folicur	Fungicide	Grapes, Grasses Grown for Seed	Bayer	Tolerance Published 01/08/99
1st Quarter	Tribasic Copper Sulfate, Copper Oxychloride, Copper Hydroxide, Copper salts of fatty and rosin, Cuprous Chloride, Cuprous Oxide		Fungicide	Several Uses	Premium Compounding, Griffin, Monterey Chem. Co.	
1st Quarter	Copper Ethylenediamine	Inferno	Fungicide	Potato	IR-4	Tolerance Published 01/04/99
2nd Quarter	Azoxystrobin	Heritage, Quadris	Fungicide	Canola, Peanut Hay, Pistachios, Tree Fruits, Wheat, Turf , Potatoes, Stone Fruit, Cucurbits	Zeneca	Reduced-Risk Chemical
2nd Quarter	Triallate	Fargo	Herbicide	Sugar Beets	Monsanto	
2nd Quarter	Halosulfuron	Permit	Herbicide	Sugarcane, Popcorn, Sweet and Field Corn, Cotton, Rice, Grain Sorghum, Tree Nuts	Monsanto	
2nd Quarter	Quinclorac	Facet	Herbicide	Sorghum, Wheat	BASF	Sorghum is on the USDA Vulnerable Crops List

Quarter	Chemical	Trade Name	Pesticide Type	Uses	Registrant	Comments
2nd Quarter	Tebufenozide	Confirm	Insecticide	Pome Fruit, Cotton, Leafy Vegetables, Cole Crops, Sugarcane, Fruiting Vegetables, Pecans, Forestry, Ornamentals, Cranberry, Turnips, Caneberry, Canola, Mint, Blueberry	Rohm & Haas	Reduced-Risk Chemical
2nd Quarter	Pyriproxyfen	Knack	Insecticide	Tree Crops, Apples, Pears, Walnuts	Valent	Reduced-Risk Chemical
2nd Quarter	Fludioxanil	Switch, Medallion	Fungicide	Grapes, Turf	Novartis	Reduced-Risk Chemical
2nd Quarter	Iprodione	Rovral	Fungicide	Cottonseed	Rhone-Poulenc	
2nd Quarter	Arsanilic Acid (EUP)		Fungicide	Grapefruit	Fleming Laboratories	
2nd Quarter	Clofentezine	Apollo	Insecticide	Apples	AgrEvo	
3rd Quarter	Cyfluthrin		Insecticide	Potato	Bayer	
3rd Quarter	Fosetyl-al	Aliette	Fungicide	Bananas, Grapes, Macademia Nuts	Rhone-Poulenc	
3rd Quarter	Spinosad	Spintor	Insecticide	Tuberous and Corm Vegetables	Dow Agrosciences	Reduced-Risk Chemical
3rd Quarter	Pyriproxyfen	Knack	Insecticide	Citrus, Fruiting Vegetables	Valent	Reduced-Risk Chemical
3rd Quarter	Imidacloprid	Admire	Insecticide	Tuberous and Corm Vegetables Subgroup, Cucurbit, Watercress	Bayer, IR-4	
3rd Quarter	Cyromazine		Insecticide	Bulb Vegetables, Mango, Cotton, Potato, Radish, Sweet Corn	Novartis	
3rd Quarter	Glufosinate Ammonium	Liberty	Herbicide	Canola, Potato, Sugar beet	AgrEvo	
4th Quarter	Difenconazole	Dividend	Fungicide	Bananas	Novartis	
4th Quarter	Fenpropathrin	Danitol	Insecticide	Melons, Citrus, Brassica	Valent	
4th Quarter	Dazomet	Atlante	Fumigant	Strawberries, Tomatoes	BASF	
4th Quarter	Propazine	Milo Pro	Herbicide	Sorghum	Griffin	Sorghum is on the USDA Vulnerable Crops List
4th Quarter	Myclobutanil	Rally/Nova	Fungicide	Asparagus, Snap Beans, Caneberry, Gooseberry, Currant, Mint, Strawberry	Rohm-Haas, IR-4	
4th Quarter	Kresoxim-methyl	Sovran	Fungicide	Grapes, Pecan, Pome Fruit	BASF	
4th Quarter	Spinosad		Insecticide	Cucurbits, Stone Fruit, Legume, Corn, Sorghum, Wheat	Dow Agrosciences	Reduced-Risk Chemical
4th Quarter	Glyphosate	Roundup	Herbicide	Barley, Canola, Sugar Beet,	Monsanto	Reduced-Risk Chemical
4th Quarter	Bifenthrin	Capture	Insecticide	Cucurbits, Eggplant, Legumes, Lima Beans, Head and Stem Brassica Subgroup, Artichoke, Canola	IR-4	
4th Quarter	Chlorothalonil	Bravo	Fungicide	Non-bell Peppers, Almonds, Asparagus, Mango, Pistachio	IR-4 and GB Bioscience	

C. Inert[1] and Safener[2] Registration Decisions

Quarter	Chemical	Uses
1st Quarter	Rhodamine B	Inert
2nd Quarter	HOE 107892	Safener
2nd Quarter	MON 4660	Safener
3rd Quarter	MON 13900	Safener
3rd Quarter	Dichlormid	Safener
4th Quarter	DMSO	Inert
4th Quarter	Isophorone	Inert

[1]Inert = non-pesticidal active component of a pesticide product such as a surfactant or emulsifier.

