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Friday  
March 19, 1999

# Federal Register

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For information on briefings in Washington, DC, see  
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- WHO:** Sponsored by the Office of the Federal Register.
- WHAT:** Free public briefings (approximately 3 hours) to present:
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  2. The relationship between the Federal Register and Code of Federal Regulations.
  3. The important elements of typical Federal Register documents.
  4. An introduction to the finding aids of the FR/CFR system.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

### WASHINGTON, DC

- WHEN:** March 23, 1999 at 9:00 am.
- WHERE:** Office of the Federal Register  
Conference Room  
800 North Capitol Street, NW.  
Washington, DC  
(3 blocks north of Union Station Metro)
- RESERVATIONS:** 202-523-4538



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phone numbers, online resources, finding aids, reminders,  
and notice of recently enacted public laws.

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# Rules and Regulations

Federal Register

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

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

## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

#### 7 CFR Part 1439

RIN 0560-AF 58

#### Livestock Assistance Program

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the current provisions of regulations on emergency livestock assistance to delete regulations for obsolete programs and to provide new terms and conditions for the Livestock Assistance Program (LAP) authorized in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (1999 Act). The LAP will provide emergency feed assistance for losses suffered by livestock producers in calendar year 1998, in counties that have suffered a 40 percent or greater loss of normal grazing as a result of a natural disaster. Assistance to the producer will be based on the number of eligible livestock owned by the producer and the producer's percent of grazing losses. The 1999 Act limits expenditures of the program to \$200 million. Payment rates will not be determined until a sign-up for the program is completed.

**EFFECTIVE DATE:** Effective March 17, 1999.

**FOR FURTHER INFORMATION CONTACT:** Dolores Painter, (202) 720-4642.

#### SUPPLEMENTARY INFORMATION:

#### Executive Order 12866

This final rule is issued in conformance with Executive Order 12866 and has been determined to be economically significant and therefore has been reviewed by the Office of Management and Budget (OMB).

#### Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rule making with respect to the subject matter of this rule.

#### Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

#### Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. The provisions of this rule preempt State laws to the extent such laws are inconsistent with the provisions of this rule. Before any judicial action may be brought concerning provisions of this rule, the administrative remedies must be exhausted.

#### Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

#### Unfunded Mandates Reform Act of 1995

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

#### Paperwork Reduction Act and Small Business Regulatory Enforcement Fairness Act

The LAP provisions contained in this rule are authorized by the 1999 Act (Pub. L. 105-277). Section 1133 of the 1999 Act provides that such rules shall be issued as soon as practicable and without regard to the provisions of: (1) the notice and comment provisions of section 553 of title 5, United States Code; (2) the Statement of Policy of the

Secretary of Agriculture effective July 24, 1971 (36 FR 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and (3) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act"). Accordingly, the LAP regulations are being issued as a final regulation without a notice and comment period, and the forms and the collection of information do not require prior OMB approval.

In addition, this rule was determined to be Major under the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). Section 1133 of the 1999 Act provides that these regulations shall use the authority provided under section 808 of SBREFA that allows an agency to promulgate a rule at such time as it determines necessary, notwithstanding the Congressional review required by Section 801 of SBREFA. It is hereby determined that to the extent such review would otherwise delay the implementation of this rule, such delay would be contrary to the public interest because of the need for expeditious implementation of the rule as expressed in the text of the 1999 Act. Accordingly, this rule is effective upon publication.

#### Executive Order 12612

It has been determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

#### Background

This final rule revises 7 CFR part 1439 to delete obsolete programs and to set forth terms and conditions for a new program authorized by the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (Pub. L. 105-277) (1999 Act).

As provided in the 1999 Act, livestock producers who suffered livestock feed losses as a result of natural disaster may apply for benefits to compensate for losses which occurred in calendar year 1998. As authorized, \$200 million is made available for that purpose.

Benefits will be provided to eligible livestock producers only in those counties where a severe natural disaster occurred, and that were subsequently approved by the Deputy Administrator for Farm Programs. A county must have suffered a 40-percent or greater grazing loss for 3 consecutive months during the 1998 calendar year, as a result of damage due to a natural disaster in order to be eligible; livestock producers in counties contiguous to an approved county are not eligible. A livestock producer in an approved county must have suffered at least a 40-percent loss of normal grazing for the producer's eligible livestock for a minimum of 3 consecutive months. Losses will only be compensable up to 80 percent of the total grazing available and the compensable loss will also not exceed a county maximum set by the local county committee. The program will be administered through the Deputy Administrator for Farm Programs of the Department's Farm Service Agency. Payments will be made according to a formula subject to funding and other limitations, including a per person payment limitation and a provision which precludes participation for persons whose gross revenue exceeds a specified amount. A final payment shall not exceed 50 percent of the eligible loss amount determined prior to applying a national factor, if applicable. The regulations provide that the rules of 7 CFR part 1400 will be used to make "person" determinations for these purposes.

In making provision for this program, 7 CFR part 1439 has been revised in order to remove obsolete provisions for previous programs. As before, the organization of part 1439 will continue to have one subpart for general provisions applicable to multiple programs, and then provide the details of particular programs in separate subparts. In addition, the rules provide that the regulations found at part 1439 of this title as of January 1, 1999, shall be applicable to all outstanding determinations with respect to any program previously codified at this part. The American Indian Livestock Feed Program which was codified in a subpart consisting of §§ 1439.901 through 1439.911 in part 1439 by publication of an Interim Rule in the November 27, 1988, **Federal Register** (63 FR 65524) remains in effect.

#### List of Subjects in 7 CFR Part 1439

Animal feeds, Disaster assistance, Livestock, Reporting and recordkeeping requirements.

Accordingly, 7 CFR Part 1439 is amended as follows:

#### PART 1439—EMERGENCY LIVESTOCK ASSISTANCE

1. The authority citation for 7 CFR part 1439 is revised to read as follows:

**Authority:** 15 U.S.C. 714b and 714c; Sec. 1103, Pub. L. 105-277, 112 Stat. 2681.

2. Subpart—General Provisions is revised to read as follows:

##### Subpart—General Provisions

Sec.

- 1439.1 Applicability and general statement.
- 1439.2 Administration.
- 1439.3 Definitions.
- 1439.4 Liens and claims of creditors.
- 1439.5 Assignments of payments.
- 1439.6 Appeals.
- 1439.7 Misrepresentation, scheme or device.
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- 1439.9 Cumulative liability.
- 1439.10 Benefits limitation.
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- 1439.12 Maintenance of books and records.

##### Subpart—General Provisions

###### § 1439.1 Applicability and general statement.

(a) The regulations in this part set forth the terms and conditions applicable to programs which may be made available to livestock producers under various statutory provisions. Unless otherwise specified, the regulations in this subpart shall apply to all programs operated under this part.

(b) The regulations in this part 1439 in effect prior to March 17, 1999. (See 7 CFR Parts 1200 to 1599, revised as of January 1, 1999) are applicable with respect to any emergency livestock assistance program which existed prior to March 17, 1999.

###### § 1439.2 Administration.

(a) This part shall be administered by CCC through, and as delegated to the Deputy Administrator for Farm Programs under the general direction and supervision of the Executive Vice President, CCC. The program shall be carried out in the field by State and county committees of the Farm Service Agency of the U.S. Department of Agriculture.

(b) State and county committees, and representatives and employees thereof, do not have the authority to modify or waive any of the provisions of the regulations in this part, as amended or supplemented.

(c) The State committee shall take any action required by this part which has not been taken by the county committee. The State committee shall also:

(1) Correct, or require a county committee to correct, any action taken by such county committee which is not in accordance with this part; or

(2) Require a county committee to withhold taking any action which is not in accordance with this part.

(d) No delegation in this section to a State or county committee shall preclude the Executive Vice President, CCC, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee. The Deputy Administrator may waive or modify deadlines or other program requirements of this part to the extent that such a waiver or modification is otherwise permitted by law and is determined to be appropriate, serves the goals of the program and does not adversely affect the operation of the program.

###### § 1439.3 Definitions.

The definitions set forth in this section shall be applicable to all subparts contained in this part unless otherwise noted, or the definitions conflict, in which case the definitions in the applicable subpart shall prevail.

*Carrying capacity* means the number of acres of pasture required to provide 15.7 pounds of feed grain equivalent per day for 1 animal unit during the period the pasture is normally grazed.

*CCC* means the Commodity Credit Corporation.

*Deputy Administrator or DAFP* means the Deputy Administrator for Farm Programs, Farm Service Agency (FSA), or a designee.

*Equine animals used for food or in the production of food* means horses, mules, and donkeys which are:

- (1) Used commercially for human food;
- (2) Maintained for commercial sale to processors of food for human consumption; or
- (3) Used in the production of food and fiber on the owner's farm, such as draft horses, or cow ponies.

*Executive Vice President* means the Executive Vice President, CCC, or a designee of the Executive Vice President.

*FSA* means the Farm Service Agency.

*Livestock producer* means a person who is determined to receive 10 percent or more of the person's gross income, as determined by the Secretary, from the production of livestock and is:

- (1) A citizen of, or legal resident alien in the United States; or
- (2) A farm cooperative, private domestic corporation, partnership, or joint operation in which a majority interest is held by members,

stockholders, or partners who are citizens of, or legal resident aliens in the United States; any Indian tribe under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 *et seq.*); any Indian organization or entity chartered under the Indian Reorganization Act (25 U.S.C. 461 *et seq.*) or entity chartered under the Indian Reorganization Act; any tribal organization under the Indian Self-Determination and Education Assistance Act; and any economic enterprise under the Indian Financing Act of 1974 (25 U.S.C. 1451 *et seq.*).

*Natural disaster* means disease, insect infestation, flood, drought, fire, hurricane, earthquake, storm, hot weather, or other natural disaster.

*Person* means a person as determined according to part 1400 of this chapter.

*Poultry* means domesticated chickens, including egg-producing poultry, ducks, geese and turkeys.

*Secretary* means the Secretary of Agriculture or a designee of the Secretary.

*Seeded small grain forage crops* means wheat, barley, oats, rye, and triticale.

*State committee, State office, county committee, or county office*, means the respective FSA committee or office.

*United States* means all fifty states of United States, the Commonwealth of Puerto Rico, the Virgin Islands and Guam.

#### § 1439.4 Liens and claims of creditors.

Any payment or benefit or portion thereof due any person under this part shall be allowed without regard to questions of title under State law, and without regard to any claim or lien in favor of any person except agencies of the U.S. Government.

#### § 1439.5 Assignments of payments.

Payments which are earned by a person under this part may be assigned in accordance with the provisions of part 1404 of this chapter and the applicable forms for assignments.

#### § 1439.6 Appeals.

Any person who is dissatisfied with a determination made with respect to this part may make a request for reconsideration or appeal of such determination in accordance with the appeal regulations set forth at parts 780 and 11 of this title.

#### § 1439.7 Misrepresentation, scheme or device.

A person shall be ineligible to receive assistance under any program under this part if with respect to such program it is determined by the State committee or

the county committee or an official of FSA that such person has:

(a) Adopted any scheme or other device which tends to defeat the purpose of a program operated under this part;

(b) Made any fraudulent representation with respect to such program; or

(c) Misrepresented any fact affecting a program determination.

#### § 1439.8 Refunds to CCC; joint and several liability.

(a) In the event there is a failure to comply with any term, requirement, or condition for payment or assistance arising under this part, and if any refund of a payment to CCC shall otherwise become due in connection with this part, all payments made in regard to such matter shall be refunded to CCC, together with interest as determined in accordance with paragraph (b) of this section and late-payment charges as provided for in part 1403 of this chapter.

(b) All persons with a financial interest in the operation shall be jointly and severally liable for any refund, including related charges, which is determined to be due CCC for any reason under this part.

(c) Interest shall be applicable to refunds required of the livestock owner or other party receiving assistance or a payment if CCC determines that payments or other assistance were provided to the owner and the owner was not eligible for such assistance. Such interest shall be charged at the rate of interest which the United States Treasury charges CCC for funds, as of the date CCC made such benefits available of the monies or benefits to be refunded. Such interest that is determined to be due CCC shall accrue from the date such benefits were made available by CCC to the date of repayment or the date interest increases in accordance with part 1403 of this chapter. CCC may waive the accrual of interest if CCC determines that the cause of the erroneous determination was not due to any action of the livestock owner.

(d) Interest determined in accordance with paragraph (c) of this section shall not be applicable to refunds required of the owner because of unintentional misaction on the part of the owner, as determined by CCC.

(e) Late payment interest shall be assessed on all refunds in accordance with the provisions of, and subject to the rates prescribed in part 1403 of this chapter.

(f) Persons who are a party to any program operated under this part must refund to CCC any excess payments

made by CCC with respect to such program.

(g) In the event that any request for assistance or payment under this part was established as result of erroneous information or a miscalculation, the assistance or payment shall be recomputed and any excess refunded with applicable interest.

#### § 1439.9 Cumulative liability.

The liability of any person for any penalty under this part or for any refund to CCC or related charge arising in connection therewith shall be in addition to any other liability of such person under any civil or criminal fraud statute or any other provision of law including, but not limited to, 18 U.S.C. 286, 287, 371, 641, 651, 1001 and 1014; 15 U.S.C. 714m; and 31 U.S.C. 3729.

#### § 1439.10 Benefits limitation.

The total amount of benefits that a person, as determined in accordance with part 1400 of this chapter, shall be entitled to receive under any subpart may not exceed \$40,000 for any one loss or year.

#### § 1439.11 Gross revenue limitation.

A person, as defined in part 1400 of this chapter, as applicable, who has annual gross revenue in excess of \$2.5 million shall not be eligible to receive assistance under this part. For the purpose of this determination, annual gross revenue means:

(a) With respect to a person who receives more than 50 percent of such person's gross income from farming and ranching, the total gross revenue received from such operations; and

(b) With respect to a person who receives 50 percent or less of such person's gross income from farming and ranching, the total gross revenue from all sources.

#### § 1439.12 Maintenance of books and records.

Livestock producers or any other individual or entity seeking or receiving assistance under this part shall maintain and retain financial books and records which will permit verification of all transactions with respect to the provisions of this part for at least 3 years, following the end of the calendar year in which assistance was provided, or for such additional period as CCC may request. An examination of such books and records by a duly authorized representative of the United States Government shall be permitted at any time during business hours.

3. The subparts consisting of §§ 1439.101 through 1439.104, 1439.201 and 1439.202, 1439.301 and 1439.302, 1439.401 through 1439.403, 1439.501

through 1439.504, 1439.601 and 1439.602, 1439.701 and 1439.702, and 1439.800 through 1439.810 are removed.

4. Subpart—1998 Livestock Assistance Program is added to read as follows:

**Subpart—1998 Livestock Assistance Program**

Sec.

- 1439.101 Applicability.
- 1439.102 Definitions.
- 1439.103 Application process.
- 1439.104 County committee determinations of general applicability.
- 1439.105 Loss criteria.
- 1439.106 Livestock producer eligibility.
- 1439.107 Calculation of assistance.
- 1439.108 Availability of funds.

**Subpart—1998 Livestock Assistance Program**

**§ 1439.101 Applicability.**

(a) This subpart sets forth the terms and conditions applicable to the Livestock Assistance Program authorized by Pub. L. 105-277, 112 Stat. 2681 (October 21, 1998). Benefits will be provided to eligible livestock producers in the United States but only in counties where a natural disaster occurred, and that were subsequently approved by the Deputy Administrator for Farm Programs. A county must have suffered a 40-percent or greater grazing loss for 3 consecutive months during the 1998 calendar year, as a result of damage due to a natural disaster, as determined by the Deputy Administrator or a designee. Grazing losses must have occurred on native and improved pasture with permanent vegetative cover and other crops planted specifically for the sole purpose of providing grazing for livestock, but does not include seeded small grain forage crops.

(b) To be eligible for assistance under the program, a livestock producer's pastures in an eligible county must have suffered at least a 40-percent loss of normal carrying capacity for a minimum of 3 consecutive months. The percent of loss eligible for compensation shall not exceed the maximum percentage of grazing loss for the county as determined by the county committee. In addition, the producer will not be compensated for that part of any loss that would represent payment of a loss greater than 80 percent.

(c) Unless otherwise specified, a livestock producer is eligible to receive payments for the same loss under this subpart and other programs under this part.

**§ 1439.102 Definitions.**

The definitions set forth in this section shall be applicable for all

purposes of administering this subpart. The definitions in § 1439.3 shall also be applicable, except where those definitions conflict with the definitions set forth in this subpart.

*Application* means the Form CCC-740, Livestock Assistance Program Application. The CCC-740 is available at county FSA offices.

*LAP* means the Livestock Assistance Program which is authorized by Section 1103 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (Pub. L. 105-277, 112 Stat. 2681 (October 21, 1998)) and authorized by this subpart, for grazing losses that occurred during calendar year 1998.

*Livestock* means beef and dairy cattle, buffalo and beefalo (when maintained on the same basis as beef cattle), sheep, goats, swine, and equine animals used commercially for human food or kept for the production of food or fiber on the owner's farm.

**§ 1439.103 Application process.**

(a) Livestock producers must submit a completed application prior to the close of business on March 31, 1999, or such other date as established by the Deputy Administrator. The application and any other supporting documentation shall be submitted to the county office with administrative authority over a producer's eligible grazing land or to the county office that maintains the farm records for the livestock producer.

(b) Livestock producers shall certify as to the accuracy of all the information contained in the application, and provide any other information to CCC that the County Office or Committee deems necessary to determine the livestock producer's eligibility.

**§ 1439.104 County committee determinations of general applicability.**

(a) County Committees shall determine whether due to natural disasters their county has suffered a forty percent loss affecting pasture and normal grazing crops for at least 3 consecutive months during calendar year 1998. In making this determination, County committee, using the best information available from sources including but not limited to: Extension Service; Natural Resources Conservation Service; the Palmer Drought Index; and general knowledge of local rainfall data, pasture losses, grazing livestock movement out of county, abnormal supplemental feeding practices for livestock on pasture, and liquidation of grazing livestock shall determine the percentage of grazing losses for pastures on a county wide basis. The county

committee shall submit rainfall data, percentage of grazing losses for each general type of pasture, and the weighted average percentage of grazing loss for the county, with State Committee concurrence, to the Deputy Administrator on CCC-654. The maximum grazing losses the county committees shall submit on CCC-654 is 80 percent. These determinations shall be subject to review and approval of the Deputy Administrator. For purposes of this subpart, such counties are called "eligible counties."

(b) In each county, the county committee shall determine a LAP crop year. The LAP crop year shall be that period of time in a calendar year that begins with the date grazing of new growth pasture normally begins and ends on the date grazing without supplemental feeding normally ends in the county.

(c) In and for each eligible county, the county committee shall determine normal carrying capacities for each type of grazing or pasture during the LAP crop year. The normal carrying capacity for the LAP crop year shall be the normal carrying capacity the County Committee determines could be expected from pasture and normal grazing crops for livestock for the LAP crop year if a natural disaster had not diminished the production of these grazing crops.

(d) In each eligible county, the county committee shall determine the payment period for the county. The payment period for the county shall be the period of time during the county's LAP crop year where for 3 consecutive months during 1998, the carrying capacity for grazing land or pasture was reduced by forty percent or more from the normal carrying capacity.

**§ 1439.105 Loss criteria.**

(a) The grazing land for which a livestock producer requests benefits must be within the physical boundary of the eligible county. Livestock producers in unapproved counties contiguous to an eligible county will not receive benefits under this subpart.

(b) To be eligible for benefits under this subpart, a livestock producer in an eligible county must have suffered a loss of grazing production equivalent to at least a forty percent loss of normal carrying capacity for a minimum of 3 consecutive months.

(c) A producer shall certify each type of pasture and percentage of loss suffered by each type on the application. To establish the percentage of grazing loss, producers shall consider the amount of available grazing production during the LAP crop year,

whether more than the normal acreage of grazing land was required to support livestock during the LAP crop year, and whether supplemental feeding of livestock began earlier or later than normal.

(d) The county committee shall determine the producer's grazing loss and shall consider the amount of available grazing production during the LAP crop year, whether more than the normal acreage of grazing land was required to support livestock during the LAP crop year, and whether supplemental feeding of livestock began earlier or later than normal. The county committee shall request the producer to provide proof of loss of grazing production if the county committee determines the producer's certified loss exceeds other similarly situated livestock producers.

(e) The percentage of loss claimed by a livestock producer shall not exceed the maximum allowable percentage of grazing loss for the county as determined by the county committee according to § 1439.104(a). Livestock producers will not receive benefits under this subpart for any portion of their loss that exceeds 80 percent of normal carrying capacity.

(f) Conservation Reserve Program acres released for haying and/or grazing and seeded small grain forage crops shall not be used to calculate losses under this subpart.

#### § 1439.106 Livestock producer eligibility.

(a) Only one livestock producer will be eligible for benefits under this subpart with respect to an individual animal.

(b) Only owners of livestock who themselves provide the pasture or grazing land, including cash leased pasture or grazing land, for the livestock may be considered as livestock producers eligible to apply for benefits under this subpart.

(c) An owner of livestock who uses another person to provide pasture or grazing land on a rate-of-gain basis is not considered to be the livestock producer eligible to apply for benefits under this subpart.

(d) An owner who pledges livestock as security for a loan shall be considered as the person eligible to apply for benefits under this subpart if all other requirements of this part are met. Livestock leased under a contractual agreement which has been in effect at least 3 months and establishes an interest for the lessee in such livestock shall be considered as being owned by the lessee.

(e) Livestock must have been owned for at least three months before becoming eligible for payment.

(f) The following entities are not eligible for benefits under this subpart:

(1) State or local governments or subdivisions thereof; or

(2) Any individual or entity who is a foreign person as determined in accordance with the provisions of §§ 1400.501 and 1400.502 of this chapter.

#### § 1439.107 Calculation of assistance.

(a) The value of LAP assistance determined with respect to a livestock producer for each type and weight class of livestock owned or leased by such producer shall be the lesser of the amount of paragraph (b) of this section (the total value of lost feed needs for eligible livestock) or paragraph (c) of this section (the total value of lost eligible pasture), as calculated in this section.

(b) The total value of lost feed needs shall not exceed the amount obtained by multiplying:

(1) The number of days in the payment period the livestock are owned or, in the case of purchased livestock, meet the 3 month ownership requirement; by

(2) The number of pounds of corn per day, as established by CCC, that is determined necessary to provide the energy requirements established for the weight class and type of livestock; by

(3) The five-year national average market price for corn (\$2.56 bushel or \$.0457 per pound); by

(4) The number of eligible animals of each type and weight range of livestock owned or leased by the person; by

(5) The percent of the producer's grazing loss during the relevant period as certified by the producer and approved by the county committee according to § 1439.105.

(c) The total value of lost eligible pasture shall not exceed the amounts for each type of pasture calculated by:

(1) Dividing the number of acres of each pasture type by the carrying capacity established for the pasture; and multiplying;

(2) The result of paragraph (c)(1) of this section for each pasture type; by

(3) \$0.71771 (\$0.0457 x 15.7); by

(4) The applicable number of days in the LAP payment period; by

(5) The percent of the producer's grazing loss during the relevant period as certified by the producer and approved by the county committee according to § 1439.105.

(d) The final payment shall be the smaller of paragraph (b) of this section or paragraph (c) of this section

multiplied by the national factor if required under § 1439.108. The final payment shall not exceed 50 percent of the smaller of paragraph (b) or (c) of this section determined prior to applying the national factor provided for in § 1439.108.

(e) Seeded small grain forage crops shall not be counted as grazing land under paragraph (c) of this section with respect to supporting eligible livestock.

(f) The number of equine animals that are used to calculate benefits under this subpart and in paragraph (a) of this section are limited to the number actually needed to produce food and fiber on the producer's farm or to breed horses and mules to be used to produce food and fiber on the owner's farm, and shall not include animals which are used for recreational purposes or are running wild or uncontrolled on land owned or leased by the owner.

#### § 1439.108 Availability of funds.

In the event that the total amount of claims submitted under this subpart exceeds the \$200 million appropriated for LAP, each payment shall be reduced by a uniform national percentage. Such payment reductions shall be after the imposition of applicable payment limitation provisions.

Signed at Washington, DC, on March 11, 1999.

**Keith Kelly,**

*Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 99-6429 Filed 3-17-99; 9:47 am]

BILLING CODE 3410-05-P

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 21

#### Existence of Airworthiness Design Standards for Acceptance Under the Primary Category Rule

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

**ACTION:** Notice of availability of design standards.

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**SUMMARY:** This document announces the availability of airworthiness design standards for acceptance of the Model Deland Travelaire airplane under the FAA's rules on designation of applicable regulations for primary category aircraft. A notice requesting comments on the design standards was published July 29, 1998, and the comment period closed August 28, 1998. No comments were received on the design standards.

**DATES:** The design standards are effective March 9, 1999.

**ADDRESSES:** Copies of the Department of Commerce Aeronautics Bulletin 7A, as amended October 1, 1934, and Transport Canada's TP10141E Ultralight (Sportplane) design standard may be obtained from the following: Small Airplane Directorate, Standards Office (ACE-110), Aircraft Certification Service, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106.

**FOR FURTHER INFORMATION CONTACT:** Roger Chudy, Aerospace Engineer, Standards Office (ACE-112), Small Airplane Directorate, Aircraft Certification Service, FAA; telephone number (816) 426-6934, fax number (816) 426-2169.

**SUPPLEMENTARY INFORMATION:**

**Background**

The "primary" category for aircraft was created specifically for the simple, low performance personal aircraft. Section 21.17(f) provides a means for applicants to propose airworthiness standards for their particular primary category aircraft. The FAA procedure establishing appropriate airworthiness standards includes reviewing and possibly revising the applicant's proposal, publication of the submittal in the **Federal Register** for public review and comment, and addressing the comments. After all necessary revisions, the standards are published as approved FAA airworthiness standards.

Accordingly, the applicant, Orlando Helicopter Airways, Inc., submitted a request to the FAA to include the Department of Commerce Aeronautics Bulletin 7A, as amended October 1, 1934, as the design standard for the unmodified airplane structure and Transport Canada's TP10141E Ultralight (Sportplane) design standard for all modifications. The Department of Commerce Aeronautics Bulletin 7A was used in the original certification in March 1928 of the Curtiss Travel Aire 2000; therefore, the FAA considers this standard as continuing to be valid for the unmodified parts of the Deland Travelaire.

On July 29, 1998, the **Federal Register** published an announcement of the proposed design standards and a request for comments. No comments were received to this proposal; therefore, this notice makes the design standards available for the Model Deland Travelaire airplane.

**Citation**

The authority citation for the airworthiness standards is as follows:

**Authority:** 42 U.S.C. 7572; 49 U.S.C. 106(g), 40105, 40113, 44701-44702, 44707, 44709, 44711, 44713, 44715, 45303.

**Airworthiness Standards for Acceptance Under the Primary Category Rule**

The FAA is requiring 500 hours of operational aviation service history of the derivative V8 engine/wood-propeller combination on an airplane rather than the 200 hours offered by the applicant. The applicant has agreed to this position, therefore, the certification basis for the Deland Travelaire will be the Primary Category Rule (part 21, § 21.24) with Department of Commerce Aeronautics Bulletin 7A, as amended October 1, 1934, as the design standard of the unmodified airplane structure and with Transport Canada's TP10141E Ultralight (Sportplane) Design Standard as the design standard for all modifications.

Compliance with the acoustical standards of the latest amendment to 14 CFR part 36 at the time of certification will be required.

Issued in Kansas City, Missouri on March 9, 1999.

**Marvin Nuss,**

*Acting Manager, Small Airplane Directorate.*

[FR Doc. 99-6755 Filed 3-18-99; 8:45 am]

BILLING CODE 4910-13-M

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. 99-SW-10-AD; Amendment 39-11080; AD 99-03-10]

RIN 2120-AA64

**Airworthiness Directives; Agusta S.p.A. (Agusta) Model A109E Helicopters**

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

**ACTION:** Final rule; request for comments.

**SUMMARY:** This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 99-03-10 which was sent previously to all known U.S. owners and operators of Agusta Model A109E helicopters by individual letters. This AD requires, before further flight, inspections of the exhaust ejector locking system, clamp, and dampers for each engine. This AD also requires, at specified time intervals, verifying the torque of the metallic clamps and installing safety wire on the metallic clamps; inspecting and modifying the ejector saddles and the

locking metallic clamps; and inspecting the metallic clamps, locking mechanisms, and dampers. This amendment is prompted by an inflight incident in which a metallic clamp which secured the left-hand engine exhaust ejector to the ejector saddle became detached and subsequently separated from the helicopter. The actions specified by this AD are intended to prevent loss of the metallic clamp or the engine exhaust ejector, which could result in damage to the main or tail rotor system and subsequent loss of control of the helicopter.

**DATES:** Effective April 5, 1999, to all persons except those persons to whom it was made immediately effective by Priority Letter AD 99-03-10, issued on January 28, 1998, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 5, 1999.

Comments for inclusion in the Rules Docket must be received on or before May 18, 1999.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99-SW-10-AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

The applicable service information may be obtained from Agusta S.p.A., 21017 Cascina Costa di Samarate (VA), Via Giovanni Agusta 520, telephone (0331) 229111, fax (0331) 229605-222595. 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:** Scott Horn, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222-5125, fax (817) 222-5961.

**SUPPLEMENTARY INFORMATION:** On January 28, 1999, the FAA issued Priority Letter AD 99-03-10, applicable to Agusta Model A109E helicopters, which requires, before further flight, inspections of the exhaust ejector to ejector saddle locking system, torque of the metallic clamp, and installation of safety wire and the metallic clamp at the bottom of the ejector saddle for each engine. The AD also requires, at specified time intervals, verifying the torque of the metallic clamps and

installing safety wire on the metallic clamps; inspecting and modifying the ejector saddles and the locking metallic clamps; and inspecting the metallic clamps, locking mechanisms, and dampers. That action was prompted by an inflight incident in which a metallic clamp which secured the left-hand engine exhaust ejector to the ejector saddle became detached and subsequently separated from the helicopter. This condition, if not corrected, could result in loss of the metallic clamp or the engine exhaust ejector, which could result in damage to the main or tail rotor system and subsequent loss of control of the helicopter.

The FAA has reviewed Agusta Bollettino Tecnico No. 109EP-3, dated December 22, 1998 (Technical Bulletin), which describes procedures for the inspection of both engine exhaust ejectors, dampers, and clamps, and modification of the ejector saddle on each engine.

Since the unsafe condition described is likely to exist or develop on other Agusta Model A109E helicopters of the same type design, the FAA issued Priority Letter AD 99-03-10 to prevent loss of the metallic clamp or the engine exhaust ejector, which could result in damage to the main or tail rotor system and subsequent loss of control of the helicopter. The AD requires, before further flight, inspections of the exhaust ejector to ejector saddle locking system, torque of the metallic clamp, and installation of safety wire and the metallic clamp at the bottom of the ejector saddle for each engine. The AD also requires verifying the torque of the metallic clamps and installing safety wire on the metallic clamps. Within the next 10 hours time-in-service (TIS), inspection and modification of the ejector saddles and the locking metallic clamps are required. Thereafter, at intervals not to exceed 25 hours TIS, inspecting the metallic clamps, locking mechanisms, and dampers is required. The actions are required to be accomplished in accordance with the Technical Bulletin described previously. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the structural integrity of the helicopter. Therefore, inspection of the exhaust ejector locking system, clamp torque, and dampers as well as installation of safety wire in the metallic clamp for each engine is required prior to further flight, and this AD must be issued immediately.

Since it was found that immediate corrective action was required, notice

and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on January 28, 1999 to all known U.S. owners and operators of Agusta Model A109E helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

There are minor changes in this published version of the priority letter AD that indicate the incorporated parts of the Technical Bulletin are contained in the "Compliance Instructions" section. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 4 helicopters of U.S. registry will be affected by this AD, that it will take approximately 0.5 work hour for the initial inspection, 2 work hours for the modification, and 0.5 work hour for each repetitive inspection, per helicopter, and the average labor rate is \$60 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$5,400 for the first year and \$4,800 each year thereafter, assuming 1,000 hours TIS for each helicopter annually.

#### Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before

and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 99-SW-10-AD." The postcard will be date stamped and returned to the commenter.

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.

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

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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 99-03-10 Agusta S.p.A.:** Amendment 39-11080. Docket No. 99-SW-10-AD.

*Applicability:* Model A109E helicopters, serial numbers up to and including 11036, 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 the metallic clamp or the engine exhaust ejector which could result in damage to the main or tail rotor system and subsequent loss of control of the helicopter, accomplish the following for each engine:

(a) Prior to further flight, in accordance with Part I of the Compliance Instructions in Agusta Bollettino Tecnico No. 109EP-3, dated December 22, 1998 (Technical Bulletin), inspect the exhaust ejector to ejector saddle locking system, the dampers at the bottom of the ejector saddle, and the torque of the metallic clamp, and install safety wire on the metallic clamp. If any damage is found as a result of the inspection, accomplish Part II of the Compliance Instructions in the Technical Bulletin prior to further flight.

(b) Within the next 10 hours time-in-service (TIS), inspect the dampers and metallic clamps, and reposition and modify the ejector saddle and the locking metallic clamp in accordance with Part II of the Compliance Instructions in the Technical Bulletin.

(c) Thereafter, at intervals not to exceed 25 hours TIS, inspect the metallic clamp, locking mechanism, and dampers in accordance with Part III of the Compliance Instructions in the Technical Bulletin.

(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 Directorate, Rotorcraft Standards Staff, FAA. 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 inspections and modification shall be done in accordance with Agusta Bollettino Tecnico No. 109EP-3, dated December 22, 1998. 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 Agusta S.p.A., 21017 Cascina Costa di Samarate (VA), Via Giovanni Agusta 520, telephone (0331) 229111, fax (0331) 229605-222595. 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.

(g) This amendment becomes effective on April 5, 1999, to all persons except those persons to whom it was made immediately effective by Priority Letter AD 99-03-10, issued January 28, 1999, which contained the requirements of this amendment.

(h) The subject of this AD is addressed in Registro Aeronautico Italiano (Italy) AD No. 98-465, dated December 24, 1998.

Issued in Fort Worth, Texas, on March 10, 1999.

**Eric Bries,**

*Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 99-6556 Filed 3-18-99; 8:45 am]

BILLING CODE 4910-13-P

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. 98-CE-78-AD; Amendment 39-11007; AD 99-02-15]

RIN 2120-AA64

**Airworthiness Directives; Avions Pierre Robin Model R2160 Airplanes**

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

**ACTION:** Direct final rule; confirmation of effective date.

**SUMMARY:** This action confirms the effective date of Airworthiness Directive (AD) 99-02-15, which applies to certain Avions Pierre Robin Model R2160 airplanes. AD 99-02-15 requires repetitively inspecting the engine bearer for cracks, and replacing the engine bearer with a reinforced part either immediately or at a certain time period depending on whether cracks are found during the inspections. Replacing the engine bearer with a reinforced part terminates the repetitive inspection requirement. This AD is the result of mandatory continuing airworthiness

information (MCAI) issued by the airworthiness authority for France. The actions specified in this AD are intended to detect and correct cracks in the engine bearer, which could result in the engine separating from the airplane.