[2]Safener = inert ingredient used to protect desired crop from the effects of the active ingredient, typically a herbicide.

List of Subjects

Environmental protection, Pesticides, Tolerances.

Dated: March 2, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 99–5966 Filed 3–9–99; 8:45 am]

BILLING CODE 6560–50–F

Federal Register

Wednesday
March 10, 1999

Part VI

Postal Service

39 CFR Part 111

Domestic Mail Manual Changes to Implement the Delivery Confirmation Program Changes in Docket No. R97–1; Final Rule

POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual Changes to Implement the Delivery Confirmation Program Changes in Docket No. R97–1

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule sets forth the Domestic Mail Manual (DMM) standards adopted by the Postal Service to implement the Decision of the Governors of the Postal Service in Postal Rate Commission Docket No. R97–1, as it pertains to delivery confirmation service.

EFFECTIVE DATE: This final rule is effective at 12:01 a.m. on March 14, 1999.

FOR FURTHER INFORMATION CONTACT: John Gullo, 202–268–7322.

SUPPLEMENTARY INFORMATION: On July 10, 1997, the Postal Service, acting under sections 3622 and 3623 of the Postal Reorganization Act (39 U.S.C. 3622, 3623), filed a request for a recommended decision by the Postal Rate Commission (PRC) on proposed rate, fee, and classification changes, including the addition of delivery confirmation service. The PRC designated this filing as Docket No. R97–1. A notice of filing, with a description of the Postal Service's proposals, was published by the PRC on July 23, 1997, in the **Federal Register** (62 FR 39660).

On March 16, 1998, the Postal Service published for public comment in the **Federal Register** a proposed rule (63 FR 12864) that provided information on the implementation rules for the rate, fee, and classification changes that the Postal Service proposed to adopt if its requested changes in Docket No. R97–1, including delivery confirmation service, were recommended by the PRC and approved by the Governors of the Postal Service.

Pursuant to 39 U.S.C 3624, on May 11, 1998, the PRC issued its Recommended Decision on the Postal Service's request to the Governors of the Postal Service. Among other recommendations, the PRC recommended the classification and fees for delivery confirmation service as proposed. Pursuant to 39 U.S.C. 3625, the Governors on June 29, 1998, approved the classification and fees for delivery confirmation service as part of its decision approving most of the PRC recommendations. A notice announcing the Governors' decision and the issuance of final Domestic Mail Classification Schedule and Rate Schedule changes was published in the **Federal Register** on July 21, 1998 (63 FR 39124).

In order to provide time for deployment of the technology used to provide delivery confirmation service, the Board of Governors, on June 29, 1998, deferred the setting of its implementation date.

In light of the successful deployment of the needed technology, the Board of Governors, at its February 3, 1999, meeting, set March 14, 1999, as the implementation date for delivery confirmation service.

This final rule contains the DMM standards adopted by the Postal Service to implement delivery confirmation service, effective March 14, 1999. Part A of this notice summarizes major changes that have been made to or added to the proposed implementation standards since the proposed rule. This includes changes made by the Postal Service in response to mailer comments or for other reasons. Part B provides a summary of all of the changes in Domestic Mail Manual standards made as a result of the implementation of delivery confirmation service. Part C contains an analysis of comments received on the proposed rule and the Postal Service's response. Part D summarizes the changes to the DMM by DMM module, followed by the text of the revised DMM standards.

A. Major Changes and Additions Other Than Rate and Fee Levels Since the March 16, 1998, Proposed Rule

1. Special Services

Additions

The following information was added to the language in new DMM S918:

a. Firm Mailing Books

DMM S918 was amended to provide for use of PS Form 3877 (firm mailing book) when mailers desire a receipt for large volume mailings.

b. Acceptance

Provisions are added to DMM S918 to require presorted or permit imprint mailings containing pieces for which fees are paid for delivery confirmation service to be presented to a post office business mail entry unit (BMEU), detached mail unit (DMU) at the mailer's plant, bulk mail center or auxiliary service facility business mail entry unit, or other postal facility capable of properly verifying the mailing, and at which the permit or license is held and any applicable mailing fee is paid. Mailers who use the electronic option or print their own labels must submit a completed Form 3152, Delivery Confirmation Certification, with each mailing. Each Form 3152 must contain the delivery confirmation electronic file number or barcode equivalent, date of mailing and, if available, the total number of delivery confirmation pieces by class of mail. The barcode format must comply with standards in DMM S918 and in Publication 91, Delivery Confirmation Technical Guide.

c. Peelable Labels

Peelable labels will not be required in any instances because of the completion of the service-wide deployment of scanning equipment. The proposed standards that indicated that the Postal Service would require peelable labels for certain 3-digit ZIP Code areas will not apply.