**EFFECTIVE DATE:** March 29, 1999.

**FOR FURTHER INFORMATION CONTACT:** Mr. Karl M. Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426-6932; facsimile: (816) 426-2169.

**SUPPLEMENTARY INFORMATION:** The FAA published this direct final rule with request for comments in the **Federal Register** on January 26, 1999 (64 FR 3817). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA anticipates that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, was received within the comment period, the regulation would become effective on March 29, 1999. No adverse comments were received, and thus this notice confirms that this final rule will become effective on that date.

Issued in Kansas City, Missouri, on March 11, 1999.

**Marvin R. Nuss,**

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

[FR Doc. 99-6713 Filed 3-18-99; 8:45 am]

BILLING CODE 4910-13-P

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 71**

[Airspace Docket No. 97-ASW-24]

RIN 2120-AA66

**Modification to the Gulf of Mexico High Offshore Airspace Area**

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

**ACTION:** Final rule.

**SUMMARY:** This action amends the Gulf of Mexico High Offshore Airspace Area. Specifically, this action modifies the Gulf of Mexico High Offshore Airspace Area by extending the boundaries further east and south of the current location to the Houston Air Route Traffic Control Center (ARTCC) Flight Information Region/Control Area (FIR/CTA). The FAA is taking this action to

increase the vertical limits of the airspace area from Flight Level (FL) 280 up to and including FL 600. This action provides additional airspace in which domestic air traffic control (ATC) procedures may be used to separate and manage aircraft operations, and will enhance the efficient utilization of that airspace.

**EFFECTIVE DATE:** 0901 UTC, May 20, 1999.

**FOR FURTHER INFORMATION CONTACT:** Sheri Edgett Baron, Airspace and Rules Division, ATA-400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

**SUPPLEMENTARY INFORMATION:**

**Background**

On March 2, 1993, the FAA published a final rule (58 FR 12128) which, in part, redesignated certain control areas over international waters as offshore airspace areas. The redesignations were necessary to comply with the Airspace Reclassification final rule issued on December 17, 1991 (56 FR 65638).

One of the areas affected by the March 2, 1993, final rule was the Gulf of Mexico Control Area. This area was divided vertically into two areas, the Gulf of Mexico High Offshore airspace area, and the Gulf of Mexico Low Offshore airspace area.

In June 1996 the FAA completed an evaluation of the airspace over the Gulf of Mexico. The evaluation was a combined effort with representatives from the FAA, Servicios a la Navegacion en El Espacio Aereo Mexicano, and other airspace users. The objective of the evaluation was, in part, to identify areas where air traffic services, air traffic operations, and utilization of airspace could be improved. One conclusion of this evaluation was the determination that system capacity would be enhanced by modifying ATC procedures used to control aircraft operations in the airspace over the Gulf of Mexico.

Currently, International Civil Aviation Organization (ICAO) oceanic ATC procedures are used to separate and manage aircraft operations that extend beyond the lateral boundary of the existing Gulf of Mexico High Offshore Airspace Area. Modifying the Gulf of Mexico High Offshore Airspace Area by extending the boundaries further east and south of the current location to the Houston ARTCC FIR/CTA, allows the application of domestic ATC separation procedures over a larger area. This action to modify the offshore airspace area will enhance system capacity and

allow for more efficient utilization of that airspace.

On November 10, 1998, the FAA published a notice of proposed rulemaking to amend 14 CFR part 71 to modify the Gulf of Mexico High Offshore airspace area (63 FR 62975). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. Except for editorial changes, this amendment is the same as that proposed in the notice.

**The Rule**

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies the Gulf of Mexico High Offshore Airspace Area by extending the present airspace boundaries further east and south of the current location to the Houston ARTCC FIR/CTA. Additionally, this action increases the vertical limits of the airspace area from FL 280 up to and including FL 600. This modification will allow the application of domestic ATC separation procedures, in lieu of ICAO separation procedures, which will enhance system capacity and allow for more efficient utilization of that airspace.

Offshore airspace area designations are published in paragraph 2003 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 offshore airspace area designation listed in this document will 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 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 than will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**ICAO Considerations**

As part of this rule relates to navigable airspace outside the United States, this document is submitted in

accordance with the ICAO International Standards and Recommended Practices.

The application of International Standards and Recommended Practices by the FAA, Office of Air Traffic Airspace Management, in areas outside U.S. domestic airspace is governed by the Convention on International Civil Aviation. Specifically, the FAA is governed by Article 12 and Annex 11, which pertain to the establishment of necessary air navigational facilities and services to promote the safe, orderly, and expeditious flow of civil air traffic. The purpose of the document is to ensure that civil aircraft operations on international air routes are performed under uniform conditions.

The International Standards and Recommended Practices in Annex 11 apply to airspace under the jurisdiction of a contracting state derived from ICAO. Annex 11 provisions apply when air traffic services are provided and a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting this responsibility may apply the International Standards and Recommended Practices that are consistent with standards and practices utilized in its domestic jurisdiction.

In accordance with Article 3 of the Convention, state owned aircraft are exempt from the International Standards and Recommended Practices of Annex 11. The United States is a contracting state to the Convention. Article 3(d) of the Convention provides that participating state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Because this amendment involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

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

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

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

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

### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

*Paragraph 6007 Offshore Airspace Areas*

\* \* \* \* \*

### Gulf of Mexico High [Revised]

That airspace extending upward from FL 280 to and including FL 600 bounded on the west, north, and east by a line 12 miles offshore and parallel to the Texas, Louisiana, Mississippi, Alabama, and Florida shorelines; bounded on the south from east to west by the shorelines; bounded on the south from east to west by the southern boundary of the Jacksonville ARTCC, Miami Oceanic CTA/FIR; Merida UTA/UIR, Houston CTA/FIR; Monterrey UTA/UIR, Houston CTA/FIR; to the point of beginning, and that airspace extending upward from 18,000 feet MSL to and including FL 280 bounded on the west, north, and east by a line 12 miles offshore and parallel to the Texas, Louisiana, Mississippi, Alabama, and Florida shorelines bounded on the south from east to west by the southern boundary of the Jacksonville ARTCC, Miami Oceanic CTA/FIR, Houston CTA/FIR and lat. 26°00'00" N.

\* \* \* \* \*

Issued in Washington, DC, on March 15, 1999.

### Reginald C. Matthews,

*Acting Program Director for Air Traffic Airspace Management.*

[FR Doc. 99-6752 Filed 3-18-99; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 73

[Airspace Docket No. 98-ASO-19]

RIN 2120-AA66

### Amend Controlling and Using Agencies for Restricted Area R-2908, Pensacola, FL

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

**ACTION:** Final rule.

**SUMMARY:** This action corrects the title of the controlling agency from "FAA, Pensacola RATCF," to "FAA, Pensacola TRACON," and changes the using agency from "Commander, Training Air Wing Six, Naval Air Station," to "U.S. Navy Flight Demonstration Squadron,

Pensacola NAS, FL," for Restricted Area R-2908, Pensacola, FL.

**EFFECTIVE DATE:** 0901 UTC, May 20, 1999.

**FOR FURTHER INFORMATION CONTACT:** Paul Gallant, Airspace and Rules Division, ATA-400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8783.

### SUPPLEMENTARY INFORMATION:

#### The Rule

This action amends 14 CFR part 73 by correcting the title of the controlling agency and changing the using agency for Restricted Area R-2908, Pensacola, FL. This action corrects the title of the controlling agency from "FAA, Pensacola RATCF," to "FAA, Pensacola TRACON." The acronym "RATCF" (Radar Air Traffic Control Facility) applies to radar facilities operated by the U.S. Navy. The facility at Naval Air Station Pensacola is operated by the FAA, therefore, the FAA acronym "TRACON" (Terminal Radar Approach Control) is more appropriate. In addition, this action changes the using agency for R-2908 from "Commander, Training Air Wing Six, Naval Air Station, Pensacola, FL," to "U.S. Navy Flight Demonstration Squadron, Pensacola NAS, FL" to reflect the organization currently responsible for scheduling the airspace.

These administrative changes will not alter the boundaries, altitudes or time of designation of R-2908; therefore, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

Section 73.29 of part 73 was republished in FAA Order 7400.8F, dated October 27, 1998.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this 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 will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### Environmental Review

This action is a minor administrative change to amend the names of the controlling and using agencies of an existing restricted area. There are no changes to the dimensions of the restricted area, or to air traffic control procedures or routes as a result of this action. Therefore, this action is not subject to environmental assessments and procedures in accordance with FAA Order 1050.1D, "Policies and Procedures for Considering Environmental Impacts," and the National Environmental Policy Act of 1969.

### List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

### Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73, as follows:

### PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 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.

### § 73.29 [Amended]

2. § 73.29 is amended as follows:

\* \* \* \* \*

### R-2908 Pensacola, FL [Amended]

By removing "Controlling agency. FAA, Pensacola RATCF," and "Using agency. Commander, Training Air Wing Six, Naval Air Station, Pensacola, FL," and adding "Controlling agency. FAA, Pensacola TRACON," and "Using agency. U.S. Navy Flight Demonstration Squadron, Pensacola NAS, FL."

\* \* \* \* \*

Issued in Washington, DC, on March 15, 1999.

### Reginald C. Matthews,

*Acting Program Director for Air Traffic Airspace Management.*

[FR Doc. 99-6751 Filed 3-18-99; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 178

[Docket No. 97F-0213]

### Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the expanded safe use of phosphorous acid, cyclic neopentetetrayl bis(2,6-di-*tert*-butyl-4-methylphenyl)ester as an antioxidant in polypropylene homopolymer and copolymers not to exceed 0.25 percent by weight of polypropylene homopolymer and copolymers. This action is in response to a petition filed by Asahi Denka Kogyo K.K.

**DATES:** The regulation is effective March 19, 1999; submit written objections and requests for a hearing by April 19, 1999.

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

**FOR FURTHER INFORMATION CONTACT:** Hortense S. Macon, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-206), 200 C St. SW., Washington, DC 20204, 202-418-3086.

**SUPPLEMENTARY INFORMATION:** In a notice published in the **Federal Register** of June 9, 1997 (62 FR 31433), FDA announced that a petition (FAP 7B4542) had been filed by Asahi Denka Kogyo K.K., Shirahata 5-Chome, Urawa City, Saitama 366, Japan. The petition proposed to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the expanded safe use of phosphorous acid, cyclic neopentetetrayl bis(2,6-di-*tert*-butyl-4-methylphenyl) ester for use: (1) At levels not to exceed 0.25 percent by weight of olefin copolymers complying with § 177.1520 (21 CFR 177.1520) in contact with foods of types I, II, III, IV-B, VI-B, and VIII, as described in Table 1, and under conditions of use B through H, described in Table 2 of § 176.170(c) (21 CFR 176.170(c)), of this chapter, and with foods types IV-A, V, VI-A, VI-C, VII-A, and IX, under conditions of use C through G, as described in § 176.170(c), Tables 1 and 2, respectively; and (2) at levels not to exceed 0.10 percent by weight of either olefin copolymers or polypropylene complying with § 177.1520 which may be used in contact with foods of types IV-A, V, VI-C, VII-A, and IX, under conditions of use H, as described in § 176.170(c) of this chapter, Tables 1 and 2 respectively. When the petition was filed on June 9, 1997, it contained an environmental assessment (EA). In the notice of filing, the agency announced that it was placing the EA on display at the Dockets Management

Branch for public review and comment. No comments were received.

Subsequent to filing of the petition, the petitioner requested that the petition be amended to permit use of the subject additive as an antioxidant in polypropylene homopolymer and copolymers, at a use level not to exceed 0.25 percent by weight, for all food types described in Table 1 under conditions of use B through H as described in Table 2 of § 176.170(c) of this chapter. Therefore, in a notice published in the **Federal Register** of August 28, 1998 (63 FR 46053), FDA announced that the filing notice of June 9, 1997, was amended to include the petitioned additive, phosphorous acid, cyclic neopentetetrayl bis(2,6-di-*tert*-butyl-4-methylphenyl) ester for use as an antioxidant in polypropylene homopolymer and copolymers for all food types under conditions of use B through H.

In the amended filing notice of August 28, 1998, the agency incorrectly stated that it was placing the EA for the petition on display at the Dockets Management Branch for public review and comment. Instead, the original EA was maintained at the Dockets Management Branch. On October 15, 1998, the petitioner submitted a claim of categorical exclusion under new § 25.32(i) (21 CFR 25.32(i)), in accordance with the procedures in 21 CFR 25.15(a) and (d). Because the agency had not completed the review of an EA for the use of the subject additive that was described in the amended filing notice, the agency reviewed the claim of categorical exclusion under § 25.32(i) for this final rule.

FDA has evaluated data in the petition and other relevant material. Based on this information, the agency concludes that: (1) The proposed use of the additive is safe, (2) the additive will achieve its intended technical effect, and therefore, (3) that the regulations in § 178.2010 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has determined under § 25.32(i) that this action is of a type that does not individually or

cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

Any person who will be adversely affected by this regulation may at any time on or before April 19, 1999, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

#### List of Subjects in 21 CFR Part 178

Food additives, Food packaging. Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended to read as follows:

#### PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

**Authority:** 21 U.S.C. 321, 342, 348, 379e.

2. Section 178.2010 is amended in the table in paragraph (b) by revising the entry for "phosphorous acid, cyclic neopentetetrayl bis(2,6-di-*tert*-butyl-4-methylphenyl) ester" in item "1." under the heading "Limitations" to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers. (b) \* \* \*

\* \* \* \* \*

Substances	Limitations
<p>* * *                      Phosphorous acid, cyclic neopentantetrayl bis(2,6-di-<i>tert</i>-butyl-4-methylphenyl)ester (CAS Reg. No. 80693-00-1).                      * * *</p>	<p>* * *                      For use only:                      1. At levels not to exceed 0.25 percent by weight of polypropylene homopolymer and copolymers complying with § 177.1520 of this chapter, for use with all food types described in table 1 of § 176.170(c) of this chapter only under conditions of use B through H described in table 2 of § 176.170(c) of this chapter.                      * * *</p>

Dated: March 1, 1999.

**L. Robert Lake,**

Director, Office of Policy, Planning and Strategic Initiatives, Center for Food Safety and Applied Nutrition.

[FR Doc. 99-6667 Filed 3-18-99; 8:45 am]

BILLING CODE 4160-01-F

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Part 520**

**Oral Dosage Form New Animal Drugs; Lincomycin Hydrochloride Soluble Powder**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Med-Pharmex, Inc. The ANADA provides for use of 40- and 80-gram packets and 32-ounce containers of lincomycin hydrochloride soluble powder to make medicated drinking water for swine for the treatment of dysentery (bloody scours) and broiler chickens for the control of necrotic enteritis.

**EFFECTIVE DATE:** March 19, 1999.

**FOR FURTHER INFORMATION CONTACT:** Lonnie W. Luther, Center for Veterinary Medicine (HFV-102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-827-0209.

**SUPPLEMENTARY INFORMATION:** Med-Pharmex, Inc., 2727 Thompson Creek Rd., Pomona, CA 91767-1861, has filed ANADA 200-241 that provides for use of lincomycin hydrochloride soluble powder to make medicated drinking water for swine for the treatment of

dysentery (bloody scours) and for broiler chickens for the control of necrotic enteritis caused by *Clostridium perfringens* susceptible to lincomycin. The ANADA provides for use of 40- and 80-gram packets and 32-ounce containers of product.

The ANADA is approved as a generic copy of Pharmacia & Upjohn's NADA 111-636, Lincomix® Soluble Powder. ANADA 200-241 is approved as of February 4, 1999, and the regulations are amended in 21 CFR 520.1263c to reflect the approval. The basis for approval is discussed in the freedom of information summary.

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

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

**List of Subjects in 21 CFR Part 520**

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

**PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS**

1. The authority citation for 21 CFR part 520 continues to read as follows:

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

2. Section 520.1263c is amended by adding a sentence to the end of paragraph (a) and by revising paragraph (b) to read as follows:

**§ 520.1263c Lincomycin hydrochloride soluble powder.**

(a) *Specifications.* \* \* \* The 40-gram measuring device contains lincomycin hydrochloride equivalent to 16 grams of lincomycin (the measuring device is packaged with a 32-ounce jar).

(b) *Sponsors.* Approval for use of 40- and 80-gram packet to Nos. 000009 and 017144 in § 510.600(c) of this chapter. Approval for use of 40- and 80-gram packet and 32-ounce jar to No. 051259 in § 510.600(c) of this chapter.

\* \* \* \* \*

Dated: February 26, 1999.

**Stephen F. Sundlof,**

Director, Center for Veterinary Medicine.

[FR Doc. 99-6671 Filed 3-18-99; 8:45 am]

BILLING CODE 4160-01-F

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Part 522**

**Implantation or Injectable Dosage Form New Animal Drugs; Doramectin**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Pfizer,

Inc. The supplemental NADA provides for extended use of doramectin in cattle for persistent control of nematodes including *Haemonchus placei* for 14 days after treatment.

**EFFECTIVE DATE:** March 19, 1999.

**FOR FURTHER INFORMATION CONTACT:** Estella Z. Jones, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-827-7575.

**SUPPLEMENTARY INFORMATION:** Pfizer, Inc., 235 East 42d St., New York, NY 10017-5755, filed supplemental NADA 141-061 that provides for subcutaneous and intramuscular use of Dectomax® (doramectin) 1 percent injectable solution in cattle to control infections and to protect from reinfection with *H. placei* for 14 days after treatment. The persistent use is in addition to the approved use in cattle for treatment and control of various gastrointestinal roundworms, lungworms, eyeworms, grubs, sucking lice, and mange mites, and to control infections and to protect from reinfection with *Cooperia oncophora* for 21 days, *Ostertagia ostertagi* for 21 days, and *Cooperia punctata*, *Oesophagostomum radiatum*, and *Dictyocaulus viviparus* for 28 days after treatment.

Supplemental NADA 141-061 is approved as of February 1, 1999, and the regulations are amended in 21 CFR 522.770(d)(1)(ii) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

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

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this supplemental approval for food-producing animals qualifies for 3 years of marketing exclusivity beginning February 1, 1999, because the supplement contains substantial evidence of the effectiveness of the drug involved, any studies of animal safety or, in the case of food-producing animals, human food safety studies (other than bioequivalence or residue studies) required for approval of the supplemental application and conducted or sponsored by the applicant. Exclusivity applies only to the added indication for use of doramectin injection to control

infections and to protect cattle from reinfection with *H. placei* for 14 days after treatment.

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

#### List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

#### PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

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

#### § 522.770 [Amended]

2. Section 522.770 *Doramectin* is amended in paragraph (d)(1)(ii) by adding after "*Cooperia oncophora*" the phrase "and *Haemonchus placei*".

Dated: February 26, 1999.

**Margaret Ann Miller,**

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

[FR Doc. 99-6670 Filed 3-18-99; 8:45 am]

BILLING CODE 4160-01-F

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 522

#### Implantation or Injectable Dosage Form New Animal Drugs; Propofol Injection

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Schering-Plough Animal Health Corp. The supplemental NADA provides for expanding the indications to include the use of propofol in cats.

**EFFECTIVE DATE:** March 19, 1999.

**FOR FURTHER INFORMATION CONTACT:** Melanie R. Berson, Center for Veterinary

Medicine (HFV-110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-1612.

**SUPPLEMENTARY INFORMATION:** Schering-Plough Animal Health Corp., 1095 Morris Ave., Union, NJ 07083, filed supplemental NADA 141-070 that provides for intravenous use in cats of Rapinovet Anesthetic Injection (each milliliter contains 10 milligrams of propofol). The product was previously approved for use in dogs. The drug is used as a single injection to provide general anesthesia for short procedures, for induction and maintenance of general anesthesia using incremental doses to affect, and for induction of general anesthesia where maintenance is provided by inhalant anesthetics. The drug is limited to use by or on the order of a licensed veterinarian. The supplemental NADA is approved as of January 14, 1999, and the regulations are amended in 21 CFR 522.2005 by revising paragraph (b) and by adding paragraph (c)(2) to reflect the approval. The basis of approval is provided in the freedom of information summary.

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

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act, this approval qualifies for a 3-year period of marketing exclusivity beginning January 14, 1999, because the supplement application contains substantial evidence of the effectiveness of the drug involved, or any studies of animal safety, required for the approval of the application and conducted or sponsored by the applicant. The 3 years of marketing exclusivity applies only to the new species (cats) for which the supplemental application was approved.

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

#### List of Subjects in 21 CFR Part 522

Animal drugs.

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

of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

**PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS**

1. The authority citation for 21 CFR part 522 continues to read as follows:

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

2. Section 522.2005 is amended by revising paragraph (b) and by adding paragraph (c)(2) to read as follows:

**§ 522.2005 Propofol injection.**

\* \* \* \* \*

(b) *Sponsor.* See No. 000061 in § 510.600(c) of this chapter for use as in paragraphs (c)(1) and (c)(2) of this section. See No. 000074 in § 510.600(c) of this chapter for use as in paragraph (c)(1) of this section.

(c) \* \* \*

(2) *Cats.* (i) The drug is indicated for use as an anesthetic as follows: As a single injection to provide general anesthesia for short procedures, for induction and maintenance of general anesthesia using incremental doses to effect, and for induction of general anesthesia where maintenance is provided by inhalant anesthetics.

(ii) The drug is administered by intravenous injection as follows: For induction of general anesthesia without the use of preanesthetics the dosage is 8.0 to 13.2 milligrams per kilogram (3.6 to 6.0 milligrams per pound). For the maintenance of general anesthesia without the use of preanesthetics the dosage is 1.1 to 4.4 milligrams per kilogram (0.5 to 2.0 milligrams per pound). The use of preanesthetic medication reduces propofol dose requirements.

(iii) Adequate data concerning safe use of propofol in pregnant and breeding cats have not been obtained. Doses may need adjustment for geriatric or debilitated patients. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: February 23, 1999.

**Stephen F. Sundlof,**

*Director, Center for Veterinary Medicine.*  
[FR Doc. 99-6668 Filed 3-18-99; 8:45 am]

BILLING CODE 4160-01-F

**DEPARTMENT OF STATE**

**22 CFR Part 41**

[Public Notice 2992]

**Bureau of Consular Affairs; Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended; Photograph Requirement**

**AGENCY:** Bureau of Consular Affairs, DOS.

**ACTION:** Final rule.

**SUMMARY:** The Department has replaced the Burroughs visa with a machine-readable visa (MRV). Since the MRV displays a digitized photo of the visa recipient, the Department is amending the nonimmigrant visa regulations to require all applicants for nonimmigrant visas to present photographs. The regulations are also amended to allow photographs of persons wearing head coverings, provided that enough of the face is uncovered so as to establish identity.

**EFFECTIVE DATE:** March 19, 1999.

**FOR FURTHER INFORMATION CONTACT:** Pam Chavez, Legislation and Regulations Division, Visa Services, Bureau of Consular Affairs, Department of State, 202-663-1206.

**SUPPLEMENTARY INFORMATION:** Effective April 1, 1994, the Department instructed all Foreign Service posts to cease issuing Burroughs visas, which were stamps placed in the passport. Foreign Service posts worldwide now issue only machine-readable visas (MRVs), a more technologically advanced and secure type of visa with a digitized photo of the applicant. The MRV is also inserted in the passport. The Department has, therefore, amended the regulations at 22 CFR 41.105(a)(3) to eliminate the waiver of photographs authorized in paragraphs (i), (ii) and (iii).

**Final Rule**

This rule is being promulgated as a final rule pursuant to the "good cause" provision of 5 U.S.C., sec. 553(b). Notice and comment serve no purpose in light of the fact that visas can no longer be issued without a photograph. This rule is not expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. It is not a major rule. This rule imposes no reporting or recordkeeping action from the public requiring the approval of the Office of Management and Budget under the Paperwork Reduction Act. This rule complies with requirements of E.O. 12988.

**List of Subjects in 22 CFR Part 41**

Aliens, Nonimmigrants, Passport and visas.

In view of the foregoing 22 CFR part 41 is amended as follows:

**PART 41—[AMENDED]**

1. The authority citation for part 41 continues to read as follows:

**Authority:** 8 U.S.C. 1104.

2. Revise paragraph (a)(3) of § 41.105 and remove the undesignated paragraph following it to read as follows:

**§ 41.105 Supporting documents and fingerprinting.**

(a) \* \* \*

(3) *Photographs required.* Every applicant for a nonimmigrant visa must furnish a photograph in such numbers as the consular officer may require. Photographs must be a reasonable likeness, 1½ by 1½ inches in size, unmounted, and showing a full, front-face view of the applicant against a light background. At the discretion of the consular officer, head coverings may be permitted provided they do not interfere with the full, front-face view of the applicant. The applicant must sign (full name) on the reverse side of the photographs. The consular officer may use a previously submitted photograph, if he is satisfied that it bears a reasonable likeness to the applicant.

Dated: March 11, 1999.

**Mary A. Ryan,**

*Assistant Secretary for Consular Affairs.*

[FR Doc. 99-6796 Filed 3-18-99; 8:45 am]

BILLING CODE 4710-06-P

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**24 CFR Part 941**

[Docket No. FR-4443-F-05]

**Public Housing Development Rule: Information Collection Approval Numbers**

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Final rule.

**SUMMARY:** This rule revises the chart in the public housing development regulations showing the numbers assigned by the Office of Management and Budget (OMB) approving information collections contained throughout those regulations. This revision is necessary to bring the chart in conformity with the actual approval numbers, and to assure that the

information collection approvals are accurately reflected in the codified regulations for 24 CFR part 941.

**EFFECTIVE DATE:** April 19, 1999.

**FOR FURTHER INFORMATION CONTACT:** Mildred Hamman, Reports Liaison Officer, Office of Public and Indian Housing, Department of Housing and Urban Development, Room 4238, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708-3642, ext. 4128. (This is not a toll-free number.) For persons with hearing or speech impairments, this number may be accessed by TTY through the Federal Information Relay Service, (800) 877-8339.

**SUPPLEMENTARY INFORMATION:**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), HUD published two notices on October 26, 1998, announcing the effective dates of information collection approvals contained in the public housing development regulations, 24 CFR part 941 (63 FR 57134, 57135). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number.

The notices published in October 1998 announced the effectiveness of approval numbers for §§ 941.101, 941.205, 941.303, 941.606, and 941.610. These sections were listed in the chart contained in § 941.101(c) of OMB approval numbers for the entire part. The chart also listed approval numbers for other sections, §§ 941.301, 941.304, 941.402, and 941.404, for which no notice of effectiveness of the information collections has been published. This document serves as the notice that OMB has approved information collections contained in these provisions and to imbed the correct information concerning the actual approval numbers for the provisions throughout part 941 in § 941.101(c). In addition, this document removes the information collection approval statement from the one individual section in part 941 where it remained—§ 941.207.

There are three approval numbers assigned to the various information collections contained in part 941. The numbers and their respective expiration dates are as follows: 2577-0033 expiring on December 31, 2000; 2577-0036 expiring on July 31, 2000, and 2577-0039 expiring on April 30, 2000.

**Justification for Final Rule**

In general, the Department publishes a rule for public comment before issuing

a rule for effect, in accordance with its own regulations on rulemaking at 24 CFR part 10. However, part 10 does provide for exceptions from that general rule where the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest." (24 CFR 10.1)

In this case, the changes being made to the rule are technical in nature, conforming the rule to the OMB approval actions that have already taken place. Therefore, prior public procedure is unnecessary.

**Catalog**

The Catalog of Federal Domestic Assistance number for the program affected by this rule is 14.850.

**List of Subjects in 24 CFR Part 941**

Grant programs—housing and community development, Loan programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

Accordingly, part 941 of title 24 of the Code of Federal Regulations is amended as follows:

**PART 941—PUBLIC HOUSING DEVELOPMENT**

1. The authority citation for part 941 continues to read as follows:

**Authority:** 42 U.S.C. 1437b, 1437c, 1437g, and 3535(d).

2. Paragraph (c) of § 941.101 is amended by revising the chart at the end of the paragraph to read as follows:

**§ 941.101 Purpose and scope.**

(c) \* \* \*

Approval No.	Sections
2577-0033 .....	941.207, 941.301, 941.303, 941.304, 941.606, 941.610
2577-0036 .....	941.205, 941.404
2577-0039 .....	941.402

**§ 941.207 [Amended]**

3. Section 941.207 is amended by removing the parenthetical phrase at the end of the section.

Dated: March 15, 1999.

**Harold Lucas,**

*Assistant Secretary for Public and Indian Housing.*

[FR Doc. 99-6794 Filed 3-18-99; 8:45 am]

BILLING CODE 4210-33-P

**DEPARTMENT OF THE TREASURY**

**Bureau of Alcohol, Tobacco and Firearms**

**27 CFR Part 9**

[TD ATF-410; RE: Notice No. 864]

RIN 1512-AA07

**Yountville Viticultural Area (98R-28P)**

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

**ACTION:** Treasury decision, final rule.

**SUMMARY:** This Treasury decision will establish a viticultural area in Napa County, California, to be known as "Yountville." This viticultural area is the result of a petition submitted by the Yountville Appellation Committee.

**DATES:** This rule is effective May 18, 1999.

**FOR FURTHER INFORMATION CONTACT:** Thomas B. Busey, Specialist, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, D.C. 20226, (202) 927-8230.

**SUPPLEMENTARY INFORMATION:**

**Background**

On August 23, 1978, ATF published Treasury decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR part 4.

These regulations allow the establishment of definitive viticultural areas. The regulations allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements. On October 2, 1979, ATF published Treasury decision ATF-60 (44 FR 56692) which added a new part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographic features, the boundaries of which have been delineated in subpart C of part 9.

Section 4.25(e)(2), Title 27, CFR, outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale, and;

(e) A copy (or copies) of the appropriate U.S.G.S. map(s) with the proposed boundaries prominently marked.

#### Petition

ATF received a petition from Mr. Richard Mendelson, submitted on behalf of a number of wineries and grape growers in the Yountville area, proposing to establish a new viticultural area in Napa County, California to be known as "Yountville." The viticultural area is located entirely within the Napa Valley. It contains approximately 8260 acres, of which 3500 are planted to vineyards. The viticultural area was determined by extending the wine growing area from around the town of Yountville until it abuts the already established viticultural areas of Oakville on the north, Stags Leap District on the east, and Mt. Veeder on the west. On the south is an area called Oak Knoll which has petitioned to be considered a viticultural area.

#### Comments

On August 26, 1998, ATF published a notice of proposed rulemaking, Notice 864, in the *Federal Register*, soliciting comments on the proposed viticultural area. No comments were received.

#### Evidence That The Name of the Area is Locally or Nationally Known

An historical survey written by Charles Sullivan spells out the historical use of the name Yountville and vineyard plantings dating back to the late 1800's. Numerous references exist indicating the general use of the name "Yountville" to refer to the petitioned area. The petitioner included copies of title pages of various publications, guide and tour book references, public and private phone book listings and Federal and State agency maps, to illustrate the use of the name. For example, an ad for wine in the 1880's stresses the source of the grapes for the wine as "Yountville." Yountville is also prominently mentioned in James Halliday's *Wine Atlas of California*.

#### Historical or Current Evidence That the Boundaries of the Viticultural Area are as Specified in the Petition

The boundaries establish a grape growing area with an identifiable character, based on climate, topography, and historical tradition. The Yountville area boundaries were determined by extending the grape growing area from around the town itself until it abuts the already established viticultural areas of Oakville on the north, Stags Leap District on the east and Mt. Veeder on the west and an area called Oak Knoll on the south, which is currently under consideration to be recognized as a viticultural area. The boundaries of the area were determined by already existing AVA's and by the distinguishing physical features of the area. The boundary lines are accurately described using the features on the submitted U.S.G.S. maps. In sum, the proposed boundaries encompass an area of remarkable uniformity with respect to soils, climate and existing AVA's.

The history of viticulture in the Napa Valley begins with George C. Yount. Yount first visited the Napa Valley in 1831. He was granted his Rancho Caymus on March 3, 1836. It amounted to approximately 11,000 acres and covered the valley and foothills from the Bale Slough in the north to a line which runs through the town of Yountville today. By the 1840's he had established a small vineyard. In 1855, he commissioned a surveyor to lay out the city. The new community was christened Sebastopol. In 1887, two years after Yount's death, the town was renamed in honor of its founder.

#### Evidence Relating To the Geographical Features (Climate, Soil, Elevation, Physical Features, Etc.) Which Distinguish Viticultural Features of the Area From Surrounding Areas

The geographical features of the viticultural area set it apart from the surrounding area in the Napa Valley and produce a unique microclimate. The distinguishing features of the viticultural area are the Napa River, the Napa Valley floor, the alluvial soils, the hills north of Yountville called the Yountville Mounts and the hills west of Yountville which form the western boundary of the Napa Valley.

The weather is specific to the Yountville area with cool marine air currents reaching the Yountville Mounts (northern border of the proposed area) and which form a weather barrier to further expansion of the fogs and winds. Also the soils which form the alluvial fan just across the southern boundary of the Yountville area can be seen to come

from the Dry Creek watershed (see U.S.G.S. maps). The soils just north of the Yountville border come from the hills that form the western side of the area. The line along Ragatz Lane was selected to delineate the two areas. The soils between Yountville and Stags Leap District can be seen to differ north of the Yountville crossroad with the Rector canyon being the parent and the area between the Napa River and the Silverado Trail belonging to the hills immediately to the east.

The Yountville area, and specifically the area near and west of the town of Yountville, is one of the coolest vineyard regions of the Napa Valley viticultural area with long, cool growing season for grapevines. The Amerine and Winkler (1944) climate scheme rates this area as a Region II climate in a typical year, with a growing season degree-day totals of 2600 to 2900. This makes the area around the town of Yountville warmer than most of the Carneros viticultural area, but cooler than parts of Mt. Veeder and Oakville.

The Yountville area is unusual as a Napa Valley floor viticultural region in that it is not dominated geomorphically by large alluvial fans. It is most similar geologically to the Stags Leap District, which also is dominated by an old Napa River channel. However, the Yountville area is also geologically and geomorphologically distinct from the Stags Leap District, as Yountville was an area of intense coastal deposition along what must have been a nearshore current set up on the western side of the valley. The only similar coastal deposits found in the Napa Valley are in the Hagen Road area east of the City of Napa off Olive Hill Lane. Geomorphic deposits strongly influence soil types in the regions. Pronounced differences in soils are seen between Yountville, Oakville, the Stags Leap District, Mt. Veeder, and the proposed Oak Knoll viticultural area.

#### Boundaries

The boundaries of the Yountville viticultural area may be found on four U.S.G.S. Quadrangle (7.5 Minute Series) maps titled: Napa, CA (1951); Rutherford, CA (1951); Sonoma, CA (1951); and Yountville, CA (1951).

#### Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, (44 U.S.C. 3507) and its implementing regulations, 5 CFR part 1320, do not apply to this notice of proposed rulemaking because no requirement to collect information is proposed.