2. Updated Language

The following language was updated from the Proposed Rule language to provide for better understanding.

a. Electronic Manifest was changed to Electronic File to avoid confusion with manifests used for postage payment.

b. Confirmation Information was changed to Delivery Status to allow for possible scans throughout the delivery process.

c. When reference is made to delivery confirmation providing the date of delivery, this has been changed to date and time of delivery.

B. Summary of All DMM Revisions for delivery confirmation

1. Priority Mail

Classification and Fee Structure

A new delivery confirmation service is offered with Priority Mail. This service may be obtained in two forms:

a. An electronic option at no additional fee for mailers who apply the identifying barcodes to each piece, provide an electronic file, and retrieve delivery status information electronically.

b. A retail option for a $0.35 per piece fee, with delivery status information provided through the Postal Service Internet address or a toll-free telephone number. See DMM S918 for details on preparing delivery confirmation mail.

2. Standard Mail (B)

Classification and Fee Structure

A new delivery confirmation service will be available for Standard Mail (B) (Parcel Post, Bound Printed Matter, Special Standard Mail, and Library Mail). This service may be obtained in one of two forms:

a. An electronic option for a $0.25 per piece fee for mailers who apply the identifying barcodes to each piece, provide an electronic file, and retrieve delivery status information electronically.

b. A retail option for a $0.60 per piece fee, with delivery information provided through a USPS Internet address or a toll-free telephone number. See DMM S918 for details on preparing delivery confirmation mail.

3. Special Services

a. Delivery Confirmation

A new delivery confirmation service will be available for Priority Mail and Standard Mail (B) (Parcel Post, Bound Printed Matter, Special Standard mail, and Library Mail). This service will provide the mailer with information about the date and time an article was delivered, and if delivery was attempted but not successful, the date and time of the delivery attempt. Delivery confirmation may be combined with insured mail, registered mail, PAL, COD, or special handling. Delivery confirmation may be combined with restricted delivery if purchased along with insurance for over $50.00, COD, or registry service. See DMM S918 for further details on preparing delivery confirmation mail and DMM R900.7.0 for fees. Delivery confirmation service will be available only at the time of mailing. This service will be available in two forms:

(1) An electronic option. An electronic option for mailers who apply identifying barcodes to each piece, provide an electronic file, and retrieve delivery status information electronically.

(2) A retail option. A retail option for which delivery information will be provided through a Postal Service Internet address or a toll-free telephone number.

b. Return Receipt

Revisions are made to DMM S915 to allow use of traditional return receipt service with delivery confirmation service only if purchased in connection with insurance for items valued over $50.00, COD, or registry service. At a future date, signature confirmation service (electronic return receipt) will be offered with delivery confirmation service, without a requirement to purchase another special service. DMM rules for signature service will be published once the implementation date is determined by the Board of Governors.

C. Summary of Comments from the March 16, 1998 Proposed Rule

Five of the thirty-two comments submitted to the Postal Service regarding the **Federal Register** notice were related to delivery confirmation. Of the five, two were from individuals and three were from businesses. Their comments concentrated on the following subject areas: clarification to DMM language; including delivery confirmation service for Standard Mail (A); use of precanceled stamps; and notifications to mailers about deployment.

As a result of the comments and ongoing exchanges of viewpoints with business representatives, revisions to the proposed DMM language have been made. A review of past successful practices also has led the Postal Service to remain firm on some of the issues expressed by the commenters. The Postal Service believes the changes in some of the language and standards provide clarity and ease of use.

The language in the proposed DMM requirements published in the March 16, 1998, **Federal Register** stated, ''Delivery confirmation service provides a mailer with the date that an article was delivered or that a delivery attempt was made.'' Four commenters stated that after an attempt is made, confirmation should be provided once the piece is delivered and this should be indicated in the description. For clarification, the Postal Service changed the language to, ''Delivery confirmation service provides a mailer with the date and time an article was delivered and, if delivery was attempted but not successful, the date and time of the delivery attempt.''

The proposed standards specified that the service is available only for Priority Mail and Standard Mail (B). One commenter expressed the need for the description to indicate the availability of the service for all subclasses of Standard Mail (B). In concurring that the language should leave no doubts as to what services are included, the language was changed to, ''Only Priority Mail and Standard Mail (B) (Parcel Post, Bound Printed Matter, Special Standard Mail, and Library Mail) may be sent using delivery confirmation.''

In addition, two comments raised the question about delivery confirmation being made available to Standard Mail (A) parcel shippers. Use of delivery confirmation with Standard Mail (A) was not proposed by the Postal Service in Docket No. R97–1, based on the belief that there would not be a large demand for this service with Standard Mail (A), given the average postage cost and price sensitivity of Standard Mail (A). A new proposal would need to be made to the PRC in order to extend delivery confirmation service to Standard Mail (A). The Postal Service will take these comments into account in determining whether to make such a proposal in the future.

The Postal Service stated in the proposed standards that the fee and postage may be paid with ordinary postage stamps, meter stamps or permit imprints. Two commenters indicated that precanceled stamps should be included as an authorized method of postage payment. The Postal Service disagrees. Routinely, large parcel mailers pay for postage with metered postage or use permit imprints with manifesting. Generally, postage stamps are not affixed for this type of mail. Precanceled stamps are traditionally used with advertising matter requiring the same postage on all pieces. These pieces are smaller denominations of postage than are used for parcels. Furthermore, precanceled stamps are not authorized for use with Priority Mail. Precanceled stamps are not accepted as postage payment for other similar special service options (Registered, S911.2.2, Certified, S912.1.3, or Return Receipt for Merchandise, S917.1.6). Accordingly, the Postal Service is not allowing precanceled stamps as a payment method for delivery confirmation service.

The proposed standards specified that the barcoded label section of Label 152 must be placed either above the delivery address and to the right of the return address, or to the left of the delivery address. One of the commenters questioned the position of the barcode shown in Exhibit S918.3.2 stating that the relative position of the barcode shown in that exhibit did not match the requirement of proposed DMM S918.2.2. This is because DMM S918.2.2 refers to placement of the delivery confirmation Retail Labels, PS Form 152. Exhibit S918.3.1 contained a placeholder for a picture of Label 314 that is preprinted and provided to customers by the Postal Service. Exhibit S918.3.2 displayed a customer-produced electronic (non-retail) label containing both the address information and delivery confirmation barcode.

D. Summary of Domestic Mail Manual (DMM) Changes for Delivery Confirmation

The following are changes organized by DMM module. They are intended as an overview only and should not be viewed by readers as defining every revision.

C Characteristics and Content

C850 is revised to include information about barcode formatting requirements when routing barcodes are combined with delivery confirmation barcodes. These concatenated barcodes require human-readable elements, product identifier codes, and check digits that routing barcodes do not. This was added to reduce confusion when a mailer is using both types of service offerings on Standard Mail (B) articles.

P Postage and Payment Methods

P014 is revised to indicate that a full refund may be given for delivery confirmation if no service is provided.

R Rates and Fees

R900 is revised to include a table of fees for delivery confirmation services.

S Special Services

S911 is revised to include delivery confirmation as an authorized additional service for registered mail. S913 is revised to include delivery confirmation as an authorized additional service for insured mail. S915 is amended to reflect limited availability of return receipt with delivery confirmation service. S916 is amended to reflect limited availability of restricted delivery together with delivery confirmation service. S918 is added to provide rules for the proposed new delivery confirmation service. S921 is amended to reflect limited availability of COD with delivery confirmation service. S930 is amended to reflect availability of delivery confirmation service with special handling. PAL section of S930 is revised to reflect the availability of delivery confirmation service.

List of Subjects in 39 CFR Part 111

Postal Service

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

PART 111—[AMENDED]

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

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

2. Revise the following sections of the Domestic Mail Manual as follows:

C Characteristics and Content

* * * * *

[Revise the title of C840 to read as follows:]

C840 Barcoding Standards for Letters and Flats

* * * * *

[Revise the titles of C850 and C850.1.0 to read as follows:]

C850 Barcoding Standards for Standard Mail (B) Machinable Parcels

1.0 General

* * * * *

1.1 Basic Requirement

[Amend C850.1.1 to add following sentence at the end:]

* * * * *

Postal routing barcodes that are used in conjunction with a delivery confirmation barcode in a single concatenated barcode must comply with the standards set forth in S918 and in Publication 91, Delivery Confirmation Technical Guide.