## Regulatory Flexibility Act

It is hereby certified that this proposed regulation will not have a significant impact on a substantial number of small entities. The establishment of a viticultural area is neither an endorsement nor approval by ATF of the quality of wine produced in the area, but rather an identification of an area that is distinct from surrounding areas. ATF believes that the establishment of viticultural areas merely allows wineries to more accurately describe the origin of their wines to consumers, and helps consumers identify the wines they purchase. Thus, any benefit derived from the use of a viticultural area name is the result of the proprietor's own efforts and consumer acceptance of wines from the region.

Accordingly, a regulatory flexibility analysis is not required because the proposal, if promulgated as a final rule, is not expected (1) to have significant secondary, or incidental effects on a substantial number of small entities; or (2) to impose, or otherwise cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

## Executive Order 12866

It has been determined that this proposed regulation is not a significant regulatory action as defined by Executive Order 12866. Accordingly, this proposal is not subject to the analysis required by this executive order.

## Drafting information

The principal author of this document is Thomas B. Busey, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

## List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, and Wine.

## Authority and Issuance

Title 27 Code of Federal Regulations, Part 9, American Viticultural Areas, is proposed to be amended as follows:

## PART 9—AMERICAN VITICULTURAL AREAS

**Paragraph 1.** The authority citation for part 9 continues to read as follows:

**Authority:** 27 U.S.C. 205.

**Par. 2.** Subpart C is amended by adding § 9.160 to read as follows:

## Subpart C—Approved American Viticultural Areas

### § 9.160 Yountville

(a) *Name.* The name of the viticultural area described in this section is "Yountville."

(b) *Approved maps.* The appropriate maps for determining the boundary of the Yountville viticultural area are four 1:24,000 Scale U.S.G.S. topography maps. They are titled:

- (1) Napa, CA 1951 photorevised 1980
- (2) Rutherford, CA 1951 photorevised 1968
- (3) Sonoma, CA 1951 photorevised 1980
- (4) Yountville, CA 1951 photorevised 1968

(c) *Boundary.* The Yountville viticultural area is located in the State of California, entirely within the Napa Valley viticultural area. The boundaries of the Yountville viticultural area, using landmarks and points of reference found on appropriate U.S.G.S. maps are as follows:

(1) Beginning on the Rutherford quadrangle map at the intersection of the 500 foot contour line with an unnamed stream known locally as Hopper Creek north of the center of Section 3, T6N, R5W, Mount Diablo Meridan (MDM);

(2) Then along the unnamed stream (Hopper Creek) southeasterly, and at the fork in Section 3, northeasterly along the stream to the point where the stream intersects with an unnamed dirt road in the northwest corner of Section 2, T6N, R5W, MDM;

(3) Then in a straight line to the light duty road to the immediate northeast in Section 2, then along the light duty road in a northeasterly direction to the point at which the road turns 90 degrees to the left;

(4) Then northerly along the light duty road 625 feet, then northeasterly (N 40° by 43') in a straight line 1,350 feet, along the northern property line of Assessor's Parcel Number 27-380-08, to State Highway 29, then continuing in a straight line approximately 500 feet to the peak of the 320 plus foot hill along the western edge of the Yountville hills;

(5) Then east to the second 300 foot contour line, then along said contour line around the Yountville hills to the north to the point at which the 300 foot line exits the Rutherford quadrangle for the second time;

(6) Then, on the Yountville quadrangle map, in a straight line in a northeasterly direction approximately N34° by 30' E approximately 1,000 feet to the 90 degree bend in the unimproved dirt road shown on the map, then along that road, which

coincides with a fence line to the intersection of Conn Creek and Rector Creek;

(7) Then along Rector Creek to the northeast past Silverado Trail to the Rector Reservoir spillway entrance, then south approximately 100 feet to the 400 foot contour line, then southerly along the 400 foot contour line approximately 4200 feet to the intersection with a gully in section 30, T7N, R4W, MDM;

(8) Then southwesterly down the center of the gully approximately 800 feet to the medium duty road known as Silverado Trail, then southeasterly along the Silverado Trail approximately 590 feet to the medium duty road known locally Yountville Cross Road;

(9) Then southwesterly along the Yountville Cross Road (denoted as GRANT BDY on the map) approximately 4,700 feet to the main branch of the Napa River, then following the western boundary of the Stags Leap District viticultural area, first southerly down the center of the Napa River approximately 21,000 feet, then leaving the Napa River northeasterly in a straight line approximately 900 feet to the intersection of the Silverado Trail with an intermittent stream at the 60 foot contour line in T6N, R4W, MDM;

(10) Then along the Silverado Trail southerly approximately 3,200 feet, passing into the Napa quadrangle, to a point which is east of the confluence of Dry Creek with the Napa River; then west approximately 600 feet to said confluence; then northwesterly along Dry Creek approximately 3,500 feet, passing into the Yountville quadrangle to a fork in the creek; then northwesterly along the north fork of Dry Creek approximately 5,700 feet to the easterly end of the light duty road labeled Ragatz Lane;

(11) Then southwesterly along Ragatz Lane to the west side of State Highway 29, then southerly along Highway 29 by 982 feet to the easterly extension of the north line boundary of Napa County Assessor's parcel number 034-170-015, then along the north line of APN 034-170-015 and its extension westerly 3,550 feet to the dividing line between R4W and R5W on the Napa quadrangle, then southwesterly approximately 1000 feet to the peak denoted as 564 (which is about 5,500 feet easterly of the northwest corner of the Napa quadrangle); then southwesterly approximately 4,000 feet to the peak northeast of the reservoir gauging station denoted as 835;

(12) Then southwesterly approximately 1,500 feet to the reservoir gauging station, then west to the 400 foot contour line on the west side of Dry Creek, then northwesterly along the 400

foot contour line to the point where the contour intersects the north line of Section 10. T6N, R5W, MDM, immediately adjacent to Dry Creek on the Rutherford, CA map;

(13) Then northwesterly along Dry Creek approximately 6,500 feet to BM503, then northeasterly approximately 3,000 feet to the peak denoted as 1478, then southeasterly approximately 2,300 feet to the beginning of the creek known locally as Hopper Creek, then southeasterly along Hopper Creek approximately 2,300 feet to the point of beginning.

Signed: February 2, 1999.

**John W. Magaw,**  
Director.

Approved: February 16, 1999.

**Dennis M. O'Connell,**  
*Acting Deputy Assistant Secretary*  
(Regulatory, Tariff and Trade Enforcement).  
[FR Doc. 99-6735 Filed 3-18-99; 8:45 am]  
BILLING CODE 4810-31-P

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 117

[CGD11-99-001]

#### **Drawbridge Operation Regulations; Mokelumne River, CA-12 Highway Bridge at Mile 3.0 at East Isleton, Sacramento County, CA**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** Notice is hereby given that the U.S. Coast Guard has issued a temporary deviation to regulations governing opening of the California Department of Transportation (Caltrans) swing bridge over the Mokelumne River at East Isleton, CA (the Mokelumne River Bridge). The deviation has two parts. The first part specified the bridge need not open for the passage of vessels from 8 a.m. March 22, 1999 to 5 p.m. March 24, 1999. The purpose of this part of the deviation is to allow Caltrans to repair the east-end bridge jack turnbuckle. The bridge cannot be opened during that work. The second part specified the bridge would open upon the following advance notice during the period from 5 p.m. March 24, 1999, through 5 p.m. April 2, 1999: During the hours between 9 a.m. and 5 p.m. daily, upon 30 minutes advance notice; at all other times upon at least 4 hours advance notice given to the drawtender at the Rio Vista Bridge over the Sacramento River, mile 12.8. The

purpose of this part of the deviation is to enable Caltrans to test and make final adjustments and conduct other maintenance that does not require taking the bridge out of service. However, during that period, workers and equipment will be on the movable span, and advance notice is needed to clear the span for openings.

**DATES:** The deviation is effective from 8 a.m. March 22, 1999, through 5 p.m. April 2, 1999.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jerry Olmes, Bridge Administrator, Eleventh Coast Guard District, Building 50-6, Coast Guard Island, Alameda, CA 94501-5100, telephone (510) 437-3515.

**SUPPLEMENTARY INFORMATION:** On February 24, 1999, Caltrans requested to close the bridge from 8 a.m. March 22, 1999 through 5 p.m. March 24, 1999, and to operate the bridge on 30 minute advance notice from 5 p.m. March 24, 1999 through 5 p.m. April 2, 1999. When the bridge is closed to navigation, the vertical clearance is 7.0 ft. (2.1 m) above Mean High Water, and is 10.5 ft. (3.2m) above Mean Lower Low Water, and the clearances may be further reduced due to high seasonal flows from winter rains. Alternate routes are available, and waterway traffic is minimal during the winter months. The Coast Guard has contacted the marinas immediately upstream and downstream of the bridge and commercial waterway operators, none of whom have any objection to the proposal. Delaying repairs until later in the year would impact a greater number of waterway users.

This deviation from the normal operating regulations in 33 CFR 117.175 is authorized in accordance with the provisions of 33 CFR 117.35.

Dated: March 12, 1999.

**C.D. Wurster,**

*Captain, U.S. Coast Guard, Acting Commander, Eleventh Coast Guard District.*  
[FR Doc. 99-6759 Filed 3-18-99; 8:45 am]

BILLING CODE 4910-15-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA 207-0136a FRL-6239-8]

#### **Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Sacramento Metropolitan and South Coast Air Quality Management Districts and San Joaquin Valley Unified Air Pollution Control District**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the California State Implementation Plan (SIP). This action is an administrative change which revises the definitions in Sacramento Metropolitan Air Quality Management (SMAQMD) Rule 101, San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) Rule 1020, and South Coast Air Quality Management District (SCAQMD) Rule 1302. The intended effect of approving this action is to incorporate changes to the definitions for clarity and consistency and to update the Exempt Compound list in SMAQMD, SJVUAPCD, and SCAQMD rules to be consistent with the revised federal and state VOC definitions.

**DATES:** This rule is effective on May 18, 1999 without further notice, unless EPA receives adverse comments by April 19, 1999. If EPA receives such comment, it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Written comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the rule revisions 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 revisions 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, S.W., Washington, D.C. 20460

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

Sacramento Metropolitan Air Quality Management District, 8411 Jackson Rd., Sacramento, CA 95826-3904

San Joaquin Valley Unified Air Pollution Control District, 1990 E. Gettysburg Ave., Fresno, CA 93726  
South Coast Air Quality Management District, 21865 E. Copley Dr., Diamond Bar, CA 91765-4182

**FOR FURTHER INFORMATION CONTACT:**

Cynthia G. Allen, Rulemaking Office, AIR-4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1189.

**SUPPLEMENTARY INFORMATION:**

**I. Applicability**

The rules being approved into the California SIP include: SMAQMD Rule 101, General Provisions and Definitions; SJVUAPCD Rule 1020, Definition; and South Coast Rule 1302, Definitions (New Source Review). These rules were submitted by the California Air Resources Board to EPA on October 27, 1998 (Sacramento); May 18, 1998 (San Joaquin); and March 10, 1998 (South Coast).

**II. Background**

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included SMAQMD, SJVUAPCD, and SCAQMD. 43 FR 8964, 49 CFR 81.305. In response to Section 110(a) of the Act and other requirements, the SMAQMD, SJVUAPCD, and SCAQMD submitted many rules which EPA approved into the SIP.

On June 16, 1995 (60 FR 31633) EPA published a final rule excluding acetone from the definition of VOC. On February 7, 1996 (61 FR 4588) EPA published a final rule excluding perchloroethylene from the definition of VOC. On October 8, 1996 (61 FR 52848) EPA published a final rule excluding HFC 43-10mee and HCFC 225ca and cb from the definition of VOC. On April 9, 1998 (63 FR 17331) EPA published a final rule excluding methyl acetate from the definition of VOC. These compounds were determined to have negligible photochemical reactivity and thus, were added to the Agency's list of Exempt Compounds.

This document addresses EPA's direct-final action for SMAQMD Rule 101, General Provisions and Definitions; SJVUAPCD Rule 1020, Definitions; and SCAQMD Rule 1302, Definitions (New Source Review). These rules were adopted by SMAQMD on September 3, 1998; by SJVUAPCD on December 18, 1997; and by SCAQMD on June 13, 1997. These rules were submitted by the

California Air Resources Board to EPA on October 27, 1998 (Sacramento); May 18, 1998 (San Joaquin); and March 10, 1998 (South Coast). These submitted rules were found to be complete on May 21, 1998 (South Coast); July 17, 1998 (Sacramento); and December 18, 1998 (San Joaquin), pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51 Appendix V<sup>1</sup> and is being finalized for approval into the SIP.

The following are EPA's summary and final action for these rules:

**III. EPA Evaluation and Action**

In determining the approvability of a rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110, and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for this action, appears in various EPA policy guidance documents.<sup>2</sup>

This administrative action is necessary to make the VOC definition in the SMAQMD, SJVUAPCD, and SCAQMD rules consistent with federal and state definitions of VOC. This action will result in more accurate assessment of ozone formation potential, will remove unnecessary control requirements and will assist States in avoiding exceedences of the ozone health standard by focusing control efforts on compounds which are actual ozone precursors.

SMAQMD Rule 101, General Provisions and Definitions, has been revised to update the definition of "Exempt Compounds". In addition, this amendment adds and/or revise the following definitions: Section 203, Emission Unit, Section 205, On-Site, and Section 209, Section.

SJVUAPCD Rule 1020, Definitions, is a new rule for the SJVUAPCD but will replace the SIP rules for Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus and Tulare Counties. SJVUAPCD Rule, 1020 contains general definitions for terms used or referenced in various district rules. This new rule exempts ethane and acetone as volatile

organic compounds because of recent EPA and ARB action, revises the definition of "San Joaquin Valley Air Basin" and "Central Kern County Fields" based on the recent California Air Resources Board realignment of air basin boundaries, and delete the definition of "Cyclic Well" to correct an inconsistency with a conflicting definition in Rule 4401 (Steam Enhanced Crude Oil Production Well Vents).

SCAQMD Rule 1302, Definitions (New Source Review), was submitted with amended South Coast Rule 102, Definition of Terms. Perchloroethylene is being added as a Group II Exempt Compound. The other three compounds are to be added to the list of Group I Exempt Compounds. The amendments will also allow the use of cyclic branched, or linear, completely methylated siloxanes (VMS) and parachlorobenzotrifluoride (PCBTF), currently listed as Group II Exempt Compounds, and perchloroethylene in operations regulated pursuant to Rules 1106.1, 1151, and 1171. In order to have a consistent VOC definition, the VOC definition in Rule 1302 is being removed and now refers to Rule 102 which was approved on (February 23, 1999, **Federal Register** pending). Thus, EPA is approving amended Rule 1302 into the SIP.

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 adverse comments be filed. This rule will be effective May 18, 1999 without further notice unless the Agency receives adverse comments by April 19, 1999.

If the EPA receives such comments, then EPA will publish a timely withdrawal in the **Federal Register** 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 18, 1999 and no further action will be taken on the proposed rule.

<sup>1</sup> EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

<sup>2</sup> Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988).

#### IV. Administrative Requirements

##### A. Executive Order 12866

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

##### B. Executive Order 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, 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 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 does not involve decisions intended to mitigate environmental health or safety risks.

##### D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. 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 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 18, 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 recordkeeping requirements, Volatile organic compounds.

**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: March 5, 1999.

**Laura Yoshii,**

*Deputy 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)(254)(i)(D)(3), (255)(i)(C), and (260)(i)(A) to read as follows:

##### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*  
(254) \* \* \*  
(i) \* \* \*

(D) South Coast Air Quality Management District.

(3) Rule 1302, amended December 7, 1995.

\* \* \* \* \*

(255) \* \* \*  
(i) \* \* \*

(C) San Joaquin Valley Unified Air Pollution Control District.

(1) Rule 1020, amended December 18, 1997.

\* \* \* \* \*

(260) New and amended regulations for the following APCDs were submitted on October 27, 1998, by the Governor's designee.

(i) Incorporation by reference.

(A) Sacramento Metropolitan Air Quality Management District.

(I) Rule 101, amended on September 3, 1998.

\* \* \* \* \*

[FR Doc. 99-6650 Filed 3-18-99; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[OK-18-1-7415a; FRL-6312-S]

#### Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Oklahoma

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

**ACTION:** Direct final rule.

**SUMMARY:** We are approving the section 111(d) Plan submitted by the Oklahoma Department of Environmental Quality (ODEQ) on December 18, 1998, to implement and enforce the Emissions Guidelines (EG) for existing Municipal Solid Waste (MSW) Landfills. The EG require States to develop plans to reduce landfill gas emissions from all MSWs.

**DATES:** This direct final rule is effective on May 18, 1999, without further notice, unless we receive adverse comments by April 19, 1999. If we receive adverse comments, we 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:** You should address comments on this action to Lt. Mick Cote, EPA Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202.

Copies of all materials considered in this rulemaking may be examined during normal business hours at the following locations: EPA Region 6 offices, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202, and at the Oklahoma Department of Environmental Quality offices, 707 North Robinson Avenue, Oklahoma City, OK 73101-1677.

**FOR FURTHER INFORMATION CONTACT:** Lt. Mick Cote at (214) 665-7219.

**SUPPLEMENTARY INFORMATION:**

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- II. Why do we need to regulate MSW landfills emissions?
- III. What is a State Plan?
- IV. What does the Oklahoma State Plan contain?
- V. Is my MSW landfill subject to these regulations?
- VI. What steps do I need to take if my landfill is subject to these regulations?
- VII. Administrative Requirements.

#### I. What Action Is Being Taken by EPA Today?

We are approving the Oklahoma State Plan, as submitted on December 18, 1998, for the control of landfill gas emissions from MSW landfills, except for those located in Indian Country. When we developed our New Source Performance Standard (NSPS) for MSW landfills, we also developed EG to control emissions from older MSW landfills. (See 61 FR 9905, March 12, 1996, and 63 FR 32743, June 16, 1998). The ODEQ developed a State Plan, as required by section 111(d) of the Clean Air Act (the Act), to adopt the EG into their body of regulations, and we are acting today to approve it.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in a separate document in this **Federal Register** publication, we are proposing to approve the revision should significant, material, and adverse comments be filed. This action is effective May 18, 1999, unless by April 19, 1999, adverse or critical comments are received. If we receive such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, this action is effective May 18, 1999.

#### II. Why Do We Need To Regulate MSW Landfill Emissions?

Landfill gas contains a mixture of volatile organic compounds (VOCs), other hazardous air pollutants (HAPs), and methane. VOC emissions can contribute to ozone formation, which can cause adverse health effects to humans and vegetation. The health effects of HAPs include cancer, respiratory irritation, and damage to the nervous system. Methane emissions contribute to global climate change and can result in fires or explosions when they accumulate in structures on or off the landfill site. We presented our concerns with the health and welfare effects of landfill gases in the preamble to our proposed Federal regulations (56 FR 24468, May 30, 1991).

#### III. What Is a State Plan?

Section 111(d) of the Act requires that "designated" pollutants controlled

under the NSPS must also be controlled at existing sources in the same source category. To ensure proper implementation of the requirements of section 111(d), we approved 40 CFR part 60, subpart B (40 FR 53340, November 17, 1975). Subpart B provides that, once an NSPS is promulgated, we then publish an EG applicable to the control of the same pollutant from designated (existing) facilities. States with designated facilities must then adopt a plan for the control of the pollutant.

#### IV. What Does the Oklahoma State Plan Contain?

The Oklahoma State Plan was reviewed for approval against the following criteria:

40 CFR 60.23 through 60.26, *Subpart B—Adoption and Submittal of State Plans for Designated Facilities*; and, 40 CFR part 60, 60.30c through 60.36c, *Subpart Cc—Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills*.

The evaluation of the Oklahoma State Plan indicates that it contains:

1. A demonstration of the State's legal authority to implement the section 111(d) State Plan, as authorized under the Title 27A of the Oklahoma Statutes, sections 2-2-101, 2-5-104 through 106, 2-2-106, 112, and 114. Copies of these Statutes were submitted as part of the State Plan, located in Appendix A.

2. An incorporation of the Federal regulations into OAC 252:100-47, *Control of Emissions from Existing Municipal Solid Waste Landfills*.

3. An inventory of approximately 82 landfills in Oklahoma subject to the EG. At least three exist that appear to be above both the design capacity and NMOC emission thresholds, and thus subject to the control requirements of the EG. Known designated facilities, with estimated design capacities, are listed in Appendices C and D;

4. Emission limits that are as stringent as the EG under OAC 252:100-47-7, *Emission Standards*;

5. A process to review gas collection system design plans (Appendix E);

6. A final compliance date 30 months after the date a designated facility reaches or exceeds 50 Mg of NMOC emissions annually (OAC 252:100-47-6(b));

7. Testing, monitoring, reporting and recordkeeping requirements for the designated facilities, listed in OAC 252:100-47-8 through -13;

8. Records from the two public hearings in Appendix F; and

9. Provisions for progress reports to EPA.

#### V. Is My MSW Landfill Subject to These Regulations?

Any MSW landfill which began construction, reconstruction or modification before May 30, 1991, and has accepted waste at any time since November 8, 1987, is affected by the EG and the Oklahoma State Plan. If your facility meets these two criteria, your landfill is subject to these regulations.

#### VI. What Steps Do I Need To Take if my Landfill Is Subject to These Regulations?

- You must report your landfill's design capacity to the ODEQ within 90 days of the effective date of our approval of the Oklahoma State Plan.

- If your landfill has a design capacity above 2.5 million Mg, you must also estimate and report your annual NMOC emission rate to the ODEQ within the same 90-day timeframe.

- If your landfill has a design capacity below 2.5 million Mg, you have met all the requirements of the Oklahoma State Plan. However, if you modify your landfill and increase the design capacity above the 2.5 million Mg threshold, you must submit an amended design capacity report to the ODEQ within 90 days of the modification. You must also estimate and submit your annual NMOC emission rate to the ODEQ within 90 days of the modification. Your landfill will then be considered an NSPS source and subject to the requirements listed under 40 CFR part 60, subpart WWW.

- You must have a gas collection system installed and operating within 30 months of the date you project to be at or above the 50 Mg threshold.

- You must record and keep accurate records regarding site information and gas collection system operational data.

#### VIII. Administrative Requirements.

##### A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from review under Executive Order 12866, entitled *Regulatory Planning and Review*.

##### B. Executive Order 12875

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, 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 these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

##### C. Executive Order 13045

Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), applies to any rule that EPA determines (1) is "economically significant," as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined by Executive Order 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

##### 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 EPA complies by consulting, E.O. 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 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. Pursuant to section 605(b) of the RFA, I certify that this rule will not have a significant economic impact on a substantial number of small entities. This Federal action approves pre-existing requirements under Federal, State, or Local law and imposes no new requirements on any entity affected by this rule, including small entities. Therefore, these amendments will not have a significant impact on a substantial number of small entities.

#### F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, 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. The 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. The 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 Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 18, 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 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Methane, Municipal solid waste landfills, Nonmethane organic compounds, Reporting and recordkeeping requirements.

Dated: March 11, 1999.

**William B. Hathaway**,  
*Acting Regional Administrator, Region 6.*

40 CFR part 62 of the Code of Federal Regulations is amended as follows:

#### PART 62—[AMENDED]

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

**Authority:** 42 U.S.C. 7401-7642

#### Subpart LL—Oklahoma

2. Section 62.9100 is amended by adding paragraph (b)(4) to read as follows:

##### § 62.9100 Identification of plan.

\* \* \* \* \*

(b) \* \* \*

(4) Control of landfill gas emissions from existing municipal solid waste landfills, submitted by the Oklahoma Department of Environmental Quality on December 18, 1998.

\* \* \* \* \*

3. Subpart LL is amended by adding a new § 62.9160 and a new undesignated center heading to read as follows:

#### Landfill Gas Emissions From Existing Municipal Solid Waste Landfills

##### § 62.9160 Identification of sources.

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

[FR Doc. 99-6777 Filed 3-18-99; 8:45 am]

BILLING CODE 6560-50-P

#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 300

[Docket No. 990312074-9074-01; I.D. 010899B]

RIN 0648-AM35

#### Pacific Halibut Fisheries; Catch Sharing Plan

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

**ACTION:** Final rule; annual management measures for Pacific halibut fisheries and approval of catch sharing plan.

**SUMMARY:** The Assistant Administrator for Fisheries, NOAA (AA), on behalf of the International Pacific Halibut Commission (IPHC), publishes annual management measures promulgated as regulations by the IPHC and approved by the Secretary of State governing the Pacific halibut fishery. The AA also announces the approval of modifications to the Catch Sharing Plan for Area 2A and implementing

regulations for 1999. These actions are intended to enhance the conservation of the Pacific halibut stock and are necessary to further the goals and objectives of the Pacific Fishery Management Council (PFMC) and the North Pacific Fishery Management Council (NPFMC).

**DATES:** Effective March 15, 1999.

**ADDRESSES:** NMFS Alaska Region, 709 West 9th St., P.O. Box 21668, Juneau, AK 99802-1668; or NMFS Northwest Region, 7600 Sand Point Way NE, Seattle, WA 98115-0070 (<http://www.nwr.noaa.gov>).

**FOR FURTHER INFORMATION CONTACT:** James Hale, 907-586-7228, or Yvonne deReynier, 206-526-6140.

**SUPPLEMENTARY INFORMATION:** The IPHC has promulgated regulations governing the Pacific halibut fishery in 1999, under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed in Washington, D.C., on March 29, 1979). The IPHC regulations have been approved by the Secretary of State of the United States under section 4 of the Northern Pacific Halibut Act (Halibut Act, 16 U.S.C. 773-773k). Pursuant to regulations at 50 CFR 300.62, NMFS published the approved IPHC regulations setting forth the 1999 IPHC annual management measures in the **Federal Register** to provide notice of their effectiveness and to inform persons subject to the regulations of the restrictions and requirements.

The IPHC held its annual meeting on January 25-28, 1999, in Prince Rupert, British Columbia, and adopted regulations for 1999. The substantive changes to the previous IPHC regulations (63 FR 13000, March 17, 1998) include:

1. New catch limits for all areas;
2. Modifications to the vessel clearances for Area 4B. Non-local vessels fishing in Area 4B will continue to be required to obtain a clearance in person prior to fishing. Adak has been added as a location to obtain clearances for Area 4B; therefore, clearance prior to fishing in Area 4B can be obtained at either Nazan Bay on Atka Island or Adak. The clearance required at the completion of fishing in Area 4B must be obtained either in person or by VHF radio (no visual identification of the vessel is necessary);

3. Modification of the careful release regulation for consistency with NMFS regulations. All halibut caught and not retained must now be released outboard

of the roller by one of the careful release methods;

4. Modification of the regulations on fishing in Area 4E to require the manager of an authorized community development quota (CDQ) organization that allows persons to harvest halibut in Area 4E CDQ fishery to report the total number and weight of undersized halibut to the IPHC. The report must include the methodology on how the data were collected and be received by IPHC prior to December 1, 1999; and

5. Establishment of opening dates for the Area 2A commercial directed fishery for halibut.

In addition, this action implements changes to the Catch Sharing Plan (Plan) for regulatory Area 2A. The PFMC developed the Plan under authority of the Halibut Act. Section 5 of the Halibut Act (16 U.S.C. 773c) gives the Secretary of Commerce (Secretary) general responsibility to carry out the Convention between the United States and Canada and authorizes the Secretary to adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and the Halibut Act. The Secretary's authority has been delegated to the AA. Section 5 of the Halibut Act (16 U.S.C. 773c(c)) also authorizes the Regional Fishery Management Council having authority for the geographic area concerned to develop regulations governing the Pacific halibut catch in U.S. Convention waters that are in addition to, but not in conflict with, regulations of the IPHC. Pursuant to this authority, NMFS requested the PFMC and NPFMC to allocate halibut catches should such allocation be necessary.

#### **Catch Sharing Plan for Area 2A**

The PFMC has prepared annual Plans since 1988 to allocate the halibut catch limit for Area 2A among treaty Indian, non-Indian commercial, and non-Indian sport fisheries in and off Washington, Oregon, and California. In 1995, NMFS implemented a long-term Plan recommended by the PFMC (60 FR 14651, March 20, 1995), which was revised in 1996 (61 FR 11337, March 20, 1996), 1997 (62 FR 12759, March 18, 1997), and 1998 (63 FR 13000, March 17, 1998). The Plan allocates 35 percent of the Area 2A total allowable catch (TAC) to Washington treaty Indian tribes in Subarea 2A-1, and 65 percent to non-Indian fisheries in Area 2A. The allocation to non-Indian fisheries is divided into three shares, with the Washington sport fishery (north of the Columbia River) receiving 36.6 percent, the Oregon/California sport fishery receiving 31.7 percent, and the commercial fishery receiving 31.7

percent. The commercial fishery is further divided into two sectors; a directed (traditional longline) commercial fishery that is allocated 85 percent of the non-Indian commercial harvest, and 15 percent for harvests of halibut caught incidental to the salmon troll fishery. The directed commercial fishery in Area 2A is confined to southern Washington (south of 46°53'18" N. lat.), Oregon and California. The Plan also divides the sport fisheries into seven geographic areas each with separate allocations, seasons, and bag limits.

No vessel with a commercial license (directed or incidental) for halibut may be used in any sport fishery for halibut. No vessel with a charter license for halibut or that has been used to fish for halibut in sport fisheries may be used to fish in a commercial fishery for halibut in the same calendar year. A vessel may be licensed either to fish in the directed commercial fishery for halibut, or to land halibut incidentally to the salmon troll fishery, but not both.

For 1999, the PFMC recommended changes to the Plan to modify the Pacific halibut sport fisheries in Area 2A in 1999 and beyond, pursuant to recommendations from the Washington Department of Fish and Wildlife (WDFW) and the Oregon Department of Fish and Wildlife (ODFW). The purpose of the changes was to provide more sport season management flexibility, allowing greater access to halibut by anglers fishing from small boats, and increasing the likelihood that incidentally-caught halibut may be landed. The changes would also clarify commercial catch sharing language and would clarify halibut retention language for the portion of the Plan that addresses treaty Indian ceremonial and subsistence fisheries. For the Washington sport fisheries, the PFMC recommended modifying the boundaries of a sport fishing closed area within the Washington south coast subarea to better define the boundaries of a zone of halibut abundance. Further, the PFMC recommended restructuring the Washington south coast subarea sport fishery to allow landing from a small nearshore area on days that the offshore fishery is closed. For the Oregon sport fisheries, the PFMC recommended measures to allow the nearshore fishery south of Cape Falcon better access to its quota, measures to coordinate management of the Oregon sport fishery south of Humbug Mountain with management of the California sport fishery, and measures to set the bag limit for all sport fisheries south of Leadbetter Point, WA, at the first fish caught that is 32 inches (81.3 cm) or

greater in length. In addition to these recommendations for sport fisheries, the PFMC recommended clarifying current Plan language that describes the inseason division of the commercial quota between the directed fishery and incidental landings in the salmon troll fishery. NMFS, in consultation with treaty Indian tribes, has also recommended clarifying the current halibut retention language for treaty Indian ceremonial and subsistence fisheries. These clarifications to Plan language are housekeeping changes and do not change the intent of the Plan or the catch sharing divisions therein.

A complete description of the PFMC recommended changes to the Plan, notice of a draft Environmental Assessment and Regulatory Impact Review (EA/RIR), and proposed sport fishery management measures were published in the **Federal Register** on February 11, 1999 (64 FR 6869) with a request for public comments. No public comments were received on the proposed changes to the Plan or on the EA/RIR. Therefore, NMFS has approved the changes to the Plan as proposed, made a finding of no significant impact, and finalized the EA/RIR. Copies of the complete Plan for Area 2A as modified and the final EA/RIR are available from the NMFS Northwest Regional Office (see ADDRESSES).

In accordance with the Plan, the WDFW and ODFW held public workshops (after the IPHC set the Area 2A quota) on February 4 and 8, 1999, respectively, to develop recommendations on the opening dates and weekly structure of the sport fisheries. The WDFW and ODFW sent letters to NMFS advising on the outcome of the workshops and provided the following comments and recommendations on the opening dates and season structure for the sport fisheries.

*Comment 1:* WDFW recommended a May 27 through July 12 season, 5 days per week (closed Tuesday and Wednesday) for the Washington Inside Waters area sport fishery. The recommended number of fishing days is based on analysis of past harvest patterns in this fishery.

*Response:* NMFS agrees with the calculated number of fishing days necessary to achieve, but not exceed, the subquota for this area. The recommended season has been incorporated in the 1999 sport fishery measures.

*Comment 2:* WDFW recommended that the Washington North Coast area sport fishery be structured such that 15,000 lb (6,803.7 kg) of the subarea quota be reserved to provide for the

second priority in the Plan—a July 1 season. The WDFW recommendation is for the sport fishery to open on May 1 and continue through June 30, or until 76,484 lb (34,691.7 kg) of the 91,484 lb (41,495.4 kg) quota are harvested. The fishery would reopen on July 1 and continue 5 days per week (closed Sunday and Monday) until the quota has been taken or through September 30, whichever occurs first.

*Response:* NMFS agrees and has incorporated these recommendations into the 1999 sport fishery measures.

*Comment 3:* WDFW recommended that the seasonal structure set forth in the Plan, including the changes described in the proposed rule (64 FR 6869, February 11, 1999) be implemented for the sport fisheries in the Washington South Coast and the Columbia River subareas.

*Response:* NMFS has structured the seasons for these subareas in accordance with the Plan.

*Comment 4:* ODFW recommended a 6-day season for the May opening in the Oregon Central Coast and South Coast subareas based on an analysis of past harvest rates that indicated an increasing annual trend in the sport fishery.

*Response:* NMFS has implemented a 6-day fixed season in May for these two subareas. The Plan stipulates that the number of fixed season days established will be based on the projected catch per day with the intent of not exceeding the subarea season subquotas.

*Comment 5:* ODFW and some members of the public in attendance at the ODFW workshop recommended that if unharvested quota remains after the May fixed opening days in the Oregon Central and South Coast subareas, additional opening dates would be scheduled first for June 12, and then for June 11, and, if more quota remains, for June 10. Some members of the public recommended setting additional opening dates at June 11, June 12, and June 10, respectively.

*Response:* The Plan stipulates that “if sufficient catch remains for an additional day of fishing after the May season or the August season, openings will be provided if possible in May and August respectively. Potential additional open dates for both the May and August seasons will be announced preseason.” Further, the Plan stipulates that “ODFW will monitor landings and provide a post-season estimate of catch within 2 weeks of the end of the fixed season.” Since a 6-day May season would extend to late May (May 22), additional opening dates in May cannot be set that would provide the necessary 2-week timeframe for ODFW to estimate

the catch during the fixed season. Therefore, NMFS agrees with the recommendation to set potential additional open dates in June. NMFS further agrees with the ODFW recommendation for scheduling additional opening dates for June 12, June 11, and June 10, respectively.

*Comment 6:* ODFW and the public in attendance at the ODFW workshop recommended a 1-day fixed season for the August fishery on August 6 based on an analysis of past harvest rates. ODFW further recommended a mid-July review of the (1) May all-depth harvest, and (2) catch projections for the inside 30-fathom curve fisheries with the intent that a determination be made as to whether Friday, August 6 and/or Saturday, August 7 will be open for all-depth fishing.