* * * * *

[Redesignate C850.1.4 through C850.1.5 as C850.1.5 through C850.1.6, respectively. Add new C850.1.4 to read as follows:]

1.4 Use With Delivery Confirmation Service

A mailer of machinable parcels may obtain delivery confirmation service as well as the Standard Mail (B) barcoded discount provided the requirements in E630 are met and the barcode(s) is prepared in one of the following two ways:

a. Separate Barcodes. Mailers may place both a postal routing code prepared under 1.0 through 4.0 and a separate delivery confirmation barcode prepared under S918 and Publication 91, Delivery Confirmation Technical Guide, on the same mailpiece.

b. Single Concatenated Barcode. Mailers may print on mailpieces a single concatenated barcode that combines the delivery confirmation information and the postal routing code as follows:

(1) Only the UCC/EAN Code 128 barcode symbology may be used.

(2) The barcode must be prepared according to the barcode specifications for the UCC/EAN Code 128 in S918 and Publication 91, Delivery Confirmation Technical Guide.

(3) The barcode must be prepared according to the data format requirements for concatenated barcodes in Publication 91, Appendix G, Table 25. This format contains the start code, function one code, the ''420'' application identifier, the 5-digit code of the delivery address on the mailpiece, the function one code, the ''91'' application identifier, the service type code, the customer ID, the sequential package ID, the MOD 10 check digit, the MOD 103 check-digit, and the stop code. The MOD 10 check digit must be calculated using only the delivery confirmation barcode elements. The function one codes, the ''420'' application identifier, and the 5-digit code of the delivery address are not included in the MOD 10 check-digit calculation.

(4) All format, placement, and human-readable information requirements for delivery confirmation service must be met as described in S918 and Publication 91, Delivery Confirmation Technical Guide, rather than the requirements in C850.3.0 and C850.4.0. The human-readable numeric representation of the concatenated barcode must show the ''420'' application identifier, the 5-digit code of the delivery address, the ''91'' application identifier, the service type code, customer ID, sequential package ID, and MOD 10 check digit. The human-readable information must also include the ''USPS Delivery Confirmation'' text and identification bars.

(5) In addition to the human-readable requirements in S918 and Publication 91, Delivery Confirmation Technical Guide, the word ''ZIP'' must be printed to the left of the barcode in 12 point or larger sans serif type. A clear zone between the end of the word ''ZIP'' and the beginning of the barcode must be maintained. The clear zone must be no less than 10 times the average narrow bar or space element width and no more than 1/2-inch to the left of the barcode. A clear zone of 1/4-inch is recommended.

(6) If a mailpiece bears the concatenated delivery confirmation service barcode that includes the postal routing code, no other barcodes that appear on the mailpiece may contain the postal routing code structure (see 1.5).

(7) All barcode symbols must be printed on substrate material that preserves the optical specification as described in the AIM–USA Uniform Symbology Specification documents. Typically, white label stock commonly used for barcode generation is suitable, providing it is not glossy (causing mirror-like (specular) reflection) nor prone to smearing or smudging.

* * * * *

P Postage and Payment Methods

* * * * *

P014 Refunds and Exchanges

* * * * *

2.0 Postage and Fee Refunds

* * * * *

2.4 Full Refund

[Amend P014.2.4f to add delivery confirmation service as follows:]

A full refund (100%) may be made when:

* * * * *

f. Fees are paid for special handling, certified mail, or delivery confirmation and the article fails to receive the special service for which the fee is paid.

R Rates and Fees

R900 Services

* * * * *

[Add new R900.7.0 to read as follows:]

7.0 Delivery Confirmation

Fee, in addition to postage and other fees, per mailpiece:

Type	Fee
Priority Mail:	
Electronic	$.00
Retail	.35
Standard Mail (B):	
Electronic	.25
Retail	.60

* * * * *

S Special Services

* * * * *

S911 Registered Mail

1.0 Basic Information

* * * * *

1.5 Additional Services

[Redesignate S911.1.5 b-d as S911.1.5 c-e and add new S911.1.5b as follows:]

The following services may be combined with registered mail if the applicable standards for the services are met and the additional service fees are paid:

* * * * *

b. Delivery confirmation service.

* * * * *

S913 Insured Mail

1.0 Basic Information

* * * * *

1.5 Additional Services

[Amend S913.1.5 to add delivery confirmation service as follows:]

Subject to applicable standards and fees, special handling, parcel airlift, merchandise return, and delivery confirmation service may be used with insured mail. Restricted delivery and return receipt service (Form 3811) may be obtained for articles insured for more than $50.

* * * * *

S915 Return Receipt

1.0 Basic Information

* * * * *

1.2 Availability

[Amend S915.1.2 to provide for use with delivery confirmation as follows:]

The service is available only for Express Mail and mail that is sent certified, collect on delivery (COD), insured for more than $50, or registered. Return receipt service may be used with delivery confirmation only if purchased in connection with insurance for more than $50, COD, or registry service. After delivery, the return receipt is mailed back to the sender.