*Response:* The August fishery is scheduled for only 1 day of all-depth fishing on August 6 to ensure the quota is not exceeded. Inseason action may be taken to allow for additional all-depth fishing in accordance with the Plan if sufficient quota remains. If there is sufficient unharvested quota for a second day of all-depth fishing in August, the fishery would be open on August 7.

*Comment 7:* ODFW and some members of the public in attendance at the ODFW workshop recommended that, if unharvested quota remains after the August fixed opening day in the Oregon Central and South Coast subareas, additional opening dates would be scheduled for August 20 and, if more quota remains, for August 21. Some members of the public recommended setting additional opening dates for August 21 and, if more quota remains, for August 20.

*Response:* As stated above, the Plan states that potential additional open dates for both the May and August seasons will be announced preseason. NMFS agrees with the ODFW recommendation that, if there is sufficient unharvested quota for an additional day of all-depth fishing in August, that fishing would be scheduled for August 21, and then for August 20. Accordingly, NMFS has implemented sport fishing management measures in Area 2A based on recommendations from the states in accordance with the Plan.

The annual management measures that follow for the 1999 Pacific halibut fishery are identical to those recommended by the IPHC and approved by the Secretary of State, and include NMFS-approved domestic regulations that are necessary to implement the Plan in Area 2A.

## 1999 Pacific Halibut Fishery Regulations

### 1. Short Title

These regulations may be cited as the Pacific Halibut Fishery Regulations.

### 2. Interpretation

(1) In these Regulations,

(a) *authorized officer* means any State, Federal, or Provincial officer authorized to enforce these regulations including, but not limited to, the National Marine Fisheries Service (NMFS), Canada's Department of Fisheries and Oceans (DFO), Alaska Division of Fish and Wildlife Protection (ADFWP), the United States Coast Guard (USCG), the Washington Department of Fish and Wildlife, and the Oregon State Police;

(b) *charter vessel* means a vessel used for hire in sport fishing for halibut, but not including a vessel without a hired operator;

(c) *commercial fishing* means fishing the resulting catch of which either is or is intended to be sold or bartered;

(d) *Commission* means the International Pacific Halibut Commission;

(e) *daily bag limit* means the maximum number of halibut a person may take in any calendar day from Convention waters;

(f) *fishing* means the taking, harvesting, or catching of fish, or any activity that can reasonably be expected to result in the taking, harvesting, or catching of fish, including specifically the deployment of any amount or component part of setline gear anywhere in the maritime area;

(g) *fishing period limit* means the maximum amount of halibut that may be retained and landed by a vessel during one fishing period;

(h) *land*, with respect to halibut, means the offloading of halibut from the catching vessel;

(i) *license* means a halibut fishing license issued by the Commission pursuant to section 3;

(j) *maritime area*, in respect of the fisheries jurisdiction of a Contracting Party, includes without distinction areas within and seaward of the territorial sea or internal waters of that Party;

(k) *operator*, with respect to any vessel, means the owner and/or the master or other individual on board and in charge of that vessel;

(l) *overall length* of a vessel means the horizontal distance, rounded to the nearest foot, between the foremost part of the stem and the aftermost part of the stern (excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments);

(m) *person* includes an individual, corporation, firm, or association;

(n) *regulatory area* means an area referred to in section 6;

(o) *setline gear* means one or more stationary, buoyed, and anchored lines with hooks attached;

(p) *sport fishing* means all fishing other than commercial fishing and treaty Indian ceremonial and subsistence fishing;

(q) *tender* means any vessel that buys or obtains fish directly from a catching vessel and transports it to a port of landing or fish processor;

(2) In these Regulations, all bearings are true and all positions are determined by the

most recent charts issued by the National Ocean Service or the Canadian Hydrographic Service.

(3) In these Regulations all weights shall be computed on the basis that the heads of the fish are off and their entrails removed.

### 3. Licensing Vessels

(1) No person shall fish for halibut from a vessel, nor possess halibut on board a vessel, used either for commercial fishing or as a charter vessel in Area 2A unless the Commission has issued a license valid for fishing in Area 2A in respect of that vessel.

(2) A license issued for a vessel operating in Area 2A shall be valid only for operating either as a charter vessel or a commercial vessel, but not both.

(3) A vessel with a valid Area 2A commercial license cannot be used to sport fish for Pacific halibut in Area 2A

(4) A license issued for a vessel operating in the commercial fishery in Area 2A shall be valid only for either the directed commercial fishery during the fishing periods specified in paragraph (2) of section 8 or the incidental catch fishery during the salmon troll fishery specified in paragraph (3) of section 8, but not both.

(5) A license issued in respect of a vessel referred to in paragraph (1) must be carried on board that vessel at all times and the vessel operator shall permit its inspection by any authorized officer.

(6) The Commission shall issue a license in respect of a vessel, without fee from its office in Seattle, Washington, upon receipt of a completed, written, and signed "Application for Vessel License for the Halibut Fishery" form.

(7) A vessel operating in the directed commercial fishery in Area 2A must have its "Application for Vessel License for the Halibut Fishery" form postmarked no later than 11:59 P.M. on April 30, or on the first weekday in May if April 30 is a Saturday or Sunday.

(8) A vessel operating in the incidental commercial fishery during the salmon troll season in Area 2A must have its "Application for Vessel License for the Halibut Fishery" form postmarked no later than 11:59 P.M. on March 31, or the first weekday in April if March 31 is a Saturday or Sunday.

(9) Application forms may be obtained from any authorized officer or from the Commission.

(10) Information on "Application for Vessel License for the Halibut Fishery" form must be accurate.

(11) The "Application for Vessel License for the Halibut Fishery" form shall be completed and signed by the vessel owner.

(12) Licenses issued under this section shall be valid only during the year in which they are issued.

(13) A new license is required for a vessel that is sold, transferred, renamed, or re-documented.

(14) The license required under this section is in addition to any license, however designated, that is required under the laws of the United States or any of its States.

(15) The United States may suspend, revoke, or modify any license issued under

this section under policies and procedures in title 15, Code of Federal Regulations, part 904.

### 4. Inseason Actions

(1) The Commission is authorized to establish or modify regulations during the season after determining that such action:

(a) will not result in exceeding the catch limit established pre-season for each regulatory area;

(b) is consistent with the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, and applicable domestic law of either Canada or the United States; and

(c) is consistent, to the maximum extent practicable, with any domestic catch sharing plans developed by the United States or Canadian governments.

(2) Inseason actions may include, but are not limited to, establishment or modification of the following:

(a) closed areas;

(b) fishing periods;

(c) fishing period limits;

(d) gear restrictions;

(e) recreational bag limits;

(f) size limits; or

(g) vessel clearances.

(3) Inseason changes will be effective at the time and date specified by the Commission.

(4) The Commission will announce inseason actions under this section by providing notice to major halibut processors; Federal, State, United States treaty Indian, and Provincial fishery officials; and the media.

### 5. Application

(1) These Regulations apply to persons and vessels fishing for halibut in, or possessing halibut taken from, waters off the west coast of Canada and the United States, including the southern as well as the western coasts of Alaska, within the respective maritime areas in which each of those countries exercises exclusive fisheries jurisdiction as of March 29, 1979.

(2) Sections 6 to 21 apply to commercial fishing for halibut.

(3) Section 7 applies to the Western Alaska Community Development Quota (CDQ) fishery in Area 4E.

(4) Section 22 applies to the United States treaty Indian tribal fishery in Area 2A-1.

(5) Section 23 applies to sport fishing for halibut.

(6) These Regulations do not apply to fishing operations authorized or conducted by the Commission for research purposes.

### 6. Regulatory Areas

The following areas shall be regulatory areas for the purposes of the Convention:

(1) Area 2A includes all waters off the states of California, Oregon, and Washington;

(2) Area 2B includes all waters off British Columbia;

(3) Area 2C includes all waters off Alaska that are east of a line running 340° true from Cape Spencer Light (58°11'57" N. lat., 136°38'18" W. long.) and south and east of a line running 205° true from said light;

(4) Area 3A includes all waters between Area 2C and a line extending from the most

northerly point on Cape Aklek (57°41'15" N. lat., 155°35'00" W. long.) to Cape Ikolik (57°17'17" N. lat., 154°47'18" W. long.), then along the Kodiak Island coastline to Cape Trinity (56°44'50" N. lat., 154°08'44" W. long.), then 140° true;

(5) Area 3B includes all waters between Area 3A and a line extending 150° true from Cape Lutke (54°29'00" N. lat., 164°20'00" W. long.) and south of 54°49'00" N. lat. in Isanotski Strait;

(6) Area 4A includes all waters in the Gulf of Alaska west of Area 3B and in the Bering Sea west of the closed area defined in section 10 that are east of 172°00'00" W. long. and south of 56°20'00" N. lat.;

(7) Area 4B includes all waters in the Bering Sea and the Gulf of Alaska west of Area 4A and south of 56°20'00" N. lat.;

(8) Area 4C includes all waters in the Bering Sea north of Area 4A and north of the closed area defined in section 10 which are east of 171°00'00" W. long., south of 58°00'00" N. lat., and west of 168°00'00" W. long.;

(9) Area 4D includes all waters in the Bering Sea north of Areas 4A and 4B, north and west of Area 4C, and west of 168°00'00" W. long.;

(10) Area 4E includes all waters in the Bering Sea north and east of the closed area defined in section 10, east of 168°00'00" W. long., and south of 65°34'00" N. lat.

#### 7. Fishing in Regulatory Area 4E

(1) A person may retain halibut taken with setline gear in the Area 4E CDQ fishery that are smaller than the size limit specified in section 13, provided that no person may sell or barter such halibut.

(2) The manager of a CDQ organization that authorizes persons to harvest halibut in the Area 4E CDQ fishery must report to the Commission the total number and weight of undersized halibut taken and retained by such persons pursuant to paragraph 7(1). This report, that shall include data and methodology used to collect the data, must be received by the Commission prior to December 1 of the year in which such halibut were harvested.

(3) Section 7 shall be effective until December 31, 1999.

#### 8. Fishing Periods

(1) The fishing periods for each regulatory area apply where the catch limits specified in section 11 have not been taken.

(2) Each fishing period in the Area 2A directed fishery south of 46°53'18" N. lat. shall begin at 0800 hours and terminate at 1800 hours local time on July 7, July 21, August 18, September 1, September 15, and September 29, unless the Commission specifies otherwise.

(3) Notwithstanding paragraph (2), and paragraph (7) of section 11, an incidental catch fishery is authorized during salmon troll seasons in Area 2A. Vessels participating in the salmon troll fishery in Area 2A may retain halibut caught incidentally during authorized periods, in conformance with the annual salmon management measures announced in the **Federal Register**. The notice also will specify the ratio of halibut to salmon that may be retained during this fishery.

(4) The fishing period in Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E shall begin at 1200 hours local time on March 15 and terminate at 1200 hours local time on November 15, unless the Commission specifies otherwise.

(5) All commercial fishing for halibut in Areas 2A, 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E shall cease at 1200 hours local time on November 15.

#### 9. Closed Periods

(1) No person shall engage in fishing for halibut in any regulatory area other than during the fishing periods set out in section 8 in respect of that area.

(2) No person shall land or otherwise retain halibut caught outside a fishing period applicable to the regulatory area where the halibut was taken.

(3) Subject to paragraphs (7), (8), (9), and (10) of section 19, these Regulations do not prohibit fishing for any species of fish other than halibut during the closed periods.

(4) Notwithstanding paragraph (3), no person shall have halibut in his/her possession while fishing for any other species of fish during the closed periods.

(5) No vessel shall retrieve any halibut fishing gear during a closed period if the vessel has any halibut on board.

(6) A vessel that has no halibut on board may retrieve any halibut fishing gear during the closed period after the operator notifies an authorized officer or representative of the Commission prior to that retrieval.

(7) After retrieval of halibut gear in accordance with paragraph (6), the vessel shall submit to a hold inspection at the discretion of the authorized officer or representative of the Commission.

(8) No person shall retain any halibut caught on gear retrieved under paragraph (6).

(9) No person shall possess halibut aboard a vessel in a regulatory area during a closed period unless that vessel is in continuous transit to or within a port in which that halibut may be lawfully sold.

#### 10. Closed Area

All waters in the Bering Sea north of 55°00'00" N. lat. in Isanotski Strait that are enclosed by a line from Cape Sarichef Light (54°36'00" N. lat., 164°55'42" W. long.) to a point at 56°20'00" N. lat., 168°30'00" W. long.; thence to a point at 58°21'25" N. lat., 163°00'00" W. long.; thence to Stroganof Point (56°53'18" N. lat., 158°50'37" W. long.); and then along the northern coasts of the Alaska Peninsula and Unimak Island to the point of origin at Cape Sarichef Light are closed to halibut fishing and no person shall fish for halibut therein or have halibut in his/her possession while in those waters except in the course of a continuous transit across those waters. All waters in Isanotski Strait between 55°00'00" N. lat. and 54°49'00" N. lat. are closed to commercial halibut fishing.

#### 11. Catch Limits

(1) The total allowable catch of halibut to be taken during the halibut fishing periods specified in section 8 shall be limited to the weight expressed in pounds or metric tons shown in the following table:

Regulatory area	Catch limits	
	Pounds	Metric tons
2A .....	156,598.00	71.00
2B .....	12,100,000.00	5,487.50
2C .....	10,490,000.00	4,757.40
3A .....	24,670,000.00	11,188.20
3B .....	13,370,000.00	6,063.50
4A .....	4,240,000.00	1,922.90
4B .....	3,980,000.00	1,805.00
4C .....	2,030,000.00	920.60
4D .....	2,030,000.00	920.60
4E .....	390,000.00	176.90

(2) Notwithstanding paragraph (1) of this section, the catch limit in Area 2A shall be divided between a directed halibut fishery to operate south of 46°53'18" N. lat. during the fishing periods set out in paragraph 2 of Section 8 and an incidental halibut catch fishery during the salmon troll fishery in Area 2A described in paragraph 3 of Section 8. Inseason actions to transfer catch between these fisheries may occur in conformance with the Catch Sharing Plan for Area 2A.

(a) The catch limit in the directed halibut fishery is 133,108 lb (60.4 mt).

(b) The catch limit in the incidental catch fishery during the salmon troll fishery is 23,490 lb (10.7 mt).

(3) The Commission shall determine and announce to the public the specific dates during which the directed fishery will be allowed in Area 2A and the date on which the catch limit for Area 2A will be taken.

(4) Notwithstanding paragraph (1), Area 2B will close only when all Individual Vessel Quotas assigned by Canada's Department of Fisheries and Oceans are taken, or November 15, whichever is earlier.

(5) Notwithstanding paragraph (1), Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E will each close only when all Individual Fishing Quotas and all Community Development Quotas issued by the National Marine Fisheries Service have been taken, or November 15, whichever is earlier.

(6) If the Commission determines that the catch limit specified for Area 2A in paragraph (1) would be exceeded in an unrestricted 10-hour fishing period as specified in paragraph (2) of section 8, the catch limit for that area shall be considered to have been taken unless fishing period limits are implemented.

(7) When under paragraphs (2), (3) or (6) the Commission has announced a date on which the catch limit for Area 2A will be taken, no person shall fish for halibut in that area after that date for the rest of the year, unless the Commission has announced the reopening of that area for halibut fishing.

#### 12. Fishing Period Limits

(1) It shall be unlawful for any vessel to retain more halibut than authorized by that vessel's license in any fishing period for which the Commission has announced a fishing period limit.

(2) The operator of any vessel that fishes for halibut during a fishing period when fishing period limits are in effect must, upon commencing an offload of halibut to a commercial fish processor, completely offload all halibut on board said vessel to that

processor and ensure that all halibut is weighed and reported on State fish tickets.

(3) The operator of any vessel that fishes for halibut during a fishing period when fishing period limits are in effect must, upon commencing an offload of halibut other than to a commercial fish processor, completely offload all halibut on board said vessel and ensure that all halibut are weighed and reported on State fish tickets.

(4) The provisions of paragraph (3) are not intended to prevent retail over-the-side sales to individual purchasers so long as all the halibut on board is ultimately offloaded and reported.

(5) When fishing period limits are in effect, a vessel's maximum retainable catch will be determined by the Commission based on:

- (a) the vessel's overall length in feet and associated length class;
  - (b) the average performance of all vessels within that class; and
  - (c) the remaining catch limit.
- (6) Length classes are shown in the following table:

Overall length	Vessel class
1-25 .....	A
26-30 .....	B
31-35 .....	C
36-40 .....	D
41-45 .....	E
46-50 .....	F
51-55 .....	G
56+ .....	H

(7) Fishing period limits in Area 2A apply only to the directed halibut fishery referred to in paragraph (2) of section 8.

**13. Size Limits**

- (1) No person shall take or possess any halibut that:
- (a) with the head on, is less than 32 inches (81.3 cm) as measured in a straight line, passing over the pectoral fin from the tip of the lower jaw with the mouth closed, to the extreme end of the middle of the tail; or
  - (b) with the head removed, is less than 24 inches (61.0 cm) as measured from the base of the pectoral fin at its most anterior point to the extreme end of the middle of the tail.

- (2) No person shall possess on board a vessel a halibut that has been mutilated, or otherwise disfigured in any manner that prevents the determination of whether the halibut complies with the size limits specified in this section, except that:
- (a) this paragraph shall not prohibit the possession on board a vessel of halibut cheeks cut from halibut caught by persons authorized to process the halibut on board in accordance with NMFS regulations published at Title 50, Code of Federal Regulations, part 679; and
  - (b) no person shall possess a filleted halibut on board a vessel.

(3) No person on board a vessel fishing for, or tendering, halibut caught in Area 2A shall possess any halibut that has had its head removed.

**14. Careful Release of Halibut**

All halibut that are caught and are not retained shall be immediately released

outboard of the roller and returned to the sea with a minimum of injury by

- (a) hook straightening;
- (b) cutting the gangion near the hook; or
- (c) carefully removing the hook by twisting it from the halibut with a gaff.

**15. Vessel Clearance in Area 4**

(1) The operator of any vessel that fishes for halibut in Areas 4A, 4B, 4C, or 4D must obtain a vessel clearance before fishing in any of these areas, and before the unloading of any halibut caught in any of these areas, unless specifically exempted in paragraphs (9), (12), (13), (14), or (15).

(2) The vessel clearance required under paragraph (1) prior to fishing in Area 4A may be obtained only at Dutch Harbor or Akutan, Alaska, from an authorized officer of the United States, a representative of the Commission, or a designated fish processor.

(3) The vessel clearance required under paragraph (1) prior to fishing in Area 4B may only be obtained at Nazan Bay on Atka Island or Adak, Alaska, from an authorized officer of the United States, a representative of the Commission, or a designated fish processor.

(4) The vessel clearance required under paragraph (1) prior to fishing in Area 4C or 4D may be obtained only at St. Paul or St. George, Alaska, from an authorized officer of the United States, a representative of the Commission, or a designated fish processor by VHF radio and allowing the person contacted to confirm visually the identity of the vessel.

(5) The vessel operator shall specify the specific regulatory area in which fishing will take place.

(6) Before unloading any halibut caught in Area 4A, a vessel operator may obtain the clearance required under paragraph (1) only in Dutch Harbor or Akutan, Alaska, by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor.

(7) Before unloading any halibut caught in Area 4B, a vessel operator may obtain the clearance required under paragraph (1) only in Nazan Bay on Atka Island or Adak, by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor by VHF radio or in person.

(8) Before unloading any halibut caught in Area 4C or 4D, a vessel operator may obtain the clearance required under paragraph (1) only in St. Paul, St. George, Dutch Harbor, or Akutan, Alaska, either in person or by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor. The clearances obtained in St. Paul or St. George, Alaska, can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel.

(9) Any vessel operator who complies with the requirements in section 18 for possessing halibut on board a vessel that was caught in more than one regulatory area in Area 4 is exempt from the clearance requirements of paragraph (1) of this section, but must comply with the following requirements:

- (a) the operator of the vessel must obtain a vessel clearance prior to fishing in Area 4 in either Dutch Harbor, Akutan, St. Paul, St.

George, Adak, or Nazan Bay on Atka Island by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor. The clearance obtained in St. Paul, St.

George, Adak, or Nazan Bay on Atka Island can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel. This clearance will list the Areas in which the vessel will fish; and

(b) before unloading any halibut from Area 4, the vessel operator must obtain a vessel clearance from Dutch Harbor, Akutan, St. Paul, St. George, Adak, or Nazan Bay on Atka Island by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor. The clearance obtained in St. Paul or St.

George can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel. The clearance obtained in Adak or Nazan Bay on Atka Island can be obtained by VHF radio.

(10) Vessel clearances shall be obtained between 0600 and 1800 hours, local time.

(11) No halibut shall be on board the vessel at the time of the clearances required prior to fishing in Area 4.

(12) Any vessel that is used to fish for halibut only in Area 4A and lands its total annual halibut catch at a port within Area 4A is exempt from the clearance requirements of paragraph (1).

(13) Any vessel that is used to fish for halibut only in Area 4B and lands its total annual halibut catch at a port within Area 4B is exempt from the clearance requirements of paragraph (1).

(14) Any vessel that is used to fish for halibut only in Area 4C and lands its total annual halibut catch at a port within Area 4C is exempt from the clearance requirements of paragraph (1).

(15) Any vessel that is used to fish for halibut only in Areas 4D and 4E and lands its total annual halibut catch at a port within Areas 4D, 4E, or the closed area defined in section 10, is exempt from the clearance requirements of paragraph (1).

**16. Logs**

(1) The operator of any U.S. vessel that has an overall length of 26 feet (7.9 meters) or greater shall keep an accurate log of all halibut fishing operations including the date, locality, amount of gear used, and total weight of halibut taken daily in each locality. The log information must be recorded in the groundfish/Individual Fishing Quota (IFQ) daily fishing logbooks provided by NMFS, or Alaska hook-and-line logbook provided by Petersburg Vessels Owner Association, or Alaska Longline Fishermen's Association, or the logbook provided by IPHC.

(2) The log referred to in paragraph (1) shall be

- (a) maintained on board the vessel;
- (b) updated not later than 24 hours after midnight local time for each day fished and prior to the offloading or sale of halibut taken during that fishing trip;
- (c) retained for a period of two years by the owner or operator of the vessel;
- (d) open to inspection by an authorized officer or any authorized representative of the Commission upon demand; and

(e) kept on board the vessel when engaged in halibut fishing, during transits to port of landing, and for five (5) days following offloading halibut.

(3) The log referred to in paragraph (1) does not apply to the incidental halibut fishery in Area 2A defined in paragraph (3) of section 8.

(4) The operator of any Canadian vessel shall keep an accurate log of all halibut fishing operations including the date, locality, amount of gear used, and total weight of halibut taken daily in each locality. The log information must be recorded in the British Columbia Halibut Fishery logbook provide by DFO.

(5) The log referred to in paragraph (4) shall be:

(a) maintained on board the vessel;

(b) updated not later than 24 hours after midnight local time for each day fished and prior to the offloading or sale of halibut taken during that fishing trip;

(c) retained for a period of two years by the owner or operator of the vessel;

(d) open to inspection by an authorized officer or any authorized representative of the Commission upon demand;

(e) kept on board the vessel when engaged in halibut fishing, during transits to port of landing, and for five (5) days following offloading halibut; and

(f) mailed to the Department of Fisheries and Oceans (yellow copy) and IPHC (white copy) within seven days of offloading.

(6) The poundage of any halibut that is not sold, but is utilized by the vessel operator, his/her crew members, or any other person for personal use, shall be recorded in the vessel's log within 24-hours of offloading.

(7) No person shall make a false entry in a log referred to in this section.

#### 17. Receipt and Possession of Halibut

(1) No person shall receive halibut from a United States vessel that does not have on board the license required by section 3.

(2) No person shall offload halibut from a vessel unless the gills and entrails have been removed prior to offloading.

(3) A commercial fish processor or buyer in the United States who purchases or receives halibut directly from the owner or operator of a vessel that was engaged in halibut fishing must weigh and record all halibut on board said vessel at the time offloading commences and record on State fish tickets or Federal catch reports the date, locality, name of vessel, Halibut Commission license number (for Area 2A), the name(s) of the person(s) from whom the halibut was purchased; and the scale weight obtained at the time of offloading of all halibut on board the vessel including the pounds purchased; pounds in excess of IFQs or fishing period limits; pounds retained for personal use; and pounds discarded as unfit for human consumption.

(4) The master or operator of a Canadian vessel that was engaged in halibut fishing must weigh and record all halibut on board said vessel at the time offloading commences and record on Provincial fish tickets or Federal catch reports the date, locality, name of vessel, the name(s) of the person(s) from whom the halibut was purchased; and the

scale weight obtained at the time of offloading of all halibut on board the vessel including the pounds purchased; pounds in excess of IVQs; pounds retained for personal use; and pounds discarded as unfit for human consumption.

(5) No person shall make a false entry on a State fish ticket or a Federal catch or landing report referred to in paragraph (3) and (4).

(6) A copy of the fish tickets or catch reports referred to in paragraph (3) and (4) shall be:

(a) retained by the person making them for a period of three years from the date the fish tickets or catch reports are made; and

(b) open to inspection by an authorized officer or any authorized representative of the Commission.

(7) No person shall possess any halibut that he/she knows to have been taken in contravention of these Regulations.

(8) When halibut are delivered to other than a commercial fish processor the records required by paragraph (3) shall be maintained by the operator of the vessel from which that halibut was caught, in compliance with paragraph (6).

(9) It shall be unlawful to enter a Halibut Commission license number on a State fish ticket for any vessel other than the vessel actually used in catching the halibut reported thereon.

#### 18. Fishing Multiple Regulatory Areas

(1) Except as provided in this section, no person shall possess at the same time on board a vessel halibut caught in more than one regulatory area.

(2) Halibut caught in Regulatory Areas 2C, 3A, and 3B may be possessed on board a vessel at the same time providing the operator of the vessel:

(a) has a NMFS-certified observer on board when required by NMFS regulations published at Title 50, Code of Federal Regulations, section 679.7(f)(4); and

(b) can identify the regulatory area in which each halibut on board was caught by separating halibut from different areas in the hold, tagging halibut, or by other means.

(3) Halibut caught in Regulatory Areas 4A, 4B, 4C, and 4D may be possessed on board a vessel at the same time providing the operator of the vessel:

(a) has a NMFS-certified observer on board the vessel when halibut caught in different regulatory areas are on board; and

(b) can identify the regulatory area in which each halibut on board was caught by separating halibut from different areas in the hold, tagging halibut, or by other means.

(4) Halibut caught in Regulatory Areas 4A, 4B, 4C, and 4D may be possessed on board a vessel when in compliance with paragraph (3) and if halibut from Area 4 are on board the vessel, the vessel can have halibut caught in Regulatory Areas 2C, 3A, and 3B on board if in compliance with paragraph (2).

#### 19. Fishing Gear

(1) No person shall fish for halibut using any gear other than hook and line gear.

(2) No person shall possess halibut taken with any gear other than hook and line gear.

(3) No person shall possess halibut while on board a vessel carrying any trawl nets or fishing pots capable of catching halibut.

(4) All setline or skate marker buoys carried on board or used by any United States vessel used for halibut fishing shall be marked with one of the following:

(a) the vessel's name;

(b) the vessel's state license number; or

(c) the vessel's registration number.

(5) The markings specified in paragraph (4) shall be in characters at least four inches in height and one-half inch in width in a contrasting color visible above the water and shall be maintained in legible condition.

(6) All setline or skate marker buoys carried on board or used by a Canadian vessel used for halibut fishing shall be

(a) floating and visible on the surface of the water; and

(b) legibly marked with the identification plate number of the vessel engaged in commercial fishing from which that setline is being operated.

(7) No person on board a vessel from which setline gear was used to fish for any species of fish anywhere in Area 2A during the 72-hour period immediately before the opening of a halibut fishing period shall catch or possess halibut anywhere in those waters during that halibut fishing period.

(8) No vessel from which setline gear was used to fish for any species of fish anywhere in Area 2A during the 72-hour period immediately before the opening of a halibut fishing period may be used to catch or possess halibut anywhere in those waters during that halibut fishing period.

(9) No person on board a vessel from which setline gear was used to fish for any species of fish anywhere in Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E during the 72-hour period immediately before the opening of the halibut fishing season shall catch or possess halibut anywhere in those areas until the vessel has removed all of its setline gear from the water and has either

(a) made a landing and completely offloaded its entire catch of other fish; or

(b) submitted to a hold inspection by an authorized officer.

(10) No vessel from which setline gear was used to fish for any species of fish anywhere in Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E during the 72-hour period immediately before the opening of the halibut fishing season may be used to catch or possess halibut anywhere in those areas until the vessel has removed all of its setline gear from the water and has either

(a) made a landing and completely offloaded its entire catch of other fish; or

(b) submitted to a hold inspection by an authorized officer.

(11) Notwithstanding any other provision in these regulations, a person may retain and possess, but not sell or barter halibut taken with trawl gear only as authorized by NMFS' Prohibited Species Donation regulations.

#### 20. Retention of Tagged Halibut

(1) Nothing contained in these Regulations prohibits any vessel at any time from retaining and landing a halibut that bears a Commission tag at the time of capture, if the halibut with the tag still attached is reported

at the time of landing and made available for examination by a representative of the Commission or by an authorized officer.

(2) After examination and removal of the tag by a representative of the Commission or an authorized officer, the halibut

(a) may be retained for personal use; or

(b) may be sold if it complies with the provisions of section 13, Size Limits.

### 21. Supervision of Unloading and Weighing

The unloading and weighing of halibut may be subject to the supervision of authorized officers to assure the fulfillment of the provisions of these Regulations.

### 22. Fishing by United States Treaty Indian Tribes

(1) Halibut fishing in subarea 2A-1 by members of United States treaty Indian tribes located in the State of Washington shall be regulated under regulations promulgated by the National Marine Fisheries Service and published in the **Federal Register**.

(2) Subarea 2A-1 includes all waters off the coast of Washington that are north of 46°53'18" N. lat. and east of 125°44'00" W. long., and all inland marine waters of Washington.

(3) Commercial fishing for halibut in subarea 2A-1 is permitted with hook and line gear from March 15 through November 15, or until 256,000 lb (116.1 metric tons) is taken, whichever occurs first.

(4) Ceremonial and subsistence fishing for halibut in subarea 2A-1 is permitted with hook and line gear from January 1 through December 31, and is estimated to take 10,000 lb (4.5 metric tons).

### 23. Sport Fishing for Halibut

(1) No person shall engage in sport fishing for halibut using gear other than a single line with no more than two hooks attached; or a spear.

(2) In all waters off Alaska:

(a) the sport fishing season is from February 1 to December 31;

(b) the daily bag limit is two halibut of any size per day per person.

(3) In all waters off British Columbia:

(a) the sport fishing season is from February 1 to December 31;

(b) the daily bag limit is two halibut of any size per day per person.

(4) In all waters off California, Oregon, and Washington:

(a) the total allowable catch of halibut shall be limited to 180,804 pounds (82.0 metric tons) in waters off Washington and 156,598 pounds (71.0 metric tons) in waters off California and Oregon;

(b) The sport fishing subareas, subquotas, fishing dates, and daily bag limits are as follows, except as modified under the inseason actions in Section 24. All sport fishing in Area 2A (except for fish caught in the North Washington coast area and landed into Neah Bay) is managed on a "port of landing" basis, whereby any halibut landed into a port counts toward the quota for the area in which that port is located, and the regulations governing the area of landing apply, regardless of the specific area of catch.

(i) In Puget Sound and the U.S. waters in the Strait of Juan de Fuca, east of a line from the lighthouse on Bonilla Point on Vancouver

Island, British Columbia (48°35'44" N. lat., 124°43'00" W. long.) to the buoy adjacent to Duntze Rock (48°24'55" N. lat., 124°44'50" W. long.) to Tatoosh Island lighthouse (48°23'30" N. lat., 124°44'00" W. long.) to Cape Flattery (48°22'55" N. lat., 124°43'42" W. long.), there is no quota. This area is managed by setting a season that is projected to result in a catch of 52,623 lb (23.9 mt).

(A) The fishing season is May 27 through July 12, 5 days a week (Thursday through Monday).

(B) The daily bag limit is one halibut of any size per day per person.

(ii) In the area off the north Washington coast, west of the line described in paragraph (d)(2)(i) of this section and north of the Queets River (47°31'42" N. lat.), the quota for landings into ports in this area is 91,484 lb (41.5 mt). Landings into Neah Bay of halibut caught in this area will be governed by this paragraph.

(A) The fishing seasons are:

(1) Commencing May 1 and continuing 5 days a week (Tuesday through Saturday) until 76,484 lb (34.7 mt) are estimated to have been taken and the season is closed by the Commission, or until June 30, whichever occurs first.

(2) Commencing July 1 and continuing 5 days a week (Tuesday through Saturday) until the overall area quota of 91,484 lb (41.5 mt) are estimated to have been taken and the area is closed by the Commission, or until September 30, whichever occurs first.

(B) The daily bag limit is one halibut of any size per day per person.

(C) A portion of this area about 19 nm (35 km) southwest of Cape Flattery is closed to sport fishing for halibut. The closed area is within a rectangle defined by these four corners: 48°18'00" N. lat., 125°11'00" W. long.; 48°18'00" N. lat., 124°59'00" W. long.; 48°04'00" N. lat., 125°11'00" W. long.; and, 48°04'00" N. lat., 124°59'00" W. long.

(iii) In the area between the Queets River, WA and Leadbetter Point, WA (46°38'10" N. lat.), the quota for landings into ports in this area is 32,081 lb (14.6 mt).

(A) The fishing season commences on May 2 and continues 5 days a week (Sunday through Thursday) in all waters, and commences on May 2 and continues 7 days a week in the area from Queets River south to 47°00'00" N. lat. and east of 124°40'00" W. long., until 31,081 lb (14.1 mt) are estimated to have been taken and the season is closed by the Commission. Immediately following this closure, the season reopens in the area from the Queets River south to 47°00'00" N. lat. and east of 124°40'00" W. long. and continues every day until 32,081 lb (14.6 mt) are estimated to have been taken and the area is closed by the Commission, or until September 30, whichever occurs first.

(B) The daily bag limit is one halibut of any size per day per person.

(C) A portion of this area is closed to sport fishing for halibut. The closed area is within a rectangle defined by these four corners: 47°19'00" N. lat., 124°53'00" W. long.; 47°19'00" N. lat., 124°48'00" W. long.; 47°16'00" N. lat., 124°53'00" W. long.; and, 47°16'00" N. lat., 124°48'00" W. long.

(iv) In the area between Leadbetter Point, WA and Cape Falcon, OR (45°46'00" N. lat.),

the quota for landings into ports in this area is 7,747 lb (3.5 mt).

(A) The fishing season commences on May 1, and continues every day through September 30, or until 7,747 lb (3.5 mt) are estimated to have been taken and the area is closed by the Commission, whichever occurs first.

(B) The daily bag limit is the first halibut taken, per person, of 32 inches (81.3 cm) or greater in length.

(v) In the area off Oregon between Cape Falcon and the Siuslaw River at the Florence north jetty (44°01'08" N. lat.), the quota for landings into ports in this area is 137,853 lb (62.5 mt).