* * * * *

S916 Restricted Delivery

1.0 Basic Information

* * * * *

1.2 Availability

[Amend S916.1.2 to provide for availability with delivery confirmation:]

Restricted delivery may be obtained only for COD mail, mail insured for more than $50, registered mail or certified mail. Restricted delivery may be used in connection with delivery confirmation service only if purchased along with insurance for more than $50, COD, or registry service.

* * * * *

[Add new S918 as follows:]

S918 Delivery Confirmation

1.0 Basic Information

1.1 Description

Delivery confirmation service provides the mailer with information about the date and time an article was delivered and if delivery was attempted but not successful, the date and time of the delivery attempt. Delivery confirmation service is available only at the time of mailing. This service may be obtained in two forms: (1) an electronic option for mailers who apply identifying barcodes to each piece, provide an electronic file and retrieve delivery status information electronically; and (2) a retail option for mailers who do not use an electronic file or who wish to retrieve delivery information through the Postal Service Internet address or a toll-free telephone number. No record is kept at the office of mailing. Delivery confirmation service does not include insurance, but insurance may be purchased as an additional service (see 1.5).

1.2 Eligible Matter

Only Priority Mail and Standard Mail (B) (Parcel Post, Bound Printed Matter, Special Standard Mail, and Library Mail) may be sent using delivery confirmation.

1.3 Service Options

The two delivery confirmation service options are:

a. Retail option: Available at post offices at the time of mailing. A mailing receipt is provided. Mailers can access delivery information over the Internet at www.usps.com or by calling 1–800–222–1811 toll-free and providing the article number.

b. Electronic option: Available to mailers who establish an electronic link with the Postal Service to exchange acceptance and delivery data. No mailing receipt is provided.

1.4 Fees and Postage

The applicable delivery confirmation fee must be paid in addition to the correct postage. The fee and postage may be paid with postage stamps, meter stamps, or permit imprint. Precanceled stamps are not permitted as postage payment.

1.5 Additional Services

Delivery confirmation service may be combined with insured mail, registered mail, PAL, COD, or special handling. Return receipt service under S915 may be used with delivery confirmation if purchased with insurance (for more than $50), COD, or registry service. Restricted delivery service under S916, may be used with delivery confirmation if purchased with insurance (for more than $50), COD, or registry service.

1.6 Where To Mail

A mailer may mail articles with delivery confirmation at a post office, branch, or station, or give articles to a rural carrier.

1.7 Firm Mailing Books

If three or more articles are presented for mailing at one time, the mailer may use Form 3877, *Firm Mailing Book for Accountable Mail,* provided by the Postal Service at no charge, or privately printed firm mailing bills. Privately printed or computer-generated firm mailing bills that contain the same information as Form 3877 may be used if approved by the local postmaster. The mailer may omit columns from Form 3877 that are not applicable to delivery confirmation mail. Required elements are the package identification code (PIC), 5-digit destination ZIP Code, and applicable fees. If the mailer wants the firm mailing bills receipted by the Postal Service, the mailer must present the books with the articles to be mailed at a post office. The sheets of the books

are the mailer's receipts. All entries made in firm mailing books must be made by typewriter, ink, or ballpoint pen. Alterations must be initialed by the mailer and accepting postal employee. All unused portions of the addressee column must be obliterated with a diagonal line. A receipt is required for refund requests.

2.0 Labels

2.1 Types of Labels

Mailers may use one of the three delivery confirmation label options shown in 2.1. Additional information may be found in Publication 91, Delivery Confirmation Technical Guide.

a. PS Form 152 obtained from the post office at no charge. This form may only be used with the retail mailing option (see Exhibit 2.1a).

b. USPS Label 314, available at no charge to electronic option mailers (see Exhibit 2.1b).

c. Privately printed barcoded labels that meet the requirements in 2.0 and 3.0 (see Exhibit 2.1c).