(A) The fishing seasons are:

(1) The first season commences May 1 and continues every day through September 30, in the area inside the 30-fathom (55 m) curve nearest to the coastline as plotted on National Ocean Service charts numbered 18520, 18580, and 18600, or until 9,650 lb (4.4 mt) or any inseason revised subquota is estimated to have been taken and the season is closed by the Commission, whichever is earlier.

(2) The second season is open on May 13, 14, 15, 20, 21, and 22. The projected catch for this season is 93,740 lb (42.5 mt). If sufficient unharvested catch remains for an additional days fishing, the season will reopen. Dependent on the amount of unharvested catch available, the season reopening dates will be June 12, then June 11, and then June 10. If a decision is made inseason by NMFS to allow fishing on one or more of these additional dates, notice of the opening will be announced on the NMFS hotline (206) 526-6667 or (800) 662-9825. No halibut fishing will be allowed on the additional dates unless the opening date is announced on the NMFS hotline.

(3) The third season is open on August 6 or until the combined quotas for the all-depth fisheries in the subareas described in paragraphs (v) and (vi) of this section totaling 136,935 lb (62.1 mt) are estimated to have been taken and the area is closed by the Commission, whichever is earlier. An inseason announcement will be made in mid-July as to whether the fishery will be open on August 6 and/or 7. If the harvest during this opening does not achieve the 136,935 lb (62.1 mt) quota, the season will reopen. Dependent on the amount of unharvested catch available, the season reopening dates will be August 21, and then August 20. If a decision is made inseason to allow fishing on one or more of these dates, notice of the reopening date will be announced on the NMFS hotline (206) 526-6667 or (800) 662-9825.

(B) The daily bag limit is the first halibut taken, per person, of 32 inches (81.3 cm) or greater in length.

(vi) In the area off Oregon between the Siuslaw River at the Florence north jetty and Humbug Mountain, Oregon (42°40'30" N. lat.), the quota for landings into ports in this area is 10,915 lb (5.0 mt).

(A) The fishing seasons are:

(1) The first season commences May 1 and continues every day through September 30, in the area inside the 30-fathom (55 m) curve nearest to the coastline as plotted on National Ocean Service charts numbered 18520,

18580, and 18600, or until 2,183 lb (1.0 mt) or any inseason revised subquota is estimated to have been taken and the season is closed by the Commission, whichever is earlier.

(2) The second season is open on May 13, 14, 15, 20, 21, and 22. The projected catch for this season is 8,732 lb (4.0 mt). If sufficient unharvested catch remains for an additional days fishing, the season will reopen. Dependent on the amount of unharvested catch available, the season reopening dates will be June 12, then June 11, and then June 10. If a decision is made inseason by NMFS to allow fishing on one or more of these additional dates, notice of the opening will be announced on the NMFS hotline (206) 526-6667 or (800) 662-9825. No halibut fishing will be allowed on the additional dates unless the opening date is announced on the NMFS hotline.

(3) The third season is open on August 6 or until the combined quotas for the all-depth fisheries in the subareas described in paragraphs (v) and (vi) of this section totaling 136,935 lb (62.1 mt) are estimated to have been taken and the area is closed by the Commission, whichever is earlier. An inseason announcement will be made in mid-July as to whether the fishery will be open on August 6 and/or 7. If the harvest during this opening does not achieve the 136,935 lb (62.1 mt) quota, the season will reopen. Dependent on the amount of unharvested catch available, the season reopening dates will be August 21, and then August 20. If a decision is made inseason to allow fishing on one or more of these dates, notice of the reopening date will be announced on the NMFS hotline (206) 526-6667 or (800) 662-9825.

(B) The daily bag limit is the first halibut taken, per person, of 32 inches (81.3 cm) or greater in length.

(vii) In the area south of Humbug Mountain, Oregon (42°40'30" N. lat.) and off the California coast, there is no quota. This area is managed on a season that is projected to result in a catch of less than 4,698 lb (2.1 mt).

(A) The fishing season will commence on May 1 and continue every day through September 30.

(B) The daily bag limit is the first halibut taken, per person, of 32 inches (81.3 cm) or greater in length.

(c) The Commission shall determine and announce closing dates to the public for any area in which the subquotas in this Section are estimated to have been taken.

(d) When the Commission has determined that a subquota under paragraph (4)(b) of this section is estimated to have been taken, and has announced a date on which the season will close, no person shall sport fish for halibut in that area after that date for the rest of the year, unless a reopening of that area for sport halibut fishing is scheduled in accordance with the Catch Sharing Plan for Area 2A, or announced by the Commission.

(5) Any minimum overall size limit promulgated under IPHC or NMFS regulations shall be measured in a straight line passing over the pectoral fin from the tip of the lower jaw with the mouth closed, to the extreme end of the middle of the tail.

(6) No person shall fillet, mutilate, or otherwise disfigure a halibut in any manner

that prevents the determination of minimum size or the number of fish caught, possessed, or landed.

(7) The possession limit for halibut in the waters off the coast of Alaska is two daily bag limits.

(8) The possession limit for halibut in the waters off the coast of British Columbia is three halibut.

(9) The possession limit for halibut in the waters off Washington, Oregon, and California is the same as the daily bag limit.

(10) The possession limit for halibut on land in Area 2A north of Cape Falcon, OR is two daily bag limits.

(11) The possession limit for halibut on land in Area 2A south of Cape Falcon, OR is one daily bag limit.

(12) Any halibut brought aboard a vessel and not immediately returned to the sea with a minimum of injury will be included in the daily bag limit of the person catching the halibut.

(13) No person shall be in possession of halibut on a vessel while fishing in a closed area.

(14) No halibut caught by sport fishing shall be offered for sale, sold, traded, or bartered.

(15) No halibut caught in sport fishing shall be possessed on board a vessel when other fish or shellfish aboard the said vessel are destined for commercial use, sale, trade, or barter.

(16) The operator of a charter vessel shall be liable for any violations of these regulations committed by a passenger aboard said vessel.

#### 24. *Flexible inseason management provisions in Area 2A*

(1) The Regional Administrator, NMFS Northwest Region, after consultation with the Chairman of the Pacific Fishery Management Council, the Commission Executive Director, and the Fisheries Director(s) of the affected state(s), is authorized to modify regulations during the season after making the following determinations.

(A) The action is necessary to allow allocation objectives to be met.

(B) The action will not result in exceeding the catch limit for the area.

(C) If any of the sport fishery subareas north of Cape Falcon, OR are not projected to utilize their respective quotas by September 30, NMFS may take inseason action to transfer any projected unused quota to a Washington sport subarea projected to have the fewest number of sport fishing days in the calendar year.

(2) Flexible inseason management provisions include, but are not limited to, the following:

(A) Modification of sport fishing periods;

(B) Modification of sport fishing bag limits;

(C) Modification of sport fishing size limits; and

(D) Modification of sport fishing days per calendar week.

(3) Notice procedures.

(A) Actions taken under this section will be published in the **Federal Register**.

(B) Actual notice of inseason management actions will be provided by a telephone hotline administered by the Northwest

Region, NMFS, at 206-526-6667 or 800-662-9825 (May through September) and by U.S. Coast Guard broadcasts. These broadcasts are announced on Channel 16 VHF-FM and 2182 kHz at frequent intervals. The announcements designate the channel or frequency over which the notice to mariners will be immediately broadcast. Since provisions of these regulations may be altered by inseason actions, sport fishers should monitor either the telephone hotline or U.S. Coast Guard broadcasts for current information for the area in which they are fishing.

(4) Effective dates.

(A) Any action issued under this section is effective on the date specified in the publication or at the time that the action is filed for public inspection with the Office of the **Federal Register**, whichever is later.

(B) If time allows, NMFS will invite public comment prior to the effective date of any inseason action filed with the **Federal Register**. If the Regional Administrator determines, for good cause, that an inseason action must be filed without affording a prior opportunity for public comment, public comments will be received for a period of 15 days after the action in the **Federal Register**.

(C) Any inseason action issued under this section will remain in effect until the stated expiration date or until rescinded, modified, or superseded. However, no inseason action has any effect beyond the end of the calendar year in which it is issued.

(5) Availability of data. The Regional Administrator will compile, in aggregate form, all data and other information relevant to the action being taken and will make them available for public review during normal office hours at the Northwest Regional Office, NMFS, Sustainable Fisheries Division, 7600 Sand Point Way NE, Seattle, WA.

#### 25. *Fishery election in Area 2A*

(1) A vessel that fishes in Area 2A may participate in only one of the following three fisheries in Area 2A:

(a) The sport fishery under Section 23;

(b) The commercial directed fishery for halibut during the fishing period(s) established in Section 8; or

(c) The incidental catch fishery during the salmon troll fishery as authorized in Section 8.

(2) No person shall fish for halibut in the sport fishery in Area 2A under Section 23 from a vessel that has been used during the same calendar year for commercial halibut fishing in Area 2A or that has been issued a permit for the same calendar year for the commercial halibut fishery in Area 2A.

(3) No person shall fish for halibut in the directed halibut fishery in Area 2A during the fishing periods established in Section 8 from a vessel that has been used during the same calendar year for the incidental catch fishery during the salmon troll fishery as authorized in Section 8.

(4) No person shall fish for halibut in the directed commercial halibut fishery in Area 2A from a vessel that, during the same calendar year, has been used in the sport halibut fishery in Area 2A or that is licensed for the sport halibut fishery in Area 2A.

(5) No person shall retain halibut in the salmon troll fishery in Area 2A as authorized under Section 8 taken on a vessel that, during the same calendar year, has been used in the sport halibut fishery in Area 2A, or that is licensed for the sport halibut fishery in Area 2A.

(6) No person shall retain halibut in the salmon troll fishery in Area 2A as authorized under Section 8 taken on a vessel that, during the same calendar year, has been used in the directed commercial fishery during the fishing periods established in Section 8 for Area 2A or that is licensed to participate in the directed commercial fishery during the fishing periods established in Section 8 in Area 2A.

#### 26. Previous Regulations Superseded

These regulations shall supersede all previous regulations of the Commission, and these regulations shall be effective each succeeding year until superseded.

#### Classification

##### IPHC Regulations

Because approval by the Secretary of State of the IPHC regulations is a foreign affairs function, the notice-and-comment and delay-in-effective date requirements of the Administrative Procedure Act (APA), 5 U.S.C. 553, do not apply to this notice of the effectiveness and content of the IPHC regulations, *Jensen v. National Marine Fisheries Service*, 512 F.2d 1189 (9th Cir. 1975). Because prior notice and an opportunity for public comment are not required to be provided for these portions of this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable.

##### Catch Sharing Plan for Area 2A

An EA/RIR was prepared on the proposed changes to the Plan. NMFS has determined that the proposed changes to the Plan and the implementing management measures contained in and implemented by the IPHC regulations will not significantly affect the quality of the human environment, and the preparation of an environmental impact statement on the final action is not required by section 102(2)(C) of the National Environmental Policy Act or its implementing regulations.

At the proposed rule stage, the Assistant General Counsel for Legislation and Regulation, Department of Commerce, certified to the Chief Counsel for Advocacy of the Small Business Administration that this action would not have a significant economic impact on a substantial number of small entities. No comments were received on this certification. Consequently, no

regulatory flexibility analysis has been prepared.

This action has been determined to be not significant for purposes of E.O. 12866.

Because changes to the Catch Sharing Plan are clarifications of commercial catch sharing language and non-substantive adjustments to measures for the sport fishery to provide additional flexibility to anglers fishing for halibut, and are expected by the affected fisheries for the beginning of the 1999 season, the delay-in-effective-date requirement of the APA, 5 U.S.C. 553(d), is waived for good cause, as being unnecessary.

**Authority:** 16 U.S.C. 773-773k.

Dated: March 15, 1999.

**Rolland A. Schmitten,**

*Assistant Administrator for Fisheries,  
National Marine Fisheries Service.*

[FR Doc. 99-6661 Filed 3-15-99; 4:45 pm]

BILLING CODE 3510-22-P

#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

##### 50 CFR Part 622

[Docket No. 961204340-7087-02; I.D. 031599C]

##### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure

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

**ACTION:** Closure.

**SUMMARY:** NMFS closes the commercial hook-and-line fishery for king mackerel in the exclusive economic zone (EEZ) in the Florida west coast subzone. This closure is necessary to protect the overfished Gulf king mackerel resource.

**DATES:** Effective 12:01 a.m., local time, March 16, 1999, through June 30, 1999.

**FOR FURTHER INFORMATION CONTACT:** Mark Godcharles, 727-570-5305.

**SUPPLEMENTARY INFORMATION:** The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery

Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act by regulations at 50 CFR part 622.

Based on the Councils' recommended total allowable catch and the allocation ratios in the FMP, NMFS implemented a commercial quota for the Gulf of Mexico migratory group of king mackerel in the Florida west coast subzone of 1.17 million lb (0.53 million kg). That quota was further divided into two equal quotas of 585,000 lb (265,352 kg) for vessels in each of two groups by gear types—vessels fishing with run-around gillnets and those using hook-and-line gear (50 CFR 622.42(c)(1)(i)(A)(2), (63 FR 8353, February 19, 1998)).

Under 50 CFR 622.43(a)(3), NMFS is required to close any segment of the king mackerel commercial fishery when its quota has been reached, or is projected to be reached, by filing a notification at the Office of the Federal Register. NMFS has determined that the commercial quota of 585,000 lb (265,352 kg) for Gulf group king mackerel for vessels using hook-and-line gear in the Florida west coast subzone was reached on March 15, 1999. Accordingly, the commercial fishery for king mackerel for such vessels in the Florida west coast subzone is closed effective 12:01 a.m., local time, March 16, 1999, through June 30, 1999, the end of the fishing year.

The Florida west coast subzone extends from 87°31'06" W. long. (due south of the Alabama/Florida boundary) to: (1) 25°20.4' N. lat. (due east of the Dade/Monroe County, FL, boundary) through March 31, 1999; and (2) 25°48' N. lat. (due west the Monroe/Collier County, FL, boundary) from April 1, 1999, through October 31, 1999.

NMFS previously determined that the commercial quota for king mackerel from the western zone of the Gulf of Mexico was reached and closed that segment of the fishery on August 25, 1998 (63 FR 45186, August 25, 1998). Subsequently, NMFS determined that the commercial quota of king mackerel for vessels using run-around gillnets in the Florida west coast subzone of the eastern zone of the Gulf of Mexico was reached and closed that segment of the fishery on January 20, 1999 (64 FR 3650; January 25, 1999). Further, NMFS determined that the commercial quota of Gulf group king mackerel for vessels fishing in the Florida east coast subzone of the eastern zone of the Gulf of Mexico was reached and closed that segment of the fishery on March 13, 1999. Thus, with this closure, all commercial fisheries for Gulf group king mackerel in

the EEZ are closed from the U.S./Mexico border through the Florida east coast subzone through March 31, 1999, and through the Florida west coast subzone through June 30, 1999.

Except for a person aboard a charter vessel or headboat, during the closure, no person aboard a vessel for which a commercial permit for king mackerel has been issued may fish for Gulf group king mackerel in the EEZ in the closed zones or retain Gulf group king mackerel in or from the EEZ of the closed zones. A person aboard a vessel that has a valid charter vessel/headboat permit for coastal migratory pelagic fish may continue to retain king mackerel in or from the closed zones under the bag

and possession limits set forth in 50 CFR 622.39(c)(1)(ii) and (c)(2), provided the vessel is operating as a charter vessel or headboat. A charter vessel or headboat that also has a commercial king mackerel permit is considered to be operating as a charter vessel or headboat when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

During the closure, king mackerel from the closed zones taken in the EEZ, including those harvested under the bag and possession limits, may not be purchased or sold. This prohibition does not apply to trade in king mackerel from the closed zones that were

harvested, landed ashore, and sold prior to the closure and were held in cold storage by a dealer or processor.

#### **Classification**

This action is taken under 50 CFR 622.43(a)(3) and is exempt from review under E.O. 12866.

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

Dated: March 15, 1999.

#### **Bruce C. Morehead,**

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

[FR Doc. 99-6660 Filed 3-15-99; 4:45 pm]

**BILLING CODE 3510-22-F**

# Proposed Rules

Federal Register

Vol. 64, No. 53

Friday, March 19, 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 TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 99-CE-01-AD]

RIN 2120-AA64

#### Airworthiness Directives; The New Piper Aircraft, Inc. Model PA-46-350P Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes to adopt a new airworthiness directive (AD) that would apply to certain The New Piper Aircraft, Inc. (Piper) Model PA-46-350P airplanes. The proposed AD would require installing reinforcement plates to the wing forward and aft attach fittings. The proposed AD is the result of a report that sheet steel material that is below design strength standards could be utilized on the wing attach fittings on the Model PA-46-350P airplanes manufactured since January 1995. The actions specified by the proposed AD are intended to prevent structural failure of the wing attach fittings caused by the utilization of substandard material, which could result in the wing separating from the airplane with consequent loss of control.

**DATES:** Comments must be received on or before May 28, 1999.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99-CE-01-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from The New Piper Aircraft, Inc., Customer Services, 2926 Piper Drive, Vero Beach,

Florida 32960. This information also may be examined at the Rules Docket at the address above.

**FOR FURTHER INFORMATION CONTACT:** Mr. William O. 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:

##### Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 99-CE-01-AD." The postcard will be date stamped and returned to the commenter.

##### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99-CE-01-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

##### Discussion

Piper has reported to the FAA a potential structural defect on certain

Model PA-46-350P airplanes. The report was made based on Piper's obligation under section 21.3 of the Federal Aviation Regulations (14 CFR 21.3). This report indicates that sheet steel material that is below design strength standards could be utilized on the wing attach fittings on the Model PA-46-350P airplanes manufactured since January 1995.

Piper discovered the condition during development testing in which premature yielding of the sheet steel material occurred. After sending samples of the material to a lab for analysis, Piper learned that the sheet steel was subjected to an annealing process instead of a normalizing process. The design requirements of the wing forward and aft attach fittings are for the sheet steel to be normalized instead of annealed.

Piper received the annealed sheet steel material in early 1995. Those Model PA-46-350P airplanes that were manufactured since January 1995 could utilize the annealed sheet steel wing attach fittings. The airplanes that were delivered since January 1995 incorporate serial numbers 4622191 through 4622200 and 4636001 through 4636175.

This condition, if not corrected, could lead to failure of the wing attach fittings caused by utilization of substandard material, which could result in the wing separating from the airplane with consequent loss of control.

##### Relevant Service Information

Piper has issued Service Bulletin No. 1027, dated November 19, 1998, which specifies installing reinforcement plates to the wing forward and aft attach fittings by incorporating the Wing to Fuselage Reinforcement Installation Kit, Piper part number 766-656. This kit includes all the materials and procedures for accomplishing this installation.

##### The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken to eliminate the unsafe condition previously referenced.

##### Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or

develop in other Piper Model PA-46-350P airplanes of the same type design manufactured since January 1995, the FAA is proposing AD action. The proposed AD would require installing reinforcement plates to the wing forward and aft attach fittings by incorporating the Wing to Fuselage Reinforcement Installation Kit, Piper part number 766-656. Accomplishment of the proposed installation would be required in accordance with the instructions to the above-referenced kit, as referenced in Piper Service Bulletin No. 1027, dated November 19, 1998.

#### Cost Impact

The FAA estimates that 185 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 30 workhours per airplane to accomplish the proposed installation, and that the average labor rate is approximately \$60 an hour. Piper will give warranty credit for parts on all affected aircraft. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be \$333,000, or \$1,800 per airplane.

Piper has informed the FAA that parts have been distributed to accomplish the installation on 6 of the affected airplanes. Presuming that these parts were incorporated on 6 of the affected airplanes, this would reduce the cost impact of this AD by \$10,800 from \$333,000 to \$322,200.

#### Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would 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) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

#### The Proposed Amendment

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

#### PART 39—AIRWORTHINESS DIRECTIVES

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

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

#### § 39.13 [Amended]

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

**The New Piper Aircraft, Inc.:** Docket No. 99-CE-01-AD.

**Applicability:** Model PA-46-350P airplanes, serial numbers 4622191 through 4622200 and 4636001 through 4636175, certificated in any category.

**Note 1:** The affected serial numbers refer to airplanes that have been delivered since January 1995 and could have insufficient strength wing attach fittings installed. Airplanes manufactured after serial number 4636175 have this problem corrected prior to delivery.

**Note 2:** 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 (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

**Compliance:** Required within the next 100 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent the potential for failure of the wing attach fittings caused by the utilization of substandard material, which could result in the wing separating from the airplane with consequent loss of control of the airplane, accomplish the following:

(a) Install reinforcement plates to the wing forward and aft attach fittings by incorporating the Wing to Fuselage Reinforcement Installation Kit, Piper part number 766-656. Accomplishment of the installation would be required in accordance with the instructions to the above-referenced kit, as referenced in Piper Service Bulletin No. 1027, dated November 19, 1998.

(b) 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.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, FAA, Atlanta Aircraft Certification Office (ACO), One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(d) All persons affected by this directive may obtain copies of the document referred to herein upon request to The New Piper Aircraft, Inc., Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960; or may examine this document at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on March 11, 1999.

**Marvin R. Nuss,**

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

[FR Doc. 99-6716 Filed 3-18-99; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### 24 CFR Chapter IX

[Docket No. FR-4459-N-02]

#### Section 8 Housing Certificate Fund Rule; Notice of Intent To Establish a Negotiated Rulemaking Committee and Notice of First Meeting

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Notice of intent to establish a negotiated Rulemaking Advisory Committee and notice of first meeting.

**SUMMARY:** HUD is establishing a Negotiated Rulemaking Advisory Committee under the Federal Advisory Committee Act. The establishment of the committee is required by the Quality Housing and Work Responsibility Act of 1998, which requires issuance of regulations under the Negotiated Rulemaking Act of 1990. The purpose of the Committee is to discuss and negotiate a rule that would change the current method of distributing funds to public housing agencies (PHAs) funds for purposes of renewing assistance contracts in the tenant-based Section 8 program. The committee will consist of

persons representing stakeholder interests in the outcome of the rule. In accordance with 5 U.S.C. 564 (section 564 of the Negotiated Rulemaking Act of 1990), this document advises the public of the establishment of the committee; provides the public with information regarding the committee; solicits public comment on the proposed membership of the committee; and explains how persons may be nominated for membership on the committee.

**DATES:** *Comment due date:* April 19, 1999. HUD's tentative plan is to hold the first meeting of the committee on April 27 and 28, 1999.

**ADDRESSES:** HUD has not yet selected a site for the first committee meeting.

Interested persons are invited to submit comments regarding the committee and its proposed members to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-0500. Comments should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. The docket will be available for public inspection and copying between 7:30 am and 5:30 pm weekdays at the above address.

**FOR FURTHER INFORMATION CONTACT:** Robert Dalzell, Senior Program Advisor, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Room 4204, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-0500; telephone (202) 708-1380 (this telephone number is not toll-free). 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**

On October 21, 1998, the Congress enacted the Quality Housing and Work Responsibility Act of 1998 (Pub. L. 105-276, 112 Stat. 2461) (the "Public Housing Reform Act"). The Public Housing Reform Act made significant changes to HUD's public and assisted housing programs. These changes include the addition of a new section 8(dd) to the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*).

The new section 8(dd) specifies the method to be used by HUD in calculating assistance provided to public housing agencies (PHAs) to renew Section 8 tenant-based rental and voucher contracts. Specifically, section 8(dd) directs HUD to establish an allocation baseline amount of assistance

(budget authority) to cover the renewals, and to apply an inflation factor (based on local or regional factors) to the baseline. The new provision states as follows:

(dd) *Tenant-Based Contract Renewals.*— Subject to amounts provided in appropriation Acts, starting in fiscal year 1999, the Secretary shall renew all expiring tenant-based annual contribution contracts under this section by applying an inflation factor based on local or regional factors to an allocation baseline. The allocation baseline shall be calculated by including, at a minimum, amounts sufficient to ensure continued assistance for the actual number of families assisted as of October 1, 1997, with appropriate upward adjustments for incremental assistance and additional families authorized subsequent to that date.

Section 556(b) of the Public Housing Reform Act requires HUD to implement section 8(dd) through notice not later than December 31, 1998, and to issue final regulations on this subject that are developed through the negotiated rulemaking process no later than October 21, 1999. On December 30, 1998, HUD issued Public and Indian Housing (PIH) Notice 98-65, which advised PHAs on how HUD is calculating the amount of assistance available for purposes of Section 8 tenant-based rental certificate and voucher contract renewals. On February 18, 1999 (64 FR 8188), HUD published a notice in the **Federal Register** providing, for the benefit of the public, the contents of PIH Notice 98-65.

Under the allocation procedure described in PIH Notice 98-65, HUD has determined a baseline number of units for each PHA as of October 1, 1997 based on information that each PHA provided to HUD. HUD adjusts the baseline number of units to reflect any changes to the number of units allocated to a PHA since October 1, 1997 (such as the award of additional units through Notices of Funding Availability for Section 8 assistance). HUD then determines the actual per unit cost based on data provided by PHAs in their year end statements. HUD subsequently adjusts the per unit cost by applying an inflation factor. Ultimately, HUD multiplies the adjusted number of units by this adjusted cost per unit to determine a given PHA's allocation. While the amount varies among PHAs, the subsidies constitute a significant level of assistance to families served by a particular agency. For example, in 1999, HUD expects to distribute over \$8 billion to PHAs to renew expiring tenant-based contracts in the Section 8 program.

**II. Regulatory Negotiation**

Negotiated rulemaking, or "neg-reg," is a relatively new process for HUD. The basic concept of neg-reg is to have the agency that is considering drafting a rule bring together representatives of affected interests for face-to-face negotiations that are open to the public. The give-and-take of the negotiation process is expected to foster constructive, creative and acceptable solutions to difficult problems.

In February 1999 HUD entered into a cooperative agreement with the Consensus Building Institute, Inc. (CBI) to obtain its assistance and expertise in convening and facilitating the negotiated rulemaking required by section 556 of the Public Housing Reform Act. CBI has begun the process of interviewing potential candidates that may be selected to serve on the negotiated rulemaking advisory committee. The current schedule calls for CBI to submit its convening report to HUD in early April of 1999.

**III. Committee Membership**

The CBI conveners consulted and interviewed 29 officials of various organizations that would be affected by the Section 8 funding allocation rule. The goal is to develop a committee whose membership reflects a balanced representation of interested organizations and individuals in terms of size, location, level and type of housing agency and special circumstances. After reviewing the recommendations of the CBI conveners, HUD has tentatively identified the following list of possible interests and parties. This list should be considered tentative, and the final list of participants may not include all of these parties. HUD will decide on the final list of participants, based upon comments on this document, as well as its own efforts to identify other entities having an interest in the outcome of this rulemaking.

- Housing Agencies
  1. Massachusetts Department of Housing and Community Development, Boston, MA
  2. New Jersey Department of Community Affairs, Trenton, NJ
  3. Southeastern Minnesota Multi-County Housing and Redevelopment Authority, Wabasha, MN
  4. Oklahoma Housing Finance Agency, Oklahoma City, OK
  5. Fort Worth Housing Authority, Fort Worth, TX
  6. Minneapolis Metropolitan Council Housing and Redevelopment Agency, Saint Paul, MN

7. Santa Cruz County Housing Authority, Santa Cruz, CA
8. Burlington Housing Authority, Burlington, VT
9. Michigan State Housing Development Authority, Lansing, MI
10. New York City Housing Authority, NYC, NY
11. Atlanta Housing Authority, Atlanta, GA
12. Panama City Housing Authority, Panama City, FL
13. Cincinnati Metropolitan Housing Authority, Cincinnati OH
14. Housing Authority of the City of Los Angeles, Los Angeles, CA
- Public Interest Groups
  1. Center on Budget and Policy Priorities, Washington, D.C.
  2. New Community Corporation, Newark, NJ
- National PHA Associations
  1. Public Housing Authority Directors Association (PHADA)
  2. National Association of Housing and Redevelopment Officials (NAHRO)
  3. Council of Large Public Housing Authorities (CLPHA)
  4. National Leased Housing Association (NLHA)
- Federal Government
  1. U.S. Department of Housing and Urban Development

HUD invites you to provide comments and suggestions on this tentative list of committee members. HUD does not believe that each potentially affected organization or individual must necessarily have its own representative. However, HUD must be satisfied that the group as a whole reflects a proper balance and mix of interests. Accordingly, the composition of the final list will likely be different from this tentative list. Negotiation sessions will be open to members of the public, so individuals and organizations that are not members of the committee may attend all sessions and communicate informally with members of the committee.

#### IV. Neighborhood and Community Based Groups

In particular, HUD welcomes and solicits expressions of interest or nominations from any groups or individuals that operate on behalf of the communities, neighborhoods, and special needs groups served by the tenant-based Section 8 program, and from organizations that represent local officials.

#### V. Requests for Representation

If you are interested in serving as a member of the committee or in

nominating another person to serve as a member of the committee, you must submit a written nomination to HUD at the address listed in the **ADDRESSES** section of this document. Your nomination for membership on the committee must include:

(1) The name of your nominee and a description of the interests the nominee would represent;

(2) Evidence that your nominee is authorized to represent parties with the interests the nominee would represent;

(3) A written commitment that the nominee will actively participate in good faith in the development of the rule; and

(4) The reasons that the parties listed in this document do not adequately represent your interests.

HUD will determine, in consultation with the CBI conveners, whether a proposed member should be included in the makeup of the committee. HUD will make that decision based on whether a proposed member would be significantly affected by the proposed rule and whether the interest of the proposed member could be represented adequately by other members.

#### VI. Substantive Issues for Negotiation

The subject and scope of the rule to be considered is the development of a methodology for allocating funding to renew assistance contracts under the tenant-based Section 8 program, in accordance with the criteria described in section 556 of the Public Housing Reform Act.

#### VII. Final Notice Regarding Committee Establishment

After reviewing any comments on this Notice and any requests for representation, HUD will issue a final notice. That notice will announce the final composition of the Negotiated Rulemaking Advisory Committee and the firm date, time, and place of the initial meeting.

#### VIII. Tentative Schedule

At this time, HUD's tentative plan is to hold the first meeting of the committee on April 27 and 28, 1999. On April 27, 1999, the meeting is expected to start at 9:00 am and run until completion; on April 28, 1999, the meeting is expected to start at 9:00 am and run until approximately 3:00 pm. HUD has not yet selected a site for the meetings. The purpose of the meeting will be to orient members to the neg-reg process, to establish a basic set of understandings and ground rules (protocols) regarding the process that will be followed in seeking a consensus, and to begin to address the issues. This

meeting will be open to the public. In the event that the date and times of these meetings are changed, HUD will advise the public through a **Federal Register** notice.

Decisions with respect to future meetings will be made at the first meeting and from time to time thereafter. Notices of future meetings will be published in the **Federal Register**.

Dated: March 16, 1999.

**Harold Lucas,**

*Assistant Secretary for Public and Indian Housing*

[FR Doc. 99-6852 Filed 3-18-99; 8:45 am]

BILLING CODE 4210-33-P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### 24 CFR Chapter IX

[Docket No. FR-4423-N-01]

#### Capital Fund Rule; Notice of Intent to Establish a Negotiated Rulemaking Committee and Notice of First Meeting

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Notice of intent to establish a Negotiated Rulemaking Advisory Committee and notice of first meeting.

**SUMMARY:** HUD is establishing a Negotiated Rulemaking Advisory Committee under the Federal Advisory Committee Act. The establishment of the committee is required by the Quality Housing and Work Opportunity Act of 1998, which requires issuance of regulations under the Negotiated Rulemaking Act of 1990. The purpose of the Committee is to discuss and negotiate a proposed rule that would change the current method of determining the allocation of capital funds to public housing agencies (PHAs). The Committee will consist of representatives with a definable stake in the outcome of a proposed rule. In accordance with 5 U.S.C. 564 (section 564 of the Negotiated Rulemaking Act of 1990), this document: advises the public of the establishment of the committee; provides the public with information regarding the committee; solicits public comment on the proposed membership of the committee; explains how persons may be nominated for membership on the committee; and solicits public comment on specific agenda items to be considered by the committee.

**DATES:** *Comment due date:* April 19, 1999. HUD's tentative plan is to hold the first meeting of the committee on

April 28–29, 1999. Additional committee meetings are tentatively scheduled for May 11–12 and May 25–26, 1999.

**ADDRESSES:** The tentative location for the first committee meeting is the U.S. Department of Housing and Urban Development, 451 Seventh St., SW, Washington, DC 20410.

Interested persons are invited to submit comments regarding the Committee and its proposed members to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Comments or any other communications submitted should refer to the above docket number and title. Facsimile (FAX) comments are *not* acceptable. The docket will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

**FOR FURTHER INFORMATION CONTACT:** William Flood, Director, Office of Capital Improvements, Public and Indian Housing, Room 4134, Department of Housing and Urban Development, 431 Seventh Street, SW, Washington, DC 20410–0500; telephone (202) 708–1640 ext. 4185 (this telephone numbers is not toll-free). 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**

HUD currently uses a formula approach called the Comprehensive Grant Program (CGP) to distribute capital funds to large public housing agencies (PHAs) (i.e. PHAs with 250 units or more) and a competitive program called the Comprehensive Improvement Assistance Program (CIAP) for small PHAs (i.e., PHAs with less than 250 units). A regulatory description of the CGP and CIAP can be found at 24 CFR part 968. Generally, the amount of capital funding received by a PHA is based on the number of units, type of units, condition of its units, cost of construction in the area and prior funding. While the amount can vary, it is the only source of capital funding that most PHAs receive to make major capital investments in its public housing stock. For example, in 1998, HUD distributed over \$2.1 billion in capital funds for CGP and \$307 million for CIAP to PHAs for 830 PHAs and over 900 PHAs respectively.

On October 21, 1998, the Congress enacted the Quality Housing and Work

Responsibility Act of 1998 (Pub.L. 105–276, 112 Stat. 2461) (the “Public Housing Reform Act”). The Public Housing Reform Act makes extensive changes to HUD’s public and assisted housing programs. These changes include the establishment of a Capital Fund for the purpose of making assistance available to PHAs for capital and management activities of public housing under Section 9(d) of the U.S. Housing Act of 1937, as amended. The assistance to be made available from that fund is to be determined using a formula developed through negotiated rule-making procedures. The effective date of the formula (the beginning date of the fiscal year for which PHAs will determine their capital eligibility using the new formula) is October 1, 1999. Accordingly, HUD hopes to publish a final rule that will take effect by October 1, 1999 to implement these statutory changes.

**II. Regulatory Negotiation**

Negotiated rulemaking, or “neg-reg,” is a relatively new process for HUD. The basic concept of neg-reg is to have the agency that is considering drafting a rule bring together representatives of affected interests for face-to-face negotiations that are open to the public. The give-and-take of the negotiation process is expected to foster constructive, creative and acceptable solutions to difficult problems.

In anticipation of possible Congressional action, HUD entered into an interagency agreement in June 1998 with the Federal Mediation and Conciliation Service (FMCS) for convening and facilitation services associated with a negotiated rulemaking regarding a possible capital and operating fund proposed rule. FMCS met with HUD in November 1998 to discuss the use of its services for the capital fund. The meeting reached the conclusion that it was feasible to assemble the committee, and HUD would propose a list of individual PHAs and organizations that represented a wide range of interests willing and able to work within a consensus framework on a new Capital Fund formula.

**III. Committee Membership**

HUD has independent of the FMCS consulted with the industry groups, its field staff and chosen 26 persons to be named to represent various organizations that would be affected by the capital fund rule. Three national PHA associations—the Council of Large Public Housing Authorities (CLPHA), the National Association of Housing and Redevelopment Officials (NAHRO), and the Public Housing Authority Directors

Association (PHADA) suggested executive directors of PHAs for committee membership that would reflect a balance among PHAs in terms of size and number of developments and units. The national associations also indicated a willingness to serve on the committee, as did the National Organization of African Americans in Housing (NOAAH). In addition, HUD consulted with groups concerned with issues relating to residents of public housing and identified four resident representatives to serve on the committee. Further, HUD has identified three committee participants from groups which have had less direct involvement in public housing programs in the past, but which can provide other valuable perspectives on the issues to be considered by the committee.

After reviewing the recommendations of the staff and industry groups, HUD has tentatively identified the following list of possible interests and parties.

• **Housing Agencies**

1. Philadelphia Housing Authority
2. Chicago Housing Authority
3. Dallas Housing Authority
4. Puerto Rico Housing Authority
5. Seattle Housing Authority
6. New York City Housing Authority
7. Dayton Housing Authority
8. Greensboro Housing Authority
9. Jersey City Housing Authority
10. San Diego Housing Authority
11. Sanford (ME) Housing Authority
12. Macon (GA) Housing Authority
13. San Benito (TX) Housing Authority

• **Tenant Organizations**

1. New York City Public Housing Residents Alliance, Brooklyn, NY
2. Guinotte Manor Tenant Association, Kansas City, MO
3. Hillside Family Resource Center, Milwaukee, WI
4. Mount Pleasant Estates Tenant Association, Newark, NJ

• **National PHA Associations**

1. Public Housing Authority Directors Association (PHADA)
2. National Association of Housing and Redevelopment Officials (NAHRO)
3. Council of Large Public Housing Authorities (CLPHA)
4. National Organization of African Americans in Housing (NOAAH)

• **Other Groups**

1. National Housing Conference
2. Conference of Mayors
3. Fannie Mae
4. National Low Income Housing Coalition

• **Federal Government**

1. U.S. Department of Housing and

#### Urban Development

We invite you to give us comments and suggestions on this tentative list of committee members. We do not believe that each potentially affected organization or individual must necessarily have its own representative. However, we must be satisfied that the group as a whole reflects a proper balance and mix of interests.

Accordingly, the composition of the final membership list may be different from this tentative membership list. Negotiation sessions will be open to members of the public, so individuals and organizations that are not members of the committee may attend all sessions and communicate informally with members of the committee. HUD may also invite a group of technical advisors to participate in Committee deliberations. This group may consist of non-profit and for-profit developers and other individuals who have had experience in mixed-finance development, the HOPE VI program, or other relevant experience.

#### IV. Requests for Representation

If you are interested in serving as a member of the committee or in nominating another person to serve as a member of the committee, you must submit a written nomination to HUD at the address listed in the **ADDRESSES** section of this document. Your nomination for membership on the committee must include:

(1) The name of your nominee and a description of the interests the nominee would represent;

(2) Evidence that your nominee is authorized to represent parties with the interests the nominee would represent;

(3) A written commitment that the nominee will actively participate in good faith in the development of the rule; and

(4) The reasons that the parties listed in this document do not adequately represent your interests.

HUD will determine, in consultation with the FMCS conveners, whether a proposed member should be included in the makeup of the committee. HUD will make that decision based on whether a proposed member would be significantly affected by the proposed rule and whether the interest of the proposed member could be represented adequately by other members.

#### V. Substantive Issues for Negotiation

The subject and scope of the proposed rule to be considered is the development of a capital fund formula for the purpose of determining the amount of assistance provided to PHAs for capital and management activities of

public housing, which shall include a mechanism to reward performance. The issues considered by the negotiated rulemaking committee in the development of the formula will include determining the factors and weighting of those factors to be used in determining the formula allocation for each PHA (including those factors listed in Section 519 of the Public Housing Reform Act. HUD invites suggestions on specific agenda items to be considered by the negotiated rulemaking committee.

#### VI. Tentative Schedule

At this time, HUD's tentative plan is to hold the first meeting of the committee on April 28-29, 1999. On both days, the meeting is expected to run for the full day, starting at approximately 10:00 a.m. until completion. The tentative location for the first meeting is the U.S. Department of Housing and Urban Development, 451 Seventh St., SW, Washington, DC 20410. The purpose of the meeting will be to orient members to the neg-reg process, to establish a basic set of understandings and ground rules (protocols) regarding the process that will be followed in seeking a consensus, and to begin to address the issues. This meeting will be open to the public.

Decisions with respect to future meetings will be made at the first meeting and from time to time thereafter. Additional committee meetings are tentatively scheduled for May 11-12 and May 25-26, 1999. Notices of future meetings will be published in the **Federal Register**.

#### VII. Final Notice Regarding Committee Establishment

After reviewing any comments on this Notice and any requests for representation, HUD will issue a final notice. That notice will announce the final composition of the Negotiated Rulemaking Advisory Committee and the firm date, time, and place of the initial meeting.

Dated: March 12, 1999.

##### Harold Lucas,

*Assistant Secretary for Public and Indian Housing.*

##### Deborah Vincent,

*General Deputy Assistant Secretary for Public and Indian Housing.*

[FR Doc. 99-6720 Filed 3-18-99; 8:45 am]

BILLING CODE 4423-01-P

#### DEPARTMENT OF THE INTERIOR

##### Minerals Management Service

##### 30 CFR Part 250

##### RIN 1010-AC55

##### Update of Documents Incorporated by Reference

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Proposed rule.

**SUMMARY:** MMS is proposing to update one document incorporated by reference and add one new document incorporated by reference in regulations governing oil and gas and sulphur operations in the Outer Continental Shelf (OCS). The new editions of these documents incorporated by reference will ensure that lessees use the best available and safest technologies while operating in the OCS. The proposed updated document is the Second Edition of the American Petroleum Institute's (API) Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Division 1 and Division 2 (API RP 500). The proposed new document is the First Edition of the API's Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Zone 0, Zone 1, and Zone 2 (API RP 505).

**DATES:** We will consider all comments we receive by June 17, 1999. We will begin reviewing comments then and may not fully consider comments we receive after June 17, 1999.

**ADDRESSES:** Mail or hand-carry comments (three copies) to the Department of the Interior; Minerals Management Service; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170-4817; Attention: Rules Processing Team. The Rules Processing Team's e-mail address is: rules.comments@mms.gov.

**FOR FURTHER INFORMATION CONTACT:** Joseph Levine, Chief, Operations Analysis Branch, at (703) 787-1032.

**SUPPLEMENTARY INFORMATION:** We use standards, specifications, and recommended practices developed by standard-setting organizations and the oil and gas industry for establishing requirements for activities in the OCS. This practice, known as incorporation by reference, allows us to incorporate the requirements of technical documents into the regulations without increasing the volume of the Code of Federal Regulations (CFR). We currently incorporate by reference 82 documents into the offshore operating regulations.

The regulations found at 1 CFR part 51 govern how we and other Federal agencies incorporate various documents by reference. Agencies can only incorporate by reference through publication in the **Federal Register**. Agencies must also gain approval from the Director of the Federal Register for each publication incorporated by reference. Incorporation by reference of a document or publication is limited to the specific edition or specific edition and supplement or addendum cited in the regulations.

This proposed rule will update the following document that is currently incorporated by reference into MMS regulations:

API RP 500, First Edition, June 1, 1991, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities.

We have reviewed this document and have determined that the new edition must be incorporated into the regulations to ensure the use of the best and safest technologies. In our initial review, which was mentioned in a July 9, 1998, **Federal Register** rule (63 FR 37066), we believed the difference between the two editions to be significant. Further review shows that the changes between the old and new editions are minor, but new material and additional chapters have been included. In addition, the old document is not readily available to the affected parties because it is out of date.

A summary of our review of the updated document is provided below: API RP 500, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Division 1 and Division 2, Second Edition, November 1997.

In 1991, API merged its three area classification documents (RP 500A for refineries, RP 500B for production and drilling facilities, and RP 500C for transportation and pipeline facilities) into the first edition of RP 500.

The second edition has been revised using an API standard editorial format. It includes a higher level of detail and some new material regarding area classification drawings and sketches. Numerous real-world examples that were not previously addressed in the earlier edition are added, including some U.S. Coast Guard-regulated offshore facilities, paint storage areas, locations containing batteries, and others. Additional chapters specific to offshore facilities such as tension leg platforms, mobile offshore drilling units, and floating production storage and offloading systems are included.

The title of the document has been expanded to narrow the scope of the document to the traditional U.S.-style of location classification using Class and Division definitions. Reference to API RP 14C is also noted for offshore production and drilling operations.

A summary of our review of the new document is provided below: API RP 505, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Zone 0, Zone 1, and Zone 2, First Edition, November 1997.

API recently released this document, and it contains guidance on classifying locations in accordance with international concepts of zones versus API RP 500's use of divisions. We are requesting public comment on the possible incorporation of this document into our regulations. The purpose of API RP 505 is not to replace API RP 500. Rather, incorporation of both documents into MMS regulations would allow the offshore structure to be designed and built, using either offshore electrical location classification method.

#### **Procedural Matters**

This is a very simple rule. The rule's purpose is to update one document that is currently incorporated by reference in the regulations and to add one additional document incorporated by reference. The differences between the newer document and the older document are very minor. The minor differences between the newer and older document will not cause a significant economic effect on any entity (small or large). Similarly, the addition of the new document, API RP 505, will not have a significant effect on any entity (small or large). Therefore, this regulation's impact on the entire industry is minor.

#### **Public Comment Procedure**

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by the law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as

representatives or officials of organizations or businesses available for public inspection in their entirety.

#### **Takings Implication Assessment (E.O. 12630)**

In accordance with E.O. 12630, this rule does not have significant Takings Implications.

#### **Regulatory Planning and Review (E.O. 12866)**

This document is not a significant rule and is not subject to review by the Office of Management and Budget under E.O. 12866.

(1) This rule will not have an effect of \$100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

The rule would have no significant economic impact because the documents do not contain any significant revisions that will cause lessees or operators to change their business practices. The documents will not require the retrofitting of any facilities. The documents may lead to minor changes in operating practices, but the associated costs will be very minor.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues.

#### **Clarity of This Regulation**

E.O. 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand.

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, N.W., Washington, D.C. 20240. You may also e-mail the comments to this address: [exsec@ios.doi.gov](mailto:exsec@ios.doi.gov).

#### **Civil Justice Reform (E.O. 12988)**

In accordance with E.O. 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

**National Environmental Policy Act (NEPA)**

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA of 1969 is not required.

**Paperwork Reduction Act (PRA) of 1995**

There are no information collection requirements associated with this rule.

**Regulatory Flexibility Act**

The Department certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Incorporation of the new document into MMS regulations would allow the offshore structure to be designed and built using either offshore electrical location classification method. Thus, incorporation of the new document will not impose new cost on the offshore oil and gas industry and may provide beneficial flexibility. The Department also determined that the indirect effects of this rule on small entities that provide support for offshore activities are small (in effect zero).

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small business about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you

wish to comment on the enforcement actions of MMS, call toll-free (888) 734-3247.

**Small Business Regulatory Enforcement Fairness Act (SBREFA)**

This rule is not a major rule under 5 U.S.C. 804(2), SBREFA. This rule:

- (a) Does not have an annual effect on the economy of \$100 million or more. The proposed rule will not cause any significant costs to lessees or operators. The only costs will be the purchase of the new documents and minor revisions to some operating procedures. The minor revisions to operating procedures may result in some minor costs or may actually result in minor costs savings.
- (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.
- (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

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

**Unfunded Mandates Reform Act of 1995**

This rule does not impose an unfunded mandate on State, local, and tribal governments or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

**List of Subjects in 30 CFR Part 250**

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: March 8, 1999.

**Sylvia V. Baca,**  
*Acting Assistant Secretary, Land and Minerals Management.*

For the reasons stated in the preamble, Minerals Management Service (MMS) proposes to amend 30 CFR Part 250 as follows:

**PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF**

1. The authority citation for part 250 continues to read as follows:

**Authority:** 43 U.S.C. 1334.

2. In § 250.101, the following document incorporated by reference in Table 1 in paragraph (e) is revised to read as follows:

**§ 250.101 Documents incorporated by reference.**

\* \* \* \* \*  
(e) \* \* \*

Title of document	Incorporated by reference at
API RP 500, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Division 1 and Division 2, Second Edition, November 1997, API Stock No. C50002.	§ 250.403(b); § 250.802(e)(4)(i); § 250.803(b)(9)(i); § 250.1628(b)(3); (d)(4)(i); § 250.1629(b)(4)(i).

3. In § 250.101, the following document incorporated by reference is added to Table 1 in paragraph (e) in alphanumerical order.

**§ 250.101 Documents incorporated by reference.**

\* \* \* \* \*  
(e) \* \* \*

Title of document	Incorporated by reference at
API RP 505, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Zone 0, Zone 1, and Zone 2, First Edition, November 1997, API Stock No. C50501.	§ 250.403(b); § 250.802(e)(4)(i); § 250.803(b)(9)(i); § 250.1628(b)(3); (d)(4)(i); § 250.1629(b)(4)(i).

\* \* \* \* \*  
4. In § 250.403, paragraph (b) is revised to read as follows:

**§ 250.403 Electrical equipment.**

\* \* \* \* \*

(b) All areas must be classified in accordance with API RP 500, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Division 1 and

Division 2, or API RP 505, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities

Classified as Class I, Zone 0, Zone 1, and Zone 2.

\* \* \* \* \*

5. In § 250.802, paragraph (e)(4)(i) introductory text is revised to read as follows:

**§ 250.802 Design, installation, and operation of surface production-safety systems.**

\* \* \* \* \*

(e) \* \* \*

(4) \* \* \*

(i) A plan for each platform deck outlining all hazardous areas classified in accordance with API RP 500, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Division 1 and Division 2, or API RP 505, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Zone 0, Zone 1, and Zone 2, and outlining areas in which potential ignition sources, other than electrical, are to be installed. The area outlined will include the following information:

\* \* \* \* \*

6. In § 250.803, the last sentence of paragraph (b)(9)(i) is revised to read as follows:

**§ 250.803 Additional production system requirements.**

\* \* \* \* \*

(b) \* \* \*

(9) \* \* \*

(i) \* \* \* A classified area is any area classified Class I, Group D, Division 1 or 2, following the guidelines of API RP 500, or any area classified Class I, Zone 0, Zone 1, or Zone 2, following the guidelines of API RP 505.

\* \* \* \* \*

7. In § 250.1628, paragraphs (b)(3) and (d)(4)(i) are revised to read as follows:

**§ 250.1628 Design, installation, and operation of production systems.**

\* \* \* \* \*

(b) \* \* \*

(3) Electrical system information including a plan of each platform deck, outlining all hazardous areas classified in accordance with API RP 500, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Division 1 and Division 2, or API RP 505, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Zone 0, Zone 1, and Zone 2, and outlining areas in

which potential ignition sources are to be installed;

\* \* \* \* \*

(d) \* \* \*

(4) \* \* \*

(i) A plan of each platform deck, outlining all hazardous areas classified in accordance with API RP 500, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Division 1 and Division 2, or API RP 505, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Zone 0, Zone 1, and Zone 2, and outlining areas in which potential ignition sources are to be installed;

\* \* \* \* \*

8. In § 250.1629, the last sentence of paragraph (b)(4)(i) is revised to read as follows:

**§ 250.1629 Additional production and fuel gas system requirements.**

\* \* \* \* \*

(b) \* \* \*

(4) \* \* \*

(i) \* \* \* A classified area is any area classified Class I, Group D, Division 1 or 2, following the guidelines of API RP 500, or any area classified Class I, Zone 0, Zone 1, or Zone 2, following the guidelines of API RP 505.

\* \* \* \* \*

[FR Doc. 99-6791 Filed 3-18-99; 8:45 am]

BILLING CODE 4310-MR-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[CA 207-0136b; FRL-6239-9]

**Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision, Sacramento Metropolitan and South Coast Air Quality Management District and San Joaquin Valley Unified Air Pollution Control District**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is approving revisions to the California State Implementation Plan (SIP). This action is an administrative change which revises the definitions in Sacramento Metropolitan Air Quality Management (SMAQMD), San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD), and South Coast Air Quality

Management District (SCAQMD). The intended effect of approving this action is to incorporate changes to the definitions for clarity and consistency and to update the Exempt Compound list in SMAQMD, SJVUAPCD, and SCAQMD rules to be consistent with the revised federal and state VOC definitions.

The intended effect of proposing approval of this action is to incorporate changes to the definition of VOC and to update the Exempt Compound list in SMAQMD, SJVUAPCD, and SCAQMD rules to be consistent with the revised federal and state VOC definitions. EPA is proposing approval of these revisions to be incorporated into the California SIP for the attainment of the national ambient air quality standards (NAAQS) for ozone under title I of the Clean Air Act (CAA or the Act). In the Final Rules Section of this **Federal Register**, the EPA is approving the state's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

**DATES:** Written comments must be received by April 19, 1999.

**ADDRESSES:** Comments should be addressed to: Andrew Steckel, Chief, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

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

Sacramento Metropolitan Air Quality Management District, 8411 Jackson Rd., Sacramento, CA 95826

San Joaquin Valley Unified Air Pollution Control District, 1990 E. Gettysburg Ave., Fresno, CA 93726

South Coast Air Quality Management District, 21865 E. Copley Dr., Diamond Bar, CA 91765-4182.

**FOR FURTHER INFORMATION CONTACT:**

Cynthia G. Allen, Rulemaking Office [Air-4], Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1189)

**SUPPLEMENTARY INFORMATION:** This document concerns Sacramento

Metropolitan Air Quality Management Rule 101, General Provisions and Definitions, San Joaquin Valley Unified Air Pollution Control District Rule 1020, Definitions, and South Coast Air Quality Management District Rule 1302, Definitions (New Source Review). These rules were submitted by the California Air Resources Board to EPA on October 27, 1998 (Sacramento); May 18, 1998 (San Joaquin); and March 10, 1998 (South Coast). For further information, please see the information provided in the direct final action that is located in the rules section of this **Federal Register**.

Dated: March 5, 1999.

**Laura Yoshii,**

*Deputy Regional Administrator, Region IX.*  
[FR Doc. 99-6651 Filed 3-18-99; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 62**

[OK-18-1-7415a; FRL-6312-6]

**Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Oklahoma**

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

**ACTION:** Proposed rule.

**SUMMARY:** We propose to approve the section 111(d) Plan submitted by Oklahoma on December 18, 1998, to implement and enforce the Emissions Guidelines (EG) for existing Municipal Solid Waste (MSW) Landfills. The EG require States to develop plans to collect landfill gas from large MSW landfills. In the final rules section of this **Federal Register**, we are approving the State Plan as a direct final rule without prior proposal because we view this as a noncontroversial amendment 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 in relation to this rule. If we receive 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. We will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please see the direct final rule located

elsewhere in today's **Federal Register** for a detailed description of the Texas State Plan.

**DATES:** Comments on this action must be postmarked by April 19, 1999. If no adverse comments are received, then the direct final rule is effective on May 18, 1999.

**ADDRESSES:** You should address comments on this action to Lt. Mick Cote, EPA Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202.

Copies of all materials considered in this rulemaking may be examined during normal business hours at the following locations: EPA Region 6 offices, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202, and at the Oklahoma Department of Environmental Quality offices, 707 North Robinson Avenue, Oklahoma City, OK 73101-1677.

**FOR FURTHER INFORMATION CONTACT:** Lt. Mick Cote at (214) 665-7219.

**List of Subjects in 40 CFR Part 62**

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Methane, Municipal solid waste landfills, Nonmethane organic compounds, Reporting and recordkeeping requirements.

**Authority:** 42 U.S.C. 7401-7671q.

Dated: March 11, 1999.

**William B. Hathaway,**

*Acting Regional Administrator, Region 6.*  
[FR Doc. 99-6778 Filed 3-18-99; 8:45 am]

BILLING CODE 6560-50-P

# Notices

Federal Register

Vol. 64, No. 53

Friday, March 19, 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

### Office of the Secretary

[Docket No. 99-018-1]

#### Declaration of Emergency Because of Citrus Canker

A serious outbreak of citrus canker is occurring in Florida. Citrus canker is a plant disease that is harmful to citrus plants and citrus fruit. It spreads rapidly, producing premature fruit drop, and leaf, stem, and fruit lesions. While damaged fruit is safe to eat it has little or no market value. The only way to detect the disease is to visually survey for infected trees. Once infected trees are found, removal and destruction of the infected trees, usually by burning, is the only effective control measure. It is also necessary to quarantine infested areas to delay or stop the spread of the disease.

This infestation of citrus canker in Florida was first detected in 1995 and was initially limited to about 14 square miles near the Miami International Airport in Dade County. The infestation has spread both naturally, aided by tropical storms and tornadoes, and through the movement of infected and contaminated articles. There are now four areas in Florida affected with citrus canker: An area of approximately 500 square miles in Dade and Broward Counties; an area of about 60 square miles in Manatee County; two citrus groves in Collier County; and most recently, two commercial citrus groves and a number of residential properties in Hendry County.

Citrus canker poses a serious threat to citrus production in the State of Florida. Although, to date, the infestation has been generally limited to residential areas, the continued spread of the disease could affect Florida's commercial citrus producing areas, causing estimated losses of at least \$200 million annually.

To eliminate this threat to Florida's most important industry, the State is conducting an eradication program. Since 1995, the State has spent approximately \$21 million on survey, regulatory, and control activities. In addition, the Animal and Plant Health Inspection Service (APHIS) has spent approximately \$6 million, mostly from its contingency fund, to provide technical assistance to the State and to carry out regulatory activities designed to prevent the spread of the disease.

Despite these efforts, however, the disease has continued to spread. The FY 1999 appropriations for APHIS do not contain adequate funding for effective assistance to Florida in efforts to control and eradicate citrus canker, nor does APHIS' FY 2000 budget request. Furthermore, redirecting funds within APHIS' existing budget would seriously impair its ongoing programs. Thus, additional resources are necessary to enable APHIS to continue to assist Florida in the control and eradication of citrus canker and to help avoid significant economic losses to the Nation's citrus industry.

Therefore, in accordance with the provisions of the Act of September 25, 1981, 95 Stat. (7 U.S.C. 147b), I declare that there is an emergency that threatens the citrus industry of this country and hereby authorize the transfer and use of such funds as may be necessary from appropriations or other funds available to the agencies or corporations of the United States Department of Agriculture to assist the State of Florida in controlling and eradicating citrus canker.

Before any funds authorized under this declaration are transferred, distributed, or applied to the citrus canker eradication effort, however, APHIS will conduct reviews and analyses that are applicable to any proposed actions, including reviews and analyses required under the National Environmental Policy Act, the Endangered Species Act, Executive Order 12898 of February 11, 1994—Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, and Executive Order 13045 of April 21, 1997—Protection of Children from Environmental Health Risks and Safety Risks, among others. Consistent with these requirements, the public will be provided ample

opportunity for participation, notice of which will be published in the **Federal Register**.

*Effective Date:* This declaration of emergency shall become effective March 15, 1999.

**Dan Glickman,**

*Secretary of Agriculture.*

[FR Doc. 99-6771 Filed 3-18-99; 8:45 am]

BILLING CODE 3410-34-P

## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

#### Types and Quantities of Agricultural Commodities Available for Donation Overseas Under Section 416(b) of the Agricultural Act of 1949, as Amended, in Fiscal Year 1999

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Notice.

**SUMMARY:** On March 2, 1999, the President, Commodity Credit Corporation (CCC) determined that 20,000 metric tons of non-fortified nonfat dry milk in 25 kg domestic commercially-marked bags be made available for donation overseas under section 416(b) of the Agricultural Act of 1949, as amended, during fiscal year 1999. This determination increases the amount of non-fortified nonfat dry milk available for donation overseas under section 416(b) during fiscal year 1999 to 29,500 metric tons.

In addition, the President, CCC, determined that 400,000 metric tons of wheat in CCC inventory as a result of marketing assistance loan forfeitures are available for donation overseas under section 416(b). The availability is in addition to and will complement the use of the 5,000,000 metric tons of wheat currently being purchased under section 5(d) of the CCC Charter Act.

**FOR FURTHER INFORMATION CONTACT:** Ira Branson, Director, CCC Program Support Division, FAS, USDA, (202) 720-3573.

Dated: March 12, 1999.

**Timothy J. Galvin,**

*Acting Vice President, Commodity Credit Corporation.*

[FR Doc. 99-6717 Filed 3-18-99; 8:45 am]

BILLING CODE 3410-10-M

**DEPARTMENT OF AGRICULTURE**

**Rural Utilities Service**

**Municipal Interest Rates for the Second Quarter of 1999**

**AGENCY:** Rural Utilities Service, USDA.  
**ACTION:** Notice of municipal interest rates on advances from insured electric loans for the second quarter of 1999.

**SUMMARY:** The Rural Utilities Service hereby announces the interest rates for advances on municipal rate loans with interest rate terms beginning during the second calendar quarter of 1999.

**DATES:** These interest rates are effective for interest rate terms that commence during the period beginning April 1, 1999, and ending June 30, 1999.

**FOR FURTHER INFORMATION CONTACT:** Carolyn Dotson, Loan Funds Control Assistant, U.S. Department of Agriculture, Rural Utilities Service, Room 0227-S, Stop 1524, 1400 Independence Avenue, SW, Washington, DC 20250-1500. Telephone: 202-720-1928. FAX: 202-690-2268. E-mail: CDotson@rus.usda.gov.

**SUPPLEMENTARY INFORMATION:** The Rural Utilities Service (RUS) hereby announces the interest rates on advances made during the second calendar quarter of 1999 for municipal rate electric loans. RUS regulations at § 1714.4 state that each advance of funds on a municipal rate loan shall bear interest at a single rate for each interest rate term. Pursuant to § 1714.5, the interest rates on these advances are based on indexes published in the "Bond Buyer" for the four weeks prior to the third Friday of the last month before the beginning of the quarter. The rate for interest rate terms of 20 years or longer is the average of the 20 year rates published in the Bond Buyer in the four weeks specified in § 1714.5(d). The rate for terms of less than 20 years is the average of the rates published in the Bond Buyer for the same four weeks in the table of "Municipal Market Data—General Obligation Yields" or the successor to this table. No interest rate may exceed the interest rate for Water and Waste Disposal loans.

The table of Municipal Market Data includes only rates for securities maturing in 1999 and at 5 year intervals thereafter. The rates published by RUS reflect the average rates for the years shown in the Municipal Market Data table. Rates for interest rate terms ending in intervening years are a linear interpolation based on the average of the rates published in the Bond Buyer. All rates are adjusted to the nearest one

eighth of one percent (0.125 percent) as required under § 1714.5(a). The market interest rate on Water and Waste Disposal loans for this quarter is 5.000 percent.

In accordance with § 1714.5, the interest rates are established as shown in the following table for all interest rate terms that begin at any time during the second calendar quarter of 1999.

Interest rate term ends in (year)	RUS rate (0.000 percent)
2020 or later .....	5.000
2019 .....	5.000
2018 .....	5.000
2017 .....	4.875
2016 .....	4.875
2015 .....	4.875
2014 .....	4.750
2013 .....	4.625
2012 .....	4.625
2011 .....	4.500
2010 .....	4.375
2009 .....	4.250
2008 .....	4.250
2007 .....	4.125
2006 .....	4.000
2005 .....	3.875
2004 .....	3.875
2003 .....	3.625
2002 .....	3.375
2001 .....	3.250
2000 .....	3.000

Dated: March 12, 1999.

**Wally Beyer,**

*Administrator, Rural Utilities Service.*

[FR Doc. 99-6718 Filed 3-18-99; 8:45 am]

BILLING CODE 3410-15-P

**DEPARTMENT OF COMMERCE**

**Bureau of the Census**

**Monthly Wholesale Trade Survey; Proposed Collection; Comment Request**

**ACTION:** Proposed collection; comment request.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before May 18, 1999.

**ADDRESSES:** Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Ronald Pienckykoski, Bureau of the Census, Room 2626-FOB3, Washington, DC 20223-6500, at (301) 457-2779.

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

The Monthly Wholesale Trade Survey provides the only continuous measure of monthly sales, end-of-month inventories, method of inventory valuation, and inventory/sales ratios in the United States by selected kinds of business for merchant wholesalers. The Bureau of Economic Analysis (BEA) uses this information to improve the inventory valuation adjustments applied to estimates of the Gross Domestic Product (GDP). The Bureau of Labor Statistics (BLS) uses the data as input to their Producer Price Indexes and in developing productivity measurements.

Estimates produced from the Monthly Wholesale Trade Survey are based on a probability sample. The sample design consists of one fixed panel where all cases are requested to report sales and inventories each month. We currently publish wholesale sales and inventory estimates on the Standard Industrial Classification (SIC) basis. Starting in the spring of 2001, we will publish on the North American Industry Classification System (NAICS) basis. The SIC definition of wholesale trade and the NAICS definition of wholesale trade are substantially different. The SIC defines wholesalers as establishments engaged in selling merchandise to other businesses. NAICS distinguishes wholesalers from retailers based on what the establishment does rather than to whom the establishment sells.

Wholesalers are defined as those establishments that sell from offices or warehouses, usually in large quantities, advertise to businesses rather than to the general public, and generally have no walk-in traffic or formal displays. Businesses, formerly classified in wholesale trade, that sell to the general public are now classified as retail.

NAICS provides a better way to classify individual businesses, and will be widely adopted throughout both the public and private sectors. NAICS will change the information that is currently available with reclassifications, definitional changes, and movement of activities in or out of wholesale trade. NAICS is more relevant as it identifies more industries that contribute to today's growing economy. NAICS was developed by the United States, Canada,

and Mexico to produce comparable data among the NAFTA partners.

In addition to converting from the SIC to NAICS, the Monthly Wholesale Trade Survey will convert its monthly report form to a print-on demand system. This new system allows us to tailor the survey instrument to a specific industry. For example, it will print an additional instruction for a particular NAICS code. This system also reduces the time and cost of preparing mailout packages that contain unique variable data, while improving the look and quality of the products being produced.

## II. Method of Collection

We collect this information by mail, fax, and telephone follow-up.

## III. Data

*OMB Number:* 0607-0190.

*Form Number:* B-310 (97).

*Type of Review:* Regular Submission.

*Affected Public:* Wholesale firms in the United States.

*Estimated Number of Respondents:* 3,800.

*Estimated Time Per Response:* 7 minutes.

*Estimated Total Annual Burden Hours:* 5,320.

*Estimated Total Annual Cost:* The cost to the respondents for fiscal year 1999 is estimated to be \$103,687 based on the mean hourly salary of \$19.49 for accountants and auditors. ("Occupational Employment Statistics—Bureau of Labor Statistics 1997 National Occupational Employment and Wage Data Professional, Paraprofessional, and Technical Occupations," \$19.49 represents the median hourly wage of the full-time wage and salary earnings of accountants and auditors). Information on mean wages and salaries can also be found at Internet site [http://stats.bls.gov/oes/national/oes\\_prof.htm](http://stats.bls.gov/oes/national/oes_prof.htm).

*Respondent's Obligation:* The collection of information is voluntary.

*Legal Authority:* Title 13, United States Code, Section 182.

## IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of

automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 15, 1999.

**Linda Engelmeier,**

*Departmental Forms Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 99-6741 Filed 3-18-99; 8:45 am]

BILLING CODE 3510-07-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Participation Agreement and Trade Mission Application; Proposed Collection; Comment Request

**ACTION:** Proposed collection; comment request.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burdens, invites the general public and other Federal agencies to take this opportunity to comment on the continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13 (44 U.S.C. 3506 (2) (A)).

**DATES:** Written comments must be submitted on or before May 18, 1999.

**ADDRESSES:** Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th & Constitution Avenue, NW, Washington, DC 20230. Phone number: (202) 482-3272.

**FOR FURTHER INFORMATION CONTACT:** Request for additional information or copies of the information collection instrument and instructions should be directed to: John Klingelhut, U.S. & Foreign Commercial Service, Export Promotion Services, Room 2810, 14th & Constitution Avenue, NW, Washington, DC 20230; Phone number: (202) 482-4403, and fax number: (202) 482-2526.

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

The Participation Agreement and Trade Mission Application forms are the vehicles by which individual firms agree to participate in the Department of Commerce's (DOC) trade promotion program, identify the products or services they intend to sell or promote, and record their required participation fees. The DOC is revising questions on the current Form ITA-4008P-1, "Trade

Mission Application," to clarify and refine the information it seeks to ensure the best possible selection of participants for trade missions.

## II. Method of Collection

Form ITA-4008P-1 is sent by request to potential U.S. firms.

## III. Data

*OMB Number:* 0625-0147.

*Form Number:* ITA-4008P-1.

*Type of Review:* Revision-Regular Submission.

*Affected Public:* Companies seeking to apply to participate in overseas Commerce Department trade missions.

*Estimated Number of Respondents:* 7,800.

*Estimated Time Per Response:* 45 minutes.

*Estimated Total Annual Burden Hours:* 2,738 hours.

*Estimated Total Annual Costs:* The estimated annual cost for this collection is \$148,417.00 (\$98,369.00 for respondents and \$50,048.00 for federal government).

## IV. Request for Comments

Comments are invited on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and costs) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 15, 1999.

**Linda Engelmeier,**

*Departmental Forms Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 99-6740 Filed 3-18-99; 8:45 am]

BILLING CODE 3510-FP-P

**DEPARTMENT OF COMMERCE****National Institute of Standards and Technology****Announcement of Two Public Workshops Regarding Conformity Assessment Bodies for the EMC/Telecom Annexes of the US/EC Mutual Recognition Agreement and Telecommunication Certification Bodies for the Federal Communication Commission**

**AGENCY:** National Institute of Standards and Technology, Commerce.

**ACTION:** Notice of public meetings.

**SUMMARY:** The National Institute of Standards and Technology (NIST) invites interested parties to attend two half-day workshops regarding conformity assessment bodies for the EMC/Telecom Annexes of the US/EC Mutual Recognition Agreement and Telecommunication Certification Bodies for the Federal Communication Commission. The first half day workshop will be for the development of requirements for a sub-program under the National Voluntary Conformity Assessment System Evaluation (NVCASE) Program, which will satisfy the product testing and quality system registration requirements of the EMC/Telecom Annexes of the United States/European Commission Mutual Recognition Agreement (MRA).

The second half-day workshop will be devoted to the development of requirements for another sub-program for Telecommunication Certification Bodies (TCBs) under NVCASE program. This sub-program will satisfy the product testing and quality system registration requirements of the Federal Communication Commission.