BILLING CODE 7710–12–P

Exhibit 2.1a PS Form 152, USPS Printed Delivery Confirmation Retail Label

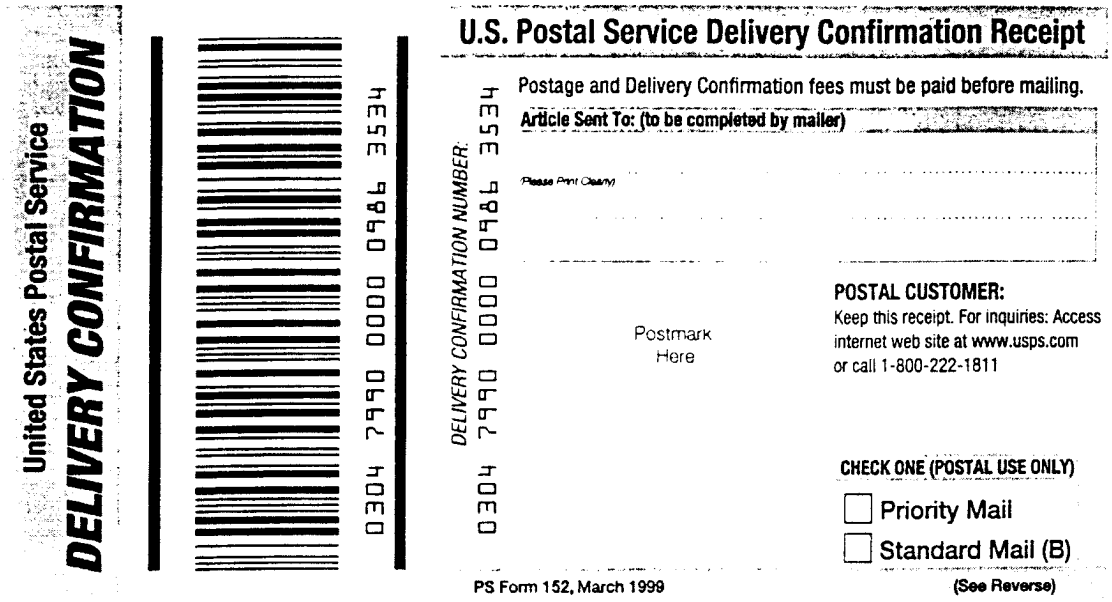

Exhibit 2.1b Label 314, USPS Printed Delivery Confirmation Electronic Label

Exhibit 2.1c Privately Printed Delivery Confirmation Barcoded Label

2.2 Label Placement

The barcoded label section of Label 314 or PS Form 152 must be placed either above the delivery address and to the right of the return address or to the left of the delivery address. The entire label must be placed on the address side and not overlap any adjacent side of an item.

3.0 Barcodes

3.1 Symbology

Labels printed by mailers must meet the following symbology requirements:

a. Mailers printing their own barcodes and using the retail service option (1.3a) must print their barcodes using Automatic Identification Manufacturers' (AIM) Uniform Specifications for USS Code Interleaved 2 of 5.

b. Mailers printing their own barcodes and using the electronic service option (1.3b) must use one of the following barcode symbologies: UCC/EAN 128, USS Code Interleaved 2 of 5, USS Code 39, or USS Code 128. Each barcode must contain a unique Package Identification Code (PIC) as specified in 3.2. The barcodes must meet the specifications in Publication 91, Delivery Confirmation Technical Guide.

3.2 Package Identification Code (PIC)

Each barcode symbology must contain a unique PIC.

a. For UCC/EAN 128, each barcode must contain a unique PIC and be made up of five fields totaling 22 characters.

Additional information and specifications can be found in Publication 91, Delivery Confirmation Technical Guide. The five required data fields are:

(1) Application Identifier (AI): two characters; identifies the article as a delivery confirmation piece.

(2) Service Type Code (STC): two characters; identifies the type of product or service used for each item.

(3) Customer ID: nine characters; DUNS• number that uniquely identifies the customer.

(4) Package Sequence Number (PSN): eight characters; fixed sequential number.

(5) Modulus 10 Check digit: one character.

b. For USS Code Interleaved 2 of 5, USS Code 39 and USS Code 128, each barcode must contain a unique PIC and be made up of four fields totaling 20 characters. The four required data fields are fields 2 through 5 above. Additional information and specifications can be found in Publication 91, Delivery Confirmation Technical Guide. These symbologies do not use an Application Identifier (AI).

3.3 Printing

Labels printed by mailers must meet the following specifications:

a. Each barcoded label must bear a unique delivery confirmation PIC barcode as specified in 3.2 and have ''USPS DELIVERY CONFIRMATION'' printed between ⅛ inch and ½ inch above the barcode in minimum 12-point bold sans-serif type. Human-readable characters that represent the barcode ID must be printed between ⅛ inch and ½ inch under the barcode in minimum 10-point bold sans-serif type. These characters must be parsed in accordance with Publication 91. There must be a minimum of ⅛ inch clearance between the barcode and any printing. The preferred range of widths of narrow bars and spaces is 0.015 inch to 0.017 inch. The width of the narrow bars or spaces must be at least 0.013 inch but no more than 0.021 inch. All bars must be at least ¾ inches high. Bold (1/16-inch minimum) bars must appear between ⅛ inch and ½ inch above and below the human-readable endorsements to segregate the delivery confirmation barcode from other areas of the shipping label. The line length must be equal to the length of the barcode (see Exhibit 2.1b).

b. Each barcode must meet the requirements in 3.1 for the type of service requested.