NVCASE procedures require NIST to consult the public when establishing requirements to be applied in evaluations conducted within the scope of NVCASE programs. NIST, Federal Communication Commission (FCC) and European Commission (EC) personnel will participate in these workshops. There is no fee for the workshops; however, all attendees must register in advance with the EMC/Telecom/TCBs Workshop Coordinator no later than April 16, 1999.

**DATES:** The workshop for the EMC/Telcom Annexes will be held on April 28, 1999, from 9:00 a.m. to 12:00 p.m. The workshop for the Telecommunication Certification Bodies will be held from 1:00 p.m. to 4:00 p.m. on April 28, 1999.

**ADDRESSES:** Both workshops will be held at Department of Commerce

Auditorium, Herbert C. Hoover Building, located at 14th Street and Constitution Avenue, NW, Washington DC 20230.

**FOR FURTHER INFORMATION:** For further information, you may telephone (301) 975-5120. You may register for one or both workshops by E-mail at scp@nist.gov or by fax at (301) 975-5414. You may also register by U.S. mail addressed to EMC/Telecom/TCBs Workshop Coordinator, NIST, 100 Bureau Drive, Stop 2100, Gaithersburg, MD 20899-2100.

**SUPPLEMENTARY INFORMATION:** In accordance with Title 15 Part 286.2(b) of the Code of Federal Regulations, NIST has established these programs pursuant to a written direction from another Federal Agency, the Federal Communication Commission (FCC). The FCC, in its GED Docket No. 98-68, designated NIST as the entity with primary responsibility for accrediting Telecommunications Certification Bodies under the NVCASE program. NIST may directly accredit TCBs or may, in consultation with the Commission, designate additional accreditation bodies who will, in turn, accredit TCBs. The Commission will identify for NIST, for example, the specific types of tests that need to be done for telecommunications equipment and the types of measurements that should be done to demonstrate compliance with their rules; the processes that TCBs will use to obtain current and correct interpretations of rules or test procedures; and, the consultative activities requiring TCB participation. The Commission will provide public notice of the methods that NST will use to accredit TCBs consistent with the qualification criteria adopted.

The NVCASE regulations found at 15 CFR Part 286 require NIST to consult the public when establishing requirements to be applied in evaluations conducted within the scope of NVCASE programs. These programs under NVCASE will allow U.S. bodies to satisfy the conformity assessment requirements of the EMC/Telecom annexes of the US/EC Mutual Recognition Agreement and will also allow TCBs to satisfy the conformity assessment requirements of FCC.

The NVCASE public workshops will follow the European Commission training workshop, which is to be held on April 27, 1999, for Conformity Assessment Bodies in which EC personnel will outline the requirements of the EMC/Telecom Annexes of the MRA. Both workshops will be held at the same location. The text of the US/

EC MRA for the EMC/Telecom sectoral annexes can be accessed on the Internet at <http://www.iep.doc.gov/mra/mra.htm>. NIST, FCC and EC personnel will participate in the EC training workshop.

Dated: March 15, 1999.

**Raymond G. Kammer,**  
Director.

[FR Doc. 99-6772 Filed 3-18-99; 8:45 am]

BILLING CODE 3510-13-M

**DEPARTMENT OF COMMERCE****Technology Administration**

[Docket No. 990122027-9027-01]

RIN 0692-ZA02

**Announcement of Availability of Funding for Competitions—Experimental Program To Stimulate Competitive Technology (EPSCoT)**

**AGENCY:** Office of Technology Policy, Technology Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** The Technology Administration's Office of Technology Policy (OTP) announces the availability of funding for the following competition to be held in fiscal year 1999 under the Experimental Program to Stimulate Competitive Technology (EPSCoT). The EPSCoT will support technology-based economic growth in eligible states by promoting partnerships between state and local governments, universities, community colleges, non-profit organizations and the private sector. This notice provides general information for the competition planned for fiscal year 1999.

**DATES:** Complete applications for the Fiscal Year 1999 EPSCoT grant program must be mailed or hand-carried to the address indicated below and received by the Technology Administration no later than 5:00 P.M. EST, May 14, 1999. Postmark date is not sufficient.

Applications which have been provided to a delivery service will be accepted for review *if the applicant can document that the application was provided to the delivery service by May 13, 1999 with delivery to the address listed below guaranteed prior to the closing date and time*. Applications will not be accepted via facsimile machine transmission or electronic mail.

**ADDRESSES:** U.S. Dept. of Commerce, Technology Administration, Attn: EPSCoT Director, Anita Balachandra, 1401 Constitution Avenue NW, HCHB Room 4418, Washington, DC 20230.

**Note:** Due to Departmental security policies, hand carried packages must be delivered to Rm 1874.

**FOR FURTHER INFORMATION CONTACT:** Anita Balachandra, Director of the Experimental Program to Stimulate Competitive Technology, Telephone: (202) 482-1320, Fax: (202) 219-8667, Email: [epscoT@ta.doc.gov](mailto:epscoT@ta.doc.gov).

Information on the EPSCoT is also available at: <http://www.ta.doc.gov/epscoT>

For fax and email inquiries, please include a name, mailing address, and phone number.

**SUPPLEMENTARY INFORMATION:**

**Authority**

The statutory authority for the EPSCoT is the Technology Administration Act of 1998, codified at 15 U.S.C. 3704(f).

**Catalog of Federal Domestic Assistance**

The CFDA number is 11.614—Experimental Program to Stimulate Competitive Technology (EPSCoT)

**Program Description**

The Experimental Program to Stimulate Competitive Technology (EPSCoT) will support technology-based economic growth in eligible states by promoting partnerships among state and local governments, universities, community colleges, non-profit organizations and the private sector. Through these partnerships, EPSCoT seeks to support local efforts to:

- Build state-side institutional capacity to support technology commercialization
- Create the business climate that is conducive to technology development, deployment and diffusion

The EPSCoT will provide financial assistance in eligible states for activities that foster the growth of technology-oriented businesses.

The EPSCoT parallels the National Science Foundation's Experimental Program to Stimulate Competitive Research (EPSCoR). While EPSCoR's primary emphasis is improving the competitive performance of major research universities of these states, EPSCoT seeks to support state efforts to improve its commercial technology base.

**Funding Availability**

- In fiscal year 1999,
- Approximately \$2 million is available
  - TA anticipates that between six and eight grants will be awarded
  - Funding for multiple year awards will be contingent on the *achievement of annual milestones*.

**Matching Funds Requirements**

Grant recipients under this program are required to provide matching funds toward the total project cost

- For single-state proposals, TA will provide up to 50% of the total project cost
- For multi-state proposals, TA will provide up to 75% of the total project cost
- Applicants must document the capacity to supply matching funds
- Matching funds may be in the form of cash
- In-kind match may not exceed 25% of the total project cost
- If an applicant incurs any project costs prior to the start date negotiated at the time the award is made, it does so solely at its own risk of not being reimbursed by the government and it will not be allowable as "match."
- Federal funds (such as grants) generally may not be used as matching funds, except as provided by federal statute. For information about whether particular federal funds may be used as matching funds, the applicant should contact the federal agency that administers the funds in question.
- Information on administrative requirements for financial assistance can be found in 15 CFR Part 14 and 15 CFR Part 24, as applicable. Applicable cost principles are the following: OMB Circular A-87 for State, local, or Federally-recognized Indian tribal governments, OMB Circular A-122 for non-profit organizations, OMB Circular A-21 for educational institutions, and the Federal Acquisition Regulations, 48 CFR Part 31 for commercial organizations.

**Type of Funding Instruments**

- The funding instruments for awards under this program shall be grants and cooperative agreements.

**Eligibility Criteria**

By law, the program is open to "those states that have historically received less Federal R&D funds than a majority of the states." (15 U.S.C. 3704(f)) Listed below are the states that ranked lower than 26th in the distribution of Federal Research and Development funds between 1990-1996.<sup>1</sup>

Eligible organizations shall be headquartered in one of the following states: Alaska, Arkansas, Delaware, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Mississippi, Montana, Nebraska, Nevada, New Hampshire, North Dakota, Oklahoma, Oregon, South Carolina,

<sup>1</sup> The ranking is based on the *average* Federal R&D investment over the years 1990-96.

South Dakota, Utah, Vermont, West Virginia, Wisconsin, Wyoming and the Commonwealth of Puerto Rico.

Within these states, state, local, or Indian tribal governments, community colleges, universities, non-profit organizations, private (for-profit) organizations, technology business centers, business incubators, industry councils or any combination of these entities may submit proposals.

- TA shall not award more than one EPSCoT grant per grant round within a single state<sup>2</sup>.
- Multi-state proposals do not count as projects submitted by an organization from a single state.
- Entities that are not headquartered in one of the eligible states, such as national or regional organizations or federal laboratories, may participate as partners, but may not serve as lead organizations.
- The lead organization is the organization to which funds will be disbursed—this is the organization that is listed in Box 5 of Standard Form 424.

**Award Period**

- Awards will be made for between 12 and 36 months
- Multiple year awards will be contingent on the *achievement of annual milestones*.

**Proposal Format**

*Application Forms*

A complete proposal will include the following *in the following order*:

- Standard Form 424, Application for Federal Assistance
- Executive Summary (125 words)
- Project Narrative (no more than 10 pages)
- Task-Based Budget Narrative
- Statement of Matching Funds
- Optional: Appendices, Timeliness, Letters of support
- Standard Form 424A
- Standard Form 424B: Assurances
- Standard Form CD-511: Certificates
- Standard Form LLL: Disclosure of Lobbying Activities (*if applicable*)
- Upon selection for an award, applicants will be required to submit a Standard Form CD-346

*The total package may not exceed 30 pages, not including the standard forms.*

*Pagination*

The pages of an EPSCoT application should be numbered consecutively, starting with the first page of the Project

<sup>2</sup> The Technology Administration reserves the right to make an exception in the event that an organization submits a single state proposal and that state is implicated in a multi-state proposal and both are final candidates for awards.

Narrative. Applicants may insert a Table of Contents after the Standard Form 424 and before the Project Narrative to assist reviewers in locating information.

#### Page Formats

The proposal should be typed, single-spaced, on 8½" × 11" paper. All text should be prepared using a font of no less than 12 point with margins of no less than one inch (1").

#### Total Number of Copies

TA requests that each applicant submit one (1) original signed proposal and two (2) copies. The copy with original signatures should clearly be marked "Original." Each duplicate should be clearly marked "Copy." The copy marked "Original" must be clipped with a binder clip. The two copies must each be stapled.

#### Signatures

Signatures are required in the following places in the application

- Bottom (box 18d) of Standard Form 424, Application for Federal Assistance
- Back page of Standard Form 424B, Assurances
- Bottom of back page of Standard Form CD-511, Certifications
- Bottom of Standard Form LLL, Disclosures of Lobbying Activities (*if applicable*)

Standard Forms 424, 424B, CD-511 and LLL should be signed by someone who is authorized to commit the applicant organization(s), such as the Chief Executive Officer, Chief Financial Officer, President, or Executive Director. Original signatures should be in blue ink so that the original proposal can be easily distinguished from the duplicate copies.

#### Page Limit

The total proposal must not exceed 30 pages, including a 125-word Executive Summary, 10-page Project Narrative, and Budget Narrative. The 30-page limit includes all text, tables, illustrations, maps, letters, references, résumés and supporting documents, and *excludes* the Standard Forms. Applicants are advised that appendices and Curriculum Vitae should be limited to professional experience that is *directly relevant to the proposed activity*.

#### Contact Information

Applicants must provide the following contact information on Standard Form 424:

- Legal name
- Complete mailing address
- Telephone number
- Fax number
- Name of a contact individual

- Electronic mail address, if any.
- If any of this contact information changes after the application is submitted, the applicant must immediately notify EPSCoT in writing.

#### Narrative Elements

Each proposal must address the following: It is recommended that the project narrative be organized in these five sections.

##### (1) Project Definition

- Describe the proposed activity and how it was identified.
- Describe how the proposed activity will address a specific problem.
- Describe the appropriate stakeholders and partners and how they are engaged in this process.

##### (2) Project Impact

- Explain why the proposed activity is a good investment of Federal funds.
- Describe how the proposed activity represents an innovation in technology-based economic development.
- Describe the expected impact of the proposed activity.
- Describe how the proposed activity will be completed within the grant life, or become self-sustaining afterward.
- Demonstrate that the proposed activity is new to the state; EPSCoT will not subsidize the operating costs of existing activities.

##### (3) Engagement With the Private Sector

- Describe the engagement of small high-tech businesses.
- Describe how the proposed activity will improve the state's capacity to support small high-technology businesses.
- Demonstrate that the proposed activity responds to the needs of small high-tech businesses.

##### (4) Coordination Within and/or Among States

- Describe how the proposed activity relates to, or builds upon, the strategic plans developed for economic development, science and technology and NSF EPSCoR.
- Describe how collaborators were identified.
- Describe how the proposed activity supports or furthers the collaborators' missions.

##### (5) Project Feasibility

- Describe the qualifications of personnel.
- Describe how the project will be managed.
- Describe how decisions will be made between and among partners.
- Describe how funds will be allocated, given the project timeline and

milestones. The budget should allow sufficient funds for evaluation, dissemination of results and participation in one meeting in Washington, DC.

- Demonstrate the ability to procure matching funds.
- Describe the quality of match: while in-kind contributions are allowable, preference will be given to those that are able to procure a cash match.
- Provide a task-based budget, relating project costs to specific tasks.

##### (6) Evaluation

- Describe the appropriate outcome-measures for the proposed activity
- Detail the timeline for the proposed activity, including specific milestones and tasks so that the benefits of the proposed activity are both measurable and severable.

#### Funding Priorities

EPSCoT is intended to strengthen the technological competitiveness of those states that have historically received less Federal R&D funds than a majority of the states. In order to have the greatest impact with limited funds, the program seeks to support the most innovative projects with the expectation that these projects will create new knowledge, develop successful institutional relationships, demonstrate new concepts that can be replicated, or develop concepts that can be sustained by other organizations at the end of the grant life. Similarly, applicants must demonstrate that they have made the maximum use of all available resources within the state.

Thus, EPSCoT's funding priorities are innovation and coordination within and/or among states. *EPSCoT funds are not intended for the construction of facilities, nor are they intended to subsidize an organization's operating costs.* EPSCoT is meant to assist states in their attempts to foster technology-based economic growth. A strategy for doing so should build on *local expertise and local resources*—those of the state government, research universities, community colleges, vocational schools, business community, finance community and any Federal resources the jurisdiction may have, such as national labs, manufacturing extension centers, or technology transfer centers. To this end, applicants must demonstrate that they are developing targeted and effective teaming arrangements among participating organizations.

The competition for EPSCoT awards is intense. Applications will undergo a

rigorous review and must be cost-share. They will be of a finite duration, ranging from 12 to 36 months. It is intended that EPSCoT projects will serve as models for other states.

#### *Innovative Value of Project*

Reviewers will be instructed to assess whether the proposed activity represents an innovation in technology-based economic development and whether the proposed activity is likely to improve the technological competitiveness of the state/region.

#### *Coordination Within the State*

Coordination within states is a principal priority of the EPSCoT. Multiple proposals from the same state will be scrutinized carefully, not only for redundancy, but also to determine whether the proposed activities will be carried out in isolation. Single proposals representing collaboration between stakeholders in a particular state will be reviewed more favorably.

*Applicants are required to demonstrate familiarity with the strategic plans developed by the state's EPSCoR Committee, economic development agency and/or science & technology council. The proposed activity should be related to the stated priorities of these plans.*

Applicants are required to specify whether they are applying for funds to improve the innovative capacity of the state, to facilitate cluster development within the state, or to undertake a planning activity. These designations are discussed below:

#### *Improving the Innovative Capacity*

Applicants may apply for EPSCoT funds in order to improve the state or region's innovative capacity.

Any such effort should begin with a solid analysis of the local economy and include an understanding of the industrial base, the existing network of services available to high-tech businesses and an assessment of any gaps in that network. A group of companies may seek to establish an entity that assists them to utilize existing resources more effectively or to provide a service that is currently not available. In either case, the objective should be to facilitate the growth of technology-oriented businesses.

#### *Facilitating Cluster Development*

The term "cluster" generally refers to a group of companies in related industries that are (1) geographically concentrated and (2) contributing to the wealth creation of the region in which they are concentrated. A state—or high technology council or other entity—may

conduct a comprehensive analysis of the region's industrial base for the purpose of identifying budding clusters. When no single industry cluster is large enough to sustain an exclusive effort, companies, university researchers and public agencies might work together to address a problem that faces a group of companies in the region. Such an effort might involve developing a strategy that ties together the state's industrial base, universities and community colleges so that there are more local employment opportunities for graduates in science and technology fields.

#### *Planning Grants*

Applicants may apply for planning grants. A planning activity involving the research community, economic development agencies, private sector, science & technology councils, community colleges, and/or vocational schools, could lay the groundwork for a larger initiative. Such an effort would ideally build on previous efforts and integrate the complementary but distinct missions of the participating organizations toward common goals.

#### *Multi-State Proposals*

Recognizing that a regional economy may not always fit within the boundaries of one state, the Technology Administration will consider proposals for multi-state projects. The requirement of matching funds is reduced for multi-state proposals. Applicants are expected to demonstrate the proposed activity's importance to the stated economic development priorities of the participating states. Multi-state proposals will not be considered against each state's total.

Any of the activities described above could be launched on a regional scale. A group of high-technology industry councils could collaborate to develop resources in support of an emerging industry cluster. Applicants representing a group of states could work together to identify industry clusters and develop strategies to support those clusters. For example, such an initiative could improve technology access for micro-enterprises by harmonizing the technology licensing practices among the universities in participating states. A group of states could also cooperate to link and leverage their efforts in a specific area in order to provide a more seamless regional infrastructure.

#### **Other Requirements**

Each successful applicant will be required to travel to Washington and participate in a 2-day networking meeting. The purpose of this meeting is

to brief the Technology Administration on the progress of the funded projects and to provide awardees with an opportunity to compare notes with one another.

In addition, awardees will be required to provide the Technology Administration with *quarterly* progress reports, consisting of a 1-2 page activity summary and a budget summary that relates to the project milestones. At the end of the grant period, a final project report is required before the final disbursement of funds. This report must explain the contribution of the funded activity to the state's competitiveness and measures of its success.

#### **Evaluation Criteria**

Proposals will be evaluated according to the following criteria:

##### *(1) Project Definition (10 points)*

Proposals will be evaluated on the clarity with which they

- Identify/define a specific problem or issue that the proposed activity is to address
- Identify stakeholders and partners
- Propose a solution—and specify the process for identifying this particular solution

##### *(2) Project Impact (30 points)*

Reviewers will be instructed to evaluate the degree to which the proposals:

- Explain why the proposed activity is a good investment of public funds.
- Demonstrate the greatest value per Federal dollar.
- Demonstrate that the proposed activity represents an *innovation* in technology-based economic development.
- Demonstrate that the proposed activity will have an *impact* on the state/region's industrial base.
- Address the needs of underserved areas.
- Demonstrate that the proposed activity will be completed within the grant life, or become self-sustaining afterward.

##### *(3) Engagement With the Small High-Tech Business Community (202 points)*

Proposals will be evaluated for the degree to which they:

- Demonstrate engagement of small high-tech businesses
- Demonstrate that the proposed activity does in fact increase the state/region's support of small high technology businesses
- Demonstrate that the proposed activity responds to the needs of small high tech businesses

**(4) Coordination Within and/or Among States (20 points)**

Proposals will be evaluated for the

- Degree to which they develop effective teaming arrangements between disparate organizations
- Degree to which the proposed activity builds upon the complementary missions of the partners
- Strength and diversity of support for the project within the state/region
- Partnerships involved—they must be clearly defined, mutually beneficial, and the commitments well documented
- Demonstrated understanding of the strategic plans developed by the state's EPSCoR committee, economic development agency and/or science and technology council. The proposed activity should relate to the stated priorities of these plans.

**(5) Project Feasibility (10 points)**

Proposals will be evaluated for the

- Adequacy of the personnel—their expertise and ability to carry out the proposed activity
- Capabilities of the applicant (lead) organization
- Clarity of the management plan, including the identification of partners and how decision-making responsibilities will be shared among he partners
- Clarity of the budget plan it should include a *task-based budget* that relates project costs to specific tasks and should be sufficiently detailed so that the relationship between budget items and milestones in the project narrative is clear
- Reasonableness of costs
- Demonstrated ability to provide or procure matching funds
- Quality of match: while in-kind contributions are allowable, preference will be given to those that are able to provide a cash match

**(6) Evaluation (10 points)**

Each proposal must include a plan for evaluating the project and a plan for disseminating knowledge gained from the project. The evaluation plan must identify specific, quantifiable measurable outcomes of the proposed activity. *Outcomes should reflect benefits that are measurable on an annual basis.* The evaluation plan should include both quantitative and qualitative indicators and must identify specific evaluation methods. The evaluation plan should also capture the lessons learned during the project that will serve as pragmatic tips for others interested in replicating or adapting the project in other regions. Applications must include the qualifications of any

proposed evaluators and sufficient funds in the budget to perform a thorough and useful evaluation of the project.

Finally, applicants must demonstrate a willingness to share information about their projects with interested parties, to host site visits, and to participate in demonstrations.

**Selection Procedures**

Each eligible application will first be reviewed by outside reviewers. Each reviewer will evaluate applications according to the *evaluation criteria* above. Each reviewer will make non-binding recommendations to a committee of Federal officials, chaired by the EPSCoT Director. This committee will prepare and present a set of recommended grant awards to the Selecting Official, the Under Secretary for Technology. The Committee's recommendations and the Under Secretary's review and approval will take into account the following:

- The evaluations of the outside reviewers,
- The evaluation criteria listed above,
- The degree to which the slate of applications, taken as a whole, satisfies the program's stated purposes,
- The variety of the proposed activities,
- The availability of funds,
- The geographic distribution of the proposed grant awards, and
- The avoidance of redundancy and conflicts with the initiatives of other federal agencies

**Intergovernmental Review**

Applicants under this program are subject to Executive Order 12372, "Intergovernmental Review of Federal Programs."

**Additional Requirements****Federal Policies and Procedures**

Recipients and subrecipients under the Experimental Program to Stimulate Competitive Technology (EPSCoT) shall be subject to all Federal laws and Federal and Departmental regulations, policies, and procedures applicable to financial assistance awards.

**Past Performance**

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

**Preaward Activities**

Applicants (or their institutions) who incur any costs prior to the beginning of an award period do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any

verbal assurance that may have been provided, there is no obligation on the part of TA to cover pre-award costs.

**No Obligation for Future Funding**

If an application is accepted for funding, TA has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of TA.

**Delinquent Federal Debts**

No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

- (1) The delinquent account is paid in full,
- (2) A negotiated repayment schedule is established and at least one payment is received, or
- (3) Other arrangements satisfactory to DoC are made.

**Name Check Reviews**

All for-profit and non-profit applicants will be subject to a name check review process. Name checks are intended to reveal if any individuals associated with the applicant have been convicted of or are presently facing, criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity.

**Primary Application Certifications**

All primary applicant institutions must submit a completed form CD-511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanations must be provided:

(1) *Non-procurement Debarment and Suspension.* Prospective participants (as defined at 15 CFR Part 26, Section 105) are subject to 15 CFR Part 26, "Non-procurement Debarment and Suspension" and the related section of the certification form prescribed above applies;

(2) *Drug-Free Workplace.* Grantees (as defined at 15 CFR Part 26, Section 605) are subject to 15 CFR Part 26, Subpart F, "Government-wide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies;

(3) *Anti-Lobbying.* Persons (as defined at 15 CFR Part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial

transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than \$100,000, and loans and loan guarantees for more than \$150,000, or the single family maximum mortgage limit for affected programs, whichever is greater.

(4) *Anti-Lobbying Disclosure.* Any applicant institution that has paid or will pay for lobbying using any funds must submit an SF-LLL, "Disclosure of Lobbying Activities," as required under 15 CFR Part 28, Appendix B.

(5) *Lower-Tier Certifications.* Recipients shall require applicant/bidder institutions for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD-512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions and Lobbying" and disclosure form, SF-LLL, "Disclosure of Lobbying Activities." Form CD-512, is intended for the use of recipients and should not be transmitted to TA. SF-LLL submitted by any tier recipient or subrecipient should be submitted to TA in accordance with the instructions contained in the award document.

#### *False Statements*

A false statement on an application is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

#### *Waiver Authority*

It is the general intent of TA not to waive any of the provisions set forth in this Notice. However, under extraordinary circumstances and when it is in the best interests of the federal government, TA, upon its own initiative or when requested, may waive the provisions in this Notice. Waivers may only be granted for requirements that are discretionary and not mandated by statute. Any request for a waiver must set forth the extraordinary circumstances for the request and be included in the application or sent to the address provided in the ADDRESSES section above. The final determination will be made by the Selecting Official, the Under Secretary for Technology. TA will not consider a request to waive the application deadline for an application until the application has been received. In the event that this authority is exercised, the Under Secretary will sign a memorandum for the file setting forth the justification for the waiver.

#### *Indirect Costs*

No Federal funds will be authorized for Indirect Costs (IDC); however, an applicant may provide for IDC under their portion of Cost Sharing.

Regardless of any approved indirect cost rate applicable to the award, the maximum dollar amount of allocable indirect costs for which the DoC will reimburse the Recipient shall be the lesser of:

(a) The Federal share of the total allocable indirect costs of the award based on the negotiated rate with the cognizant Federal Agency as established by audit or negotiation; or

(b) The line item amount for the Federal share of indirect costs contained in the approved budget of the award.

#### *Freedom of Information Act*

Because of the high level of public interest in projects supported by the EPSCoT, the program anticipates receiving requests for copies of successful applications. Applicants are hereby notified that the applications they submit are subject to the Freedom of Information Act (FOIA). Applicants may identify sensitive information and label it "confidential" to assist TA in making disclosure determinations.

#### *Purchase of American-Made Equipment and Products*

Applicants are hereby notified that they are encouraged, to the greatest practicable extent, to purchase American-made equipment and products with funding provided under this program.

#### *Paperwork Reduction Act*

This Notice involves collections of information subject to the paperwork Reduction act (PRA), which have been approved by the Office of Management and Budget (OMB) under OMB Control Numbers 0348-0043, 0348-0044, 0348-0040 and 0348-0046. Notwithstanding any other provision of law no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection displays a current valid OMB control number.

#### *Executive Order Statement*

This funding notice was determined to be "not significant" for purposes of Executive Order 12866.

**Gary R. Bachula,**

*Acting Under Secretary for Technology.*

[FR Doc. 99-6719 Filed 3-18-99; 8:45 am]

BILLING CODE 3510-18-M

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Increase of a Guaranteed Access Level for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

March 12, 1999.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs increasing a guaranteed access level.

**EFFECTIVE DATE:** March 23, 1999.

**FOR FURTHER INFORMATION CONTACT:** Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927-5850, or refer to the U.S. Customs website at <http://www.customs.ustreas.gov>. For information on embargoes and quota re-openings, call (202) 482-3715.

#### **SUPPLEMENTARY INFORMATION:**

**Authority:** Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

Upon a request from the Government of the Dominican Republic, the U.S. Government has agreed to increase the current Guaranteed Access Level for Categories 338/638 to 3,150,000 dozen.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Also see 63 FR 63297, published on November 12, 1998.

**J. Hayden Boyd,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

#### **Committee for the Implementation of Textile Agreements**

March 12, 1999.

Commissioner of Customs,  
*Department of the Treasury, Washington, DC 20229.*

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 5, 1998, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in the Dominican Republic

and exported during the twelve-month period which began on January 1, 1999 and extends through December 31, 1999.

Effective on March 23, 1999, you are directed to increase the Guaranteed Access Level for Categories 338/638 to 3,150,000 dozen.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd,

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 99-6725 Filed 3-18-99; 8:45 am]

BILLING CODE 3510-DR-F

## COMMODITY FUTURES TRADING COMMISSION

### Applications of the Chicago Mercantile Exchange for Designation as a Contract Market in S&P Euro Index Futures and Options and S&P Euro Plus Index Futures and Options

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice of availability of terms and conditions of proposed commodity futures and options contract.

**SUMMARY:** The Chicago Mercantile Exchange (CME or Exchange) has applied for designation as a contract market in the Euro Index Futures and Options and as a contract market in S&P Euro Plus Index Futures and Options contracts. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purpose of the Commodity Exchange Act.

**DATES:** Comments must be received on or before April 19, 1999.

**ADDRESSES:** Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418-5521 or by electronic mail to *secretary@cftc.gov*. Reference should be made to the CME S&P Euro Index and Euro Plus Index futures and option contracts.

**FOR FURTHER INFORMATION CONTACT:** Please contact Michael Penick of the

Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC (202) 418-5279. Facsimile number: (202) 418-5527. Electronic mail: *mpenick@cftc.gov*.

**SUPPLEMENTARY INFORMATION:** Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418-5100.

Other materials submitted by the CME in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1997)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the CME, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581 by the specified date.

Issued in Washington, DC, on March 12, 1999.

**John R. Mielke,**

*Acting Director.*

[FR Doc. 99-6662 Filed 3-18-99; 8:45 am]

BILLING CODE 6351-01-M

## COMMODITY FUTURES TRADING COMMISSION

### Membership of the Commission's Performance Review Board

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Membership Change of Performance Review Board.

**SUMMARY:** In accordance with the Office of Personnel Management guidance under the Civil Services Reform Act of 1978, notice is hereby given that the following employees will serve as

members of the Commission's Performance Review Board.

Chairperson: Linda Ferren, Executive Director. Members: Susan G. Lee, Executive Assistant to the Chairperson; Daniel Waldman, General Counsel; John Mielke, Acting Director, Division of Economic Analysis; Geoffrey Aronow, Director, Division of Enforcement; I. Michael Greenberger, Director, Division of Trading and Markets.

**DATES:** This action will be effective on March 15, 1999.

**ADDRESSES:** Commodity Futures Trading Commission, Office of Human Resources, Three Lafayette Centre, Suite 4100, Washington, DC 20581.

**FOR FURTHER INFORMATION CONTACT:** Marsha E. Scialdo, Director, Office of Human Resources, Commodity Futures Trading Commission, Three Lafayette Centre, Suite 4100, Washington, DC 20581, (202) 418-5003.

**SUPPLEMENTARY INFORMATION:** This action which changes the membership of the Board supersedes the previously published **Federal Register** Notice, July 1, 1998.

Issued in Washington, DC on March 15, 1999.

**Jean A. Webb,**

*Secretary to the Commission.*

[FR Doc. 99-6792 Filed 3-18-99; 8:45 am]

BILLING CODE 6351-01-M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Proposed Collection; Comment Request

**AGENCY:** Office of the Under Secretary of Defense for Acquisition and Technology, DoD.

**ACTION:** Notice.

**SUMMARY:** In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Under Secretary of Defense for Acquisition and Technology announces the proposed extension of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on

respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received by May 18, 1999.

**ADDRESSES:** Written comments and recommendations on the proposed information collection should be sent to the Defense Standardization Program Office (DLSC-LM), 8725 John J.

Kingman Road, Suite 2533, Fort Belvoir, VA 22060-6221, Attn: Ms. Karen Bond.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call the Defense Standardization Program Office, at (703) 767-6871.

*Title, Associated Form, and OMB Number:* Acquisition Management Systems and Data Requirements Control List (AMSDL); Numerous Forms; OMB Number 0704-0188.

*Needs and Uses:* The Acquisition Management Systems and Data Requirements Control List (AMSDL) is a list of data requirements used in Department of Defense (DoD) contracts. The information collected will be used by DoD personnel and other DoD contractors to support the design, test, manufacture, training, operation, and maintenance of procured items, including weapons systems critical to the national defense.

*Affected Public:* Business or Other For-Profit; Not-For-Profit Institutions.

*Annual Burden Hours:* 52,628,400.

*Number of Respondents:* 886.

*Responses per Respondent:* 540.

*Average Burden Per Response:* 110 hours.

*Frequency:* On occasion.

**SUPPLEMENTARY INFORMATION:**

**Summary of Information Collection**

The Acquisition Management Systems and Data Requirements Control List (AMSDL) is a list of data requirements used in Department of Defense contracts. Information collection requests are contained in DoD contract actions for supplies, services, hardware, and software. This information is collected and used by DoD and its component Military Departments and Agencies to support the design, test, manufacture, training, operation, maintenance, and logistical support of procured items, including weapons systems. The collection of such data is essential to accomplishing the assigned mission of the Department of Defense. Failure to collect this information would have a detrimental effect on the DoD acquisition programs and the National Security.

Dated: March 5, 1999.

**Patricia L. Toppings,**

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

[FR Doc. 99-6676 Filed 3-18-99; 8:45 am]

BILLING CODE 5000-04-M

**DEPARTMENT OF DEFENSE**

**Office of the Secretary**

**Submission for OMB Review; Comment Request**

**ACTION:** Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Title, Associated Form, and OMB Number:* Procurement Technical Assistance Cooperative Agreement Performance Agreement; DLA Form 1806; OMB Number 0704-0320.

*Type of Request:* Reinstatement.

*Number of Respondents:* 84.

*Responses Per Respondent:* 2.

*Annual Responses:* 168.

*Average Burden Per Response:* 8 hours.

*Annual Burden Hours:* 1,344.

*Needs and Uses:* The Defense Logistics Agency uses the report as the principal instrument for measuring, on a semi-annual basis, a cooperative agreement recipient's performance against the goals and objectives as established in their application for which the award was made. Cooperative agreements are awarded on a competitive basis. Past performance is a major evaluation factor for selecting programs to be funded each fiscal year. Past performance data is obtained from the performance report. The data is used to measure recipient accomplishments against goals and objectives set forth in the application. The reported data also provides budget information used to monitor the expenditure of DoD funds and to assure that the DoD/recipient share ratio established at award is maintained. Additionally, the information is used to identify programs that are experiencing difficulty to establish the need for assistance and the frequency of on-site reviews.

*Affected Public:* Business or other for-profit; Not-for-profit institutions; State, Local, or Tribal Government.

*Frequency:* Semi-Annually.

*Respondent's Obligation:* Required to obtain or retain benefits.

*Respondent's Obligation:* Required to obtain or retain benefits.

*OMB Desk Officer:* Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

*DoD Clearance Officer:* Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302.

Dated: March 15, 1999.

**Patricia L. Toppings,**

*Alternative OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 99-6675 Filed 3-18-99; 8:45 am]

BILLING CODE 5000-04-M

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

[OMB Control No. 9000-0044]

**Submission for OMB Review; Comment Request Entitled Bid/Offer Acceptance Period**

**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 Bid/Offer Acceptance Period. A request for public comments was published at 63 FR 71915, December 30, 1998. No comments were received.

**DATES:** Comments may be submitted on or before April 19, 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. 9000-0044, Bid/Offer Acceptance Period, in all correspondence.

**FOR FURTHER INFORMATION CONTACT:** Ralph DeStefano, Federal Acquisition Policy Division, GSA (202) 501-1758.

**SUPPLEMENTARY INFORMATION:**

**A. Purpose**

Bid acceptance period is the period of time from receipt of bids that is available to the Government to award the contract. This acceptance period is normally established by the Government. However, the bidder may establish a longer acceptance period than the minimum acceptance period set by the Government by filling in the blank. There are instances when the Government is unable to award a contract within the acceptance period due to unforeseen complications. Rather than incur the costly expense of readvertising, the Government requests the bidders to extend their bids for a longer period of time.