c. Mailers must obtain Postal Service certification for each printer used to print barcoded delivery confirmation labels. For certification, a mailer must forward for evaluation and approval 20 barcoded labels/forms generated by each printer to the National Customer Service Center (NCSC), ATTENTION BARCODE CERTIFICATION (see G043 for address). The Postal Service will issue the mailer a PS Form 3152, Delivery Confirmation Certification, for each printer certified. All barcodes must be in accordance with 2.0 and 3.0. Further certification instructions are included in Publication 91, Delivery Confirmation Technical Guide.

d. Barcodes that do not meet specifications will not be accepted by the USPS. The USPS will contact the mailer if problems with the barcodes are found and will try to resolve the problem. The USPS may suspend a mailer's certification if electronic file quality does not meet specifications.

4.0 Electronic File Transmission

Mailers must meet the following standards for electronic file transmission:

a. Publication 91, Delivery Confirmation Technical Guide, contains specifications for electronic file transmission. A test file transmission must be uploaded and approved before mailings begin. Upon certification, USPS will issue to the mailer a PS Form 3152, Delivery Confirmation Certification, for electronic file format.

b. Mailers using the electronic option will be required to transmit a file with a unique record for each article mailed. The USPS will contact the mailer if problems with the file are found and will try to resolve those problems. The USPS may suspend a mailer's certification if the electronic file quality does not meet specifications. In addition, USPS acceptance units will be notified to charge the customer the retail delivery confirmation fee.

5.0 Acceptance

Customers must meet the following requirements when presenting mail for acceptance:

a. Presorted or permit imprint mailings containing pieces for which fees are paid for delivery confirmation service must be presented to a post office business mail entry unit (BMEU), detached mail unit (DMU) at the mailer's plant, bulk mail center or auxiliary service center business mail entry unit, or other postal facility capable of properly verifying the mailing and at which the mailer has obtained the necessary permits and license and paid any applicable mailing fee. Each piece of Priority Mail and Standard Mail (B) must meet the applicable eligibility and preparation standards for the rate claimed.

b. Mailers who use the electronic option or print their own labels must submit a completed PS Form 3152, Delivery Confirmation Certification, with each mailing. Each PS Form 3152 must contain the delivery confirmation electronic file number or barcode equivalent, date of mailing, and, if available the total number of delivery confirmation pieces by class of mail. The barcode format must comply with standards in Publication 91, Delivery Confirmation Technical Guide.

* * * * *

S921 Collect on Delivery (COD) Mail

1.0 Basic Information

* * * * *

1.4 Other Services

[Revise S921.1.4 to read as follows:]

Subject to applicable standards and fees, return receipt, restricted delivery, and delivery confirmation services are available for COD. Restricted delivery and delivery confirmation are not available with Express Mail COD.

* * * * *

S930 Handling

1.0 Special Handling

* * * * *

1.3 Additional Services

[Revise S930.1.3 to read as follows:]

Special handling can be combined with COD, insured, return receipt for merchandise, and delivery confirmation if the applicable standards for the service are met and the additional service fees paid.

* * * * *

2.3 Additional Services

[Redesignate S930.2.3 b–e as S930.2.3 c–f and add new S930.2.3b to read as follows:]

The following services are available if the applicable standards for the services are met and the additional service fees paid:

* * * * *

b. Delivery confirmation.

* * * * *

An appropriate amendment to 39 CFR 111.3 will be published to reflect these changes.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 99–5905 Filed 3–8–99; 11:12 am]

BILLING CODE 7710–12–P

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Wednesday, March 10, 1999

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Animal and Plant Health Inspection Service

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CONSUMER PRODUCT SAFETY COMMISSION

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Child-resistant packaging requirements—

Household products containing methacrylic acid; comments due by 3-15-99; published 12-30-98

DEFENSE DEPARTMENT

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Para-aramid fibers and yarns; comments due by 3-16-99; published 1-15-99

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ENVIRONMENTAL PROTECTION AGENCY

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HOUSING AND URBAN DEVELOPMENT DEPARTMENT

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Indian Affairs Bureau

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INTERIOR DEPARTMENT

Fish and Wildlife Service

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INTERIOR DEPARTMENT

Minerals Management Service

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Minerals Management Service; royalty and offshore management programs; order appeals; comments due by 3-15-99; published 1-12-99

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Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:

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LABOR DEPARTMENT

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NORTHEAST DAIRY COMPACT COMMISSION

Over-order price regulations:

Milk handlers; administrative assessment; comments due by 3-17-99; published 1-28-99

NUCLEAR REGULATORY COMMISSION

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Industrial devices containing byproduct material; information requirements; comments due by 3-16-99; published 12-2-98

SMALL BUSINESS ADMINISTRATION

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TRANSPORTATION DEPARTMENT

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