These data are placed with the respective bids and placed in the contract file to become a matter of record.

**B. Annual Reporting Burden**

Public reporting burden for this collection of information is estimated to average 1 minute per completion, 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, 308; responses per respondent, 40; total annual responses, 12,320; preparation hours per response, .017; and total response burden hours, 209.

*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. 9000-0044, Bid/Offer Acceptance Period, in all correspondence.

Dated: March 16, 1999.

**Edward C. Loeb,**

*Director, Federal Acquisition Policy Division.*  
[FR Doc. 99-6762 Filed 3-18-99; 8:45 am]

BILLING CODE 6820-34-P

**DEPARTMENT OF DEFENSE**

**Office of the Secretary**

**Domestic Advisory Panel (DAP) on Early Intervention and Education for Infants, Toddlers, Preschool Children, and Children With Disabilities**

**AGENCY:** Department of Defense Domestic Dependent Elementary and Secondary Schools (DDESS), DoD.

**ACTION:** Notice.

Pursuant to Public Law 92-463, notice is hereby given that a meeting of the Domestic Advisory Panel (DAP) on Early Intervention and Education for Infants, Toddlers, Preschool Children, and Children with Disabilities is scheduled to be held from 8:00 a.m. to 3:00 p.m. on April 13-14, 1999. The meeting is open to the public and will be held in the board room at the Fort Knox Community Schools District Office, Crittenberger School, Building 4553 Dixie Highway, Fort Knox, Kentucky 40121. The purpose of the meeting is to: (1) Discuss the panel's responsibilities under the DAP Charter and Part 80 of title 32, Code of Federal Regulations; (2) review and comment on data and information provided by the Department of Defense Domestic Dependent Elementary and Secondary Schools; and (3) establish subcommittees as necessary. Persons desiring to attend the meeting or desiring to make oral presentations or submit written statements for consideration by the panel must contact Dr. David V. Burket at (703) 696-4354, extension 1455.

Dated: March 15, 1999.

**L.M. Bynum,**

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

[FR Doc. 99-6672 Filed 3-18-99; 8:45 am]

BILLING CODE 5000-04-M

**DEPARTMENT OF DEFENSE**

**Office of the Secretary**

**Meeting of the Threat Reduction Advisory Committee**

**AGENCY:** Office of the Undersecretary of Defense (Acquisition and Technology), Department of Defense.

**ACTION:** Notice of meeting.

**SUMMARY:** The Threat Reduction Advisory Committee will meet in closed session on March 25th and 26th, 1999. The Committee advises the Under Secretary of Defense (Acquisition and Technology) on technology security, counterproliferation, chemical and

biological defense, sustainment of the nuclear weapons stockpile, and other matters related to the Defense Threat Reduction Agency's mission.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92-463, as amended 5 U.S.C., Appendix II, it has been determined that matters affecting national security, as covered by 5 U.S.C. 552b(c)(1)(1998), will be presented throughout the meeting, and that, accordingly, the meeting will be closed to the public.

**DATES:** Thursday, March 25, 1999 (8:00 a.m. to 4:00 p.m.) and Friday, March 26, 1999 (8:00 a.m. to 12:00 noon).

**ADDRESSES:** Room 3E869, The Pentagon, Washington, DC 20301.

**FOR FURTHER INFORMATION:** Contact Major Joseph D. Pierce, Defense Threat Reduction Agency/AS, 45045 Aviation Drive, Dulles, VA 20166-7517. Phone: (703) 810-4064.

Dated: March 15, 1999.

**L.M. Bynum,**

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

[FR Doc. 99-6674 Filed 3-18-99; 8:45 am]

BILLING CODE 5000-04-M

**DEPARTMENT OF DEFENSE**

**Office of the Secretary**

**Defense Wage Committee; Notice of Closed Meetings**

Pursuant to the provisions of section 10 of Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that closed meetings of the Department of Defense Wage Committee will be held on April 6, 1999, April 13, 1999, April 20, 1999, and April 27, 1999 at 10:00 a.m. in Room A105, The Nash Building, 1400 Key Boulevard, Rosslyn, Virginia.

Under the provisions of section 10(d) of Public Law 92-463, the Department of Defense has determined that the meetings meet the criteria to close meetings to the public because the matters to be considered are related to internal rules and practices of the Department of Defense and the detailed wage data to be considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence.

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning the meetings may be obtained by writing

to the Chairman, Department of Defense Wage Committee, 4000 Defense Pentagon, Washington, DC 20301-4000.

Dated: March 15, 1999.

**L.M. Bynum,**

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

[FR Doc. 99-6673 Filed 3-18-99; 8:45 am]

BILLING CODE 5000-04-M

## DEPARTMENT OF EDUCATION

[CFDA No.: 84.033]

### Office of Postsecondary Education; Federal Work-Study Programs

**AGENCY:** Department of Education.

**ACTION:** Notice of the closing date for filing the "Institutional Application and Agreement for Participation in the Work-Colleges Program."

**SUMMARY:** The Secretary gives notice to institutions of higher education of the deadline for an eligible institution to apply for participation in the Work-Colleges Program and to apply for funding under that program for the 1999-2000 award year (July 1, 1999 through June 30, 2000) by submitting to the Secretary an "Institutional Application and Agreement for Participation in the Work-Colleges Program."

The Work-Colleges Program along with the Federal Work-Study Program and the Job Location and Development Program are known collectively as the Federal Work-Study programs. The Work-Colleges Program is authorized by part C of title IV of the Higher Education Act of 1965, as amended (HEA).

**CLOSING DATE:** To participate in the Work-Colleges Program and to apply for funds for that program for the 1999-2000 award year, an eligible institution must mail or hand-deliver its "Institutional Application and Agreement for Participation in the Work-Colleges Program" to the Department on or before April 23, 1999. The Department will not accept the form by facsimile transmission. The form must be submitted to the Institutional Financial Management Division at one of the addresses indicated below.

**ADDRESSES:** *Applications and Agreements Delivered by Mail.* An institutional application and agreement delivered by mail must be addressed to Mr. Richard Coppage, Work-Colleges Program, Institutional Financial Management Division, U.S. Department of Education, P.O. Box 23781, Washington D.C. 20026-0781. An applicant must show proof of mailing

consisting of one of the following: (1) A legibly dated U.S. Postal Service postmark; (2) a legible mail receipt with the date of mailing stamped by the U.S. Postal Service; (3) a dated shipping label, invoice, or receipt from a commercial carrier; or (4) any other proof of mailing acceptable to the Secretary of Education. An institution is encouraged to use certified or at least first class mail.

An institution should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an institution should check with its local post office.

If an institutional application and agreement is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

Institutions that submit an institutional application and agreement after the closing date of April 23, 1999, will not be considered for participation or funding under the Work-Colleges Program for award year 1999-2000.

**Applications and Agreements Delivered by Hand.** An institutional application and agreement delivered by hand must be taken to Mr. Richard Coppage, Work-Colleges Program, Campus-Based Financial Operations Branch, Institutional Financial Management Division, Accounting and Financial Management Service, Office of Student Financial Assistance, U.S. Department of Education, Room 4714, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C. Hand-delivered institutional applications and agreements will be accepted between 8:00 a.m. and 4:30 p.m. (Eastern time) daily, except Saturdays, Sundays, and Federal holidays. An institutional application and agreement for the 1999-2000 award year that is delivered by hand will not be accepted after 4:30 p.m. on April 23, 1999.

**SUPPLEMENTARY INFORMATION:** Under the Work-Colleges Program, the Secretary allocates funds when available for that program to eligible institutions. The Secretary will not allocate funds under the Work-Colleges Program for award year 1999-2000 to any eligible institution unless the institution files its "Institutional Application and Agreement for Participation in the Work-Colleges Program" by the closing date.

To apply for participation and funding under the Work-Colleges Program, an institution must satisfy the definition of "work-college" in section 448(e) of the HEA. The term "work-

college" under the HEA means an eligible institution that (1) is a public or private nonprofit institution with a commitment to community service; (2) has operated a comprehensive work-learning program for at least two years; (3) requires all resident students to participate in a comprehensive work-learning program and the provision of services as an integral part of the institution's educational program and as part of the institution's educational philosophy; and (4) provides students participating in the comprehensive work-learning program with the opportunity to contribute to their education and to the welfare of the community as a whole.

### Applicable Regulations

The following regulations apply to the Work-Colleges Program:

- (1) Student Assistance General Provisions, 34 CFR Part 668.
- (2) General Provisions for the Federal Perkins Loan Program, Federal Work-Study Program, and Federal Supplemental Educational Opportunity Grant Program, 34 CFR Part 673.
- (3) Federal Work-Study Programs, 34 CFR Part 675.
- (4) Institutional Eligibility Under the Higher Education Act of 1965, as amended, 34 CFR Part 600.
- (5) New Restrictions on Lobbying, 34 CFR Part 82.
- (6) Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants), 34 CFR Part 85.
- (7) Drug-Free Schools and Campuses, 34 CFR Part 86.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Coppage, Work-Colleges Program, Institutional Financial Management Division, U.S. Department of Education, P.O. Box 23781, Washington, D.C. 20026-0781. Telephone (202) 708-4694. 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, audiotope or computer diskette) on request to the contact person listed in the preceding paragraph.

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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 this document is the document published in the **Federal Register**.

**Program Authority:** 42 U.S.C. 2756b.

Dated: March 16, 1999.

**Greg Woods,**

*Chief Operating Officer, Office of Student Financial Assistance.*

[FR Doc. 99-6801 Filed 3-18-99; 8:45 am]

BILLING CODE 4000-01-U

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## DEPARTMENT OF ENERGY

### Availability of the Commercial Light Water Reactor Final Environmental Impact Statement, the Accelerator Production of Tritium Final Environmental Impact Statement, and the Tritium Extraction Facility Final Environmental Impact Statement

**AGENCY:** Department of Energy.

**ACTION:** Notice of availability.

**SUMMARY:** The Department of Energy (DOE) announces the availability of three Final Environmental Impact Statements (EISs): (1) the Commercial Light Water Reactor (CLWR) EIS, DOE/EIS-0288; (2) the Accelerator Production of Tritium (APT) EIS, DOE/EIS-0270; and, (3) the Tritium Extraction Facility (TEF) EIS, DOE/EIS-0271. The CLWR EIS evaluates the environmental impacts associated with producing tritium at one or more of five commercial light water reactors operated by the Tennessee Valley Authority. The APT EIS evaluates the environmental impacts associated with constructing and operating a linear accelerator at the Savannah River Site, near Aiken, South Carolina, for the production of tritium. The TEF EIS evaluates the environmental impacts associated with the construction and operation of a tritium extraction facility,

at the Savannah River Site, to extract tritium from commercial light water reactor targets and targets of similar design.

**ADDRESSES:** A copy of the CLWR Final EIS, or its Summary may be obtained by calling 1-800-776-2765, or writing to: Mr. Jay Rose, Office of Technical and Environmental Support, DP-45, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585.

A copy of the APT Final EIS, and/or the TEF Final EIS, or their Summaries may be obtained by calling 1-800-881-7292, or writing to: Andrew Grainger, U.S. Department of Energy, Savannah River Operations, Office, Building 742A, Room 122, Aiken, South Carolina 29802.

**FOR FURTHER INFORMATION CONTACT:** For general information on the DOE NEPA process, please contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, EH-42, U.S. Department of Energy 1000 Independence Avenue, SW, Washington DC 20585, (202) 586-4600 or (800) 472-2756.

**SUPPLEMENTARY INFORMATION:** The U.S. Department of Energy (DOE) is responsible for providing the nation with nuclear weapons and ensuring those weapons remain safe and reliable. Tritium, a radioactive isotope of hydrogen, is an essential component of every weapon in the current and projected U.S. nuclear stockpile.

Unlike other nuclear materials used in nuclear weapons, tritium decays at a rate of 5.5 percent per year. Accordingly, as long as the nation relies on a nuclear deterrent, the tritium in each nuclear weapon must be replenished periodically.

At present, the U.S. nuclear weapons complex does not have the capability to produce the amounts of tritium that will be required to support the nation's future stockpile. In 1995, DOE prepared the Tritium Supply and Recycling Programmatic Environmental Impact Statement (PEIS). In that PEIS, DOE considered a range of reasonable alternatives for obtaining the required quantities of tritium. In the December 1995 Record of Decision for the Tritium Supply and Recycling PEIS, DOE decided to pursue a dual-track approach on the two most promising tritium-supply alternatives: (1) to initiate purchase of an existing commercial reactor (operating or partially complete) or irradiation services with an option to purchase the reactor for conversion to a defense facility; and (2) to design, build, and test critical components of an accelerator system for tritium

production (the Savannah River Site was selected as the location for an accelerator, should one be built).

On December 22, 1998, Secretary Bill Richardson announced that commercial light water reactors will be the primary tritium supply technology. The Secretary designated the Watts Bar Unit 1 nuclear reactor near Spring City, Tennessee, and the Sequoyah Unit 1 and 2 nuclear reactors near Soddy-Daisy, Tennessee, as the preferred CLWRs for tritium production. Each of these reactors is operated by the Tennessee Valley Authority. In his December 22, 1998 announcement, the Secretary also designated the APT as the backup technology for tritium supply. As a backup, DOE will continue with developmental activities and preliminary design, but will not construct the accelerator. Finally, in selecting the CLWR as the primary tritium supply technology, the Secretary reaffirmed a prior decision that a new tritium extraction capability will be constructed and operated at the Savannah River Site.

The final CLWR Final EIS is a stand alone document, which incorporates comments on the draft CLWR EIS received from the public. Because there were only minor changes to the APT and TEF draft EISs, DOE will not prepare completely revised documents as final EISs. Rather, DOE finalized the EISs by reference to the draft EISs and have issued these documents as records of changes to the draft EIS. Persons desiring copies of the APT and TEF draft EISs should contact Mr. Grainger at the above address.

No sooner than 30 days after publication of the Environmental Protection Agency's Notice of Availability in the **Federal Register**, DOE intends to issue a consolidated Record of Decision to formalize the December programmatic announcement and complete project-specific decisions for the three EIS.

Signed in Washington, DC this 15th day of March 1999, for the United States Department of Energy.

**Victor H. Reis,**

*Assistant Secretary for Defense Programs.*

[FR Doc. 99-6776 Filed 3-18-99; 8:45 am]

BILLING CODE 6450-01-P

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## DEPARTMENT OF ENERGY

[FE Docket No. PP-197]

### Notice Extending the Public Scoping Period Public Service Company of New Mexico

**AGENCY:** Department of Energy.

**ACTION:** Notice.

**SUMMARY:** The Department of Energy (DOE) announces the extension of the scoping period for the environmental impact statement (EIS) that is being prepared in connection with an application for a Presidential permit filed by Public Service Company of New Mexico. An EIS is being prepared because DOE has determined that the issuance of the Presidential permit would constitute a major Federal action that may have a significant impact upon the environment within the meaning of the National Environmental Policy Act of 1969 (NEPA).

**DATES:** The scoping period on the EIS is extended until April 14, 1999.

**ADDRESSES:** Written questions and comments should be submitted to: Mrs. Ellen Russell, NEPA Document Manager, Office of Fossil Energy (FE-27), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington DC 20585-0350; Telephone (202) 586-9624; Facsimile: 202-287-5736; or electronic mail at Ellen.Russell@hq.doe.gov.

For general information on the Department's NEPA process, please contact: Carol Borgstrom, Director, Office of NEPA Policy and Assistance (EH-42), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington DC 20585; Telephone: 202-586-4600; or leave a message at 800-472-2756.

**SUPPLEMENTARY INFORMATION:** Public Service Company of New Mexico has applied to DOE for a Presidential permit to construct an electric transmission line across the U.S.-Mexico border. The proposed transmission line would originate at the Palo Verde Nuclear Generating Station Switchyard located west of Phoenix, Arizona, and extend to the town of Santa Ana in the Mexican State of Sonora. On February 12, 1999, DOE published a notice in the **Federal Register**, (64 FR 7173) announcing its intent to prepare an EIS and to conduct public scoping meetings in the vicinity of the proposed line. The public scoping period was to continue until March 15, 1999. To ensure that the public has ample opportunity to provide comments, DOE is extending until April 14, 1999, the period during which it will receive comments for consideration in establishing the scope and content of the EIS. DOE has separately notified interested and affected stakeholders of the change in dates. Comments received after April 14, 1999, will be considered to the extent practicable. Further information on this proceeding is

contained in the previously published Notice of Intent.

Issued in Washington, DC, on March 15, 1999.

**Anthony J. Como,**

*Manager, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Fossil Energy.*

[FR Doc. 99-6774 Filed 3-18-99; 8:45 am]

**BILLING CODE 6450-01-P**

**DEPARTMENT OF ENERGY****Notice Inviting Financial Assistance Applications**

**AGENCY:** U.S. Department of Energy (DOE), Federal Energy Technology Center (FETC).

**ACTION:** Notice inviting financial assistance applications.

**SUMMARY:** The Department of Energy announces that it intends to conduct a competitive Program Solicitation and award financial assistance (cooperative agreements) for the program entitled "Emission Control Technologies for Fine Particulate Matter, Ozone, and Related Environmental Issues." Through this solicitation, FETC seeks to support applications in the following areas of interest: (1) Cost Effective and Efficient Control of Nitrogen Oxide Emissions from Coal-Fired Electric Utility Boilers, and (2) Cost Effective and Efficient Control of Fine Particulate Emissions from Coal-Fired Electric Utility Boilers. Applications will be subjected to a review by a DOE technical panel, and awards will be made to a limited number of applicants based on a scientific and engineering evaluation of the responses received to determine the relative merit of the approach taken in response to this offering by the DOE, and funding availability.

**FOR FURTHER INFORMATION CONTACT:** Thomas J. Gruber, U.S. Department of Energy, Federal Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921-143, Pittsburgh PA 15236-0940, Telephone: (412) 892-5897, FAX: (412) 892-6216, E-mail: gruber@fetc.doe.gov. The solicitation (available in both WordPerfect 6.1 and Portable Document Format (PDF)) will be released on DOE's FETC World Wide Web Server Internet System (<http://www.fetc.doe.gov/business/solicit>) on or about March 15, 1999.

**SUPPLEMENTARY INFORMATION:**

*Title of Solicitation:* "Emission Control Technology for Fine Particulate Matter, Ozone, and Related Environmental Issues."

*Objectives:* Through Program Solicitation No. DE-PS26-99FT40288, the Department of Energy seeks applications for innovative technical approaches to ensure the continued use of domestic fossil fuels (i.e. coal) as an environmentally sound component of the U.S. overall energy mix well into the next century. This solicitation is specifically aimed at the development and testing of emission control technologies, processes, and concepts that have a high probability of commercial success and that can cost-effectively and efficiently reduce the level of NO<sub>x</sub> and fine particulate matter. This solicitation is limited to those technologies, processes, and concepts that are applicable to utility boilers that combust U.S. coals as the primary fuel and that are retrofittable to existing coal-based power systems.

*Eligibility:* Eligibility for participation in this Program Solicitation is considered to be full and open. All interested parties may apply. The solicitation will contain a complete description of the technical evaluation factors and relative importance of each factor.

*Areas of Interest:* The Department is interested in obtaining applications in the following areas of interest: (1) Cost Effective and Efficient Control of Nitrogen Oxide Emissions from Coal Fired Electric Utility Boilers. Within this area of interest are two technical topics: (a) Advanced Technologies and Systems, and (b) Field Testing and Optimization; and (2) Cost Effective and Efficient Control of Fine Particulate Emissions from Coal Fired Electric Utility Boilers. Within this second area of interest are two technical topics: (a) Primary PM Emissions Control, and (b) Acid Aerosols/Condensable Emissions Control.

*Awards:* DOE anticipates issuing financial assistance (cooperative agreements) for each project selected. DOE reserves the right to support or not support, with or without discussions, any or all applications received in whole or in part, and to determine how many awards may be made through the solicitation subject to funds available. Approximately \$12 million of DOE funding is planned for this solicitation. The estimated funding by the DOE is planned to be \$1 million to \$2 million per award. Cost sharing by the applicant is required, and details of the cost sharing requirement are contained in the solicitation.

*Solicitation Release Date:* The Program Solicitation is expected to be ready for release on or about March 15, 1999. Applications must be prepared and submitted in accordance with the

instructions and forms contained in the Program Solicitation.

**Richard D. Rogus,**

*Contracting Officer, Acquisition and Assistance Division.*

[FR Doc. 99-6775 Filed 3-18-99; 8:45 am]

BILLING CODE 6450-01-P

## DEPARTMENT OF ENERGY

### Environmental Management Site-Specific Advisory Board, Savannah River Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River Site. The Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

**DATES AND TIMES:** Monday, March 22, 1999: 6:00 p.m.–6:15 p.m.: Public Comment Session; 6:15 p.m.–7:15 p.m.: Budget Review—Stakeholder Q&A; 7:30 p.m.–9:00 p.m.: Individual Subcommittee Meetings. Tuesday, March 23, 1999: 8:30 a.m.–4:00 p.m.

**ADDRESSES:** All meetings will be held at: University of South Carolina—Aiken, Business & Education Building, 171 University Parkway, Aiken, South Carolina 29801.

**FOR FURTHER INFORMATION CONTACT:** Gerri Flemming, Public Accountability Specialist, Environmental Restoration and Solid Waste Division, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, S.C. 29802, (803) 725-5374.

#### SUPPLEMENTARY INFORMATION:

*Purpose of the Board:* The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management and related activities.

#### Tentative Agenda

*Monday, March 22, 1999*

- 6:00 p.m. Public comment session (5-minute rule)
- 6:15 p.m. Budget Review—Stakeholder Q&A
- 7:30 p.m. Issues-based subcommittee meetings
- 9:00 p.m. Adjourn

*Tuesday, March 23, 1999*

- 8:30 a.m. Approval of minutes, agency updates (~15 minutes)
- Public comment session (5-minute rule) (~ 10 minutes)
- DOE—Senior Manager Update (~ 30

minutes)

Dose reconstruction study (~ 45 minutes)

Presentation of issues matrix (~ 15 minutes)

Risk management & future use subcommittee report (~ 1 hour)

Facilitator update (~ 15 minutes)

12:00 p.m. Lunch Environmental remediation and waste management subcommittee report (~ 1¼ hours)

Nuclear materials management subcommittee (~ 15 minutes)

Administrative subcommittee report (~ 30 minutes)

—Membership elections

Executive committee recap (~ 10 minutes)

Outreach subcommittee report (~ 10 minutes)

Budget subcommittee report (~ 10 minutes)

Public comment session (5-minute rule) (~ 10 minutes)

4:00 p.m. Adjourn

If necessary, time will be allotted after public comments for items added to the agenda, and administrative details. A final agenda will be available at the meeting Monday, March 22, 1999.

*Public Participation:* The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Gerri Flemming's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days in advance of the meeting due to programmatic issues that needed to be resolved prior to publication.

*Minutes:* The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday except Federal holidays. Minutes will also be available by writing to Gerri Flemming, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, S.C. 29802, or by calling her at (803) 725-5374.

Issued at Washington, DC on March 16, 1999.

**Rachel M. Samuel,**

*Deputy Advisory Committee Management Officer.*

[FR Doc. 99-6773 Filed 3-18-99; 8:45 am]

BILLING CODE 6450-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

Docket No. TM99-7-23-000]

#### Eastern Shore Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

March 15, 1999.

Take notice that on March 5, 1999, Eastern Shore Natural Gas Company (ESNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, certain revised tariff sheets in the above captioned docket, bear a proposed effective date of April 1, 1999.

ESNG states that the purpose of this instant filing is to track rate changes attributable to storage services purchased from Transcontinental Gas Pipe Line Corporation (Transco) under its Rate Schedules GSS and LSS and Columbia Gas Transmission Corporation (Columbia) under its Rate Schedules SST and FSS. The costs of the above referenced storage services comprises the rates and charges payable under ESNG's Rate Schedules GSS, LSS and CFSS. This tracking filing is being made pursuant to Section 3 of ESNG's Rate Schedules GSS, LSS and CFSS.

ESNG states that copies of the filing have been served upon its 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. 99-6709 Filed 3-18-99; 8:45 am]

BILLING CODE 6717-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER99-1465-000]

#### Elwood Marketing, LLC; Notice of Issuance of Order

March 15, 1999.

Elwood Marketing, LLC (Elwood), a power marketer, filed an application requesting Commission approval to sell capacity and energy at market-based rates, and for certain waivers and authorizations. In particular, Elwood requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Elwood. On March 12, 1999, the Commission issued an Order Conditionally Accepting For Filing Proposed Market-Based Rates (Order), in the above-docketed proceeding.

The Commission's March 12, 1999 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (D), (E), and (G):

(D) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Elwood should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(E) Absent a request to be heard within the period set forth in Ordering Paragraph (D) above, Elwood is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Elwood, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(G) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of

Elwood's issuances of securities or assumptions of liabilities \* \* \*.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is April 12, 1999.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

**David P. Boergers,**  
*Secretary.*

[FR Doc. 99-6742 Filed 3-18-99; 8:45 am]

BILLING CODE 6717-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER99-1261-000]

#### Energy East South Glens Falls, LLC; Notice of Issuance of Order

March 15, 1999.

Energy East South Glens Falls, LLC (Applicant), an affiliate of New York State Electric & Gas Corporation, filed an application for Commission authorization to engage in wholesale power sales at market-based rates, and for certain waivers and authorizations. In particular, the Applicant requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by the Applicant. On March 11, 1999, the Commission issued an Order Granting Waiver Of Notice And Conditionally Accepting For Filing Tariff For Market-Based Power Sales (Order), in the above-docketed proceeding.

The Commission's March 11, 1999 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (C), (D), and (F):

(C) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Energy East South Glens Falls, LLC should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 285.211 and 385.214.

(D) Absent a request to be heard within the period set forth in Ordering Paragraph (C) above, Energy East South Glens Falls, LLC is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any

security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Energy East South Glens Falls, LLC, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(F) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Energy East South Glens Falls, LLC's issuances of securities or assumptions of liabilities\* \* \*.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is April 12, 1999.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

**David P. Boergers,**  
*Secretary.*

[FR Doc. 99-6744 Filed 3-18-99; 8:45 am]

BILLING CODE 6717-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. TM99-4-34-001]

#### Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

March 15, 1999.

Take notice that on March 5, 1999, Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet, effective April 1, 1999:

Substitute Twenty-Third Revised Sheet No. 8A.01

FGT states that on February 25, 1999 in Docket No. TM99-4-34-000 (February 25 Filing), tariff sheets were filed pursuant to Section 27 of the General Terms and Conditions of FGT's Tariff to establish a Fuel Reimbursement Charge Percentage of 2.76% and a Unit Fuel Surcharge of <\$0.0050> per MMBtu. FGT states that it is making the instant filing to correct the maximum usage charge for FGT's Rate Schedule FTS-2 in conformance with the tariff changes being filed concurrently herewith as discussed below.

On September 24, 1997, the Commission issued an order approving FGT's Stipulation and Agreement of Settlement (Settlement) in Docket Nos. RP96-366, et al. resolving all issues in its rate proceeding. The Settlement

included, among other things, a provision for tiered rates for FGT's Rate Schedule FTS-2, with FGT's filed rate becoming effective March 1, 1997, and decreases to become effective March 1, 1999 and March 1, 2000. Tariff Sheet 8A.01, which reflects FGT's Rate Schedule FTS-2 rates, included the tiered Settlement rates for all three periods, but the decreased rates effective March 1, 1999 and March 1, 2000 were contained in a footnote.

FGT is filing concurrently herewith to move the reservation and usage rates that became effective March 1, 1999 from the footnote to the columns on Sheet No. 8A.01 reflecting the currently effective FTS-2 rates.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

**David P. Boergers,**  
*Secretary.*

[FR Doc. 99-6708 Filed 3-18-99; 8:45 am]

BILLING CODE 6717-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. TM99-4-4-001]

#### Granite State Gas Transmission, Inc.; Notice of Proposed Changes in FERC Gas Tariff

March 15, 1999.

Take notice that on March 10, 1999, Granite State Gas Transmission, Inc. (Granite State) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the substitute revised tariff sheets listed below for effectiveness on April 1, 1999:

Substitute Eighteenth Revised Sheet No. 21  
Substitute Nineteenth Revised Sheet No. 22

According to Granite State, the substitute revised tariff sheets above supersede the revised tariff sheets it filed on March 1, 1999, to make

effective the Power Cost Adjustment (PCA) surcharge applicable to its firm transportation services during the second quarter of 1999. Granite State states that there was an error in the March 1 filing in calculating the interest in deriving one of the components of the surcharge—the Reconcilable PCA factor. The correct calculation increases this factor to <\$0.3923> which reduces the Total PCA surcharge for the second quarter to \$0.9334, according to Granite State.

Granite State further states that copies of its 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 protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

**David P. Boergers,**  
*Secretary.*

[FR Doc. 99-6707 Filed 3-18-99; 8:45 am]

BILLING CODE 6717-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER99-1248-000]

#### Harbor Cogeneration Company; Notice of Issuance of Order

March 15, 1999.

Harbor Cogeneration Company (Harbor Cogen), a California general partnership, filed a proposed market-based rate schedule requesting Commission authorization to engage in the sale of electric energy and capacity, as well as certain ancillary services at market rates, and for certain waivers and authorizations. In particular, Harbor Cogen requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Harbor Cogen. On March 11, 1999,

the Commission issued an Order Conditionally Accepting For Filing Proposed Rate-Schedule For Sales of Capacity, Energy And Ancillary Services At Market-Based Rates (Order), in the above-docketed proceeding.

The Commission's March 11, 1999 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (E), (F), and (H):

(E) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Harbor Cogen should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(F) Absent a request to be heard within the period set forth in Ordering Paragraph (E) above, Harbor Cogen is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Harbor Cogen, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(H) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Harbor Cogen's issuances of securities or assumptions or liabilities\* \* \*.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is April 12, 1999.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

**David P. Boergers,**  
*Secretary.*

[FR Doc. 99-6745 Filed 3-18-99; 8:45 am]

BILLING CODE 6717-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. SA99-13-000]

#### Kaiser-Francis Oil Company; Notice of Petition for Adjustment

March 15, 1999.

Take notice that on February 5, 1999, Kaiser-Francis Oil Company (Kaiser-

Francis) filed a petition for staff adjustment in the above-referenced docket, pursuant to section 502(c) of the Natural Gas Policy Act of 1978. Kaiser-Francis requests authorization to defer payment to KN Interstate Gas Transmission Co. (KNI) and to escrow certain portions of the remaining refunds allegedly due KNI. Kaiser-Francis' petition is on file with the Commission and open to public inspection.

Kaiser-Francis contends that it is substantially and adversely affected by the potential Kansas ad valorem tax refund requirement to KNI and that, although it cannot support a request for total refund relief under the Commission's September 10, 1997 refund order [80 FERC ¶61,264 (1997)] and January 28, 1998 order denying rehearing [82 FERC ¶61,058 (1998)], the refund obligation has a harsh impact on Kaiser-Francis. Kaiser-Francis adds that it did not become aware of KNI's refund claim until December 19, 1998. Therefore, Kaiser-Francis requests authorization to defer the payment of the principal and interest attributable to royalties until March 9, 2000. In addition Kaiser-Francis seeks authorization to escrow, in a federally-insured financial institution: (1) the amounts attributable to royalty refunds which have not been collected from the royalty owner (principal and interest); (2) interest on royalty amounts which have been recovered from the royalty owners (the principal of which has been refunded); and (3) interest on the total amount of refunds allegedly due (excluding royalties).

Any person desiring to be heard or to make any protest with reference to said petition should on or before 15 days after the date of the publication in the **Federal Register** of this notice, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211, 385.105 and 385.1106). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the Protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. 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. 99-6710 Filed 3-18-99; 8:45 am]  
BILLING CODE 6717-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. MT99-6-001]

#### Mid Louisiana Gas Company; Notice of Proposed Changes in FERC Gas Tariff

March 15, 1999.

Take notice that on March 10, 1999, Mid Louisiana Gas Company (Mid Louisiana) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective March 11, 1999:

Substitute Fifth Revised Sheet No. 130

Mid Louisiana states that the primary purpose of the filing is to replace Fifth Revised Sheet 130 which was previously submitted with incorrect issued and effective dates.

Pursuant to Section 154.7(a)(7) of the Commission's Regulations, Mid Louisiana respectfully requests waiver of Section 154.207, Notice Requirements, (18 CFR 154.207) of the Commission's regulations and any additional requirement of the Regulations in order to permit the tendered tariff sheet to become effective March 11, 1999, as submitted.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

**David P. Boergers,**  
*Secretary.*

[FR Doc. 99-6702 Filed 3-18-99; 8:45 am]  
BILLING CODE 6717-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER99-1293-000]

#### Monmouth Energy, Inc.; Notice of Issuance of Order

March 15, 1999.

Monmouth Energy, Inc. (Monmouth), a wholly-owned subsidiary of DQE Energy Services, Inc., filed a revised Power Purchase Agreement (PPA) between Monmouth and GPU Energy requesting Commission approval of the revised PPA, and for certain waivers and authorizations. In particular, Monmouth requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Monmouth. On March 12, 1999, the Commission issued an Order Accepting For Filing Proposed Revised Power Purchase Agreement, Directing Refunds, And Allowing Market-Based Rates For Uncommitted Energy (Order), in the above-docketed proceeding.

The Commission's March 12, 1999 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (F), (G), and (I):

(F) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Monmouth should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(G) Absent a request to be heard within the period set forth in Ordering Paragraph (F) above, Monmouth is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Monmouth, compatible with the public interest and reasonably necessary or appropriate for such purposes.

(I) The Commission reserves that right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Monmouth's issuances of securities or assumptions of liabilities \* \* \*.

Notice is hereby given that the deadline for filing motions to intervene

or protests, as set forth above, is April 12, 1999.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

**David P. Boergers,**  
*Secretary.*

[FR Doc. 99-6743 Filed 3-18-99; 8:45 am]

BILLING CODE 6717-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER99-963-000]

#### Nevada Sun-Peak Limited Partnership; Notice of Issuance of Order

March 15, 1999.

Nevada Sun-Peak Limited Partnership (Sun-Peak), an exempt wholesale generator, submitted for filing as a market-based rate an amended and restated Power Purchase Agreement between Sun-Peak and Nevada Power Company. Sun-Peak also requested certain waivers and authorizations. In particular, Sun-Peak requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Sun-Peak. On March 10, 1999, the Commission issued an Order Rejecting Proposed Market-Based Rates, Accepting Power Purchase Agreement For Filing, And Granting Waivers (Order), in the above-docketed proceeding.

The Commission's March 10, 1999 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (D), (E), and (G):

(D) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Sun-Peak should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(E) Absent a request to be heard within the period set forth in Ordering Paragraph (D) above, Sun-Peak is hereby authorized to issue securities and assume obligations and liabilities as guarantor, endorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Sun-Peak, compatible with the public

interest, and reasonably necessary or appropriate for such purposes.

(G) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Sun-Peak's issuances of securities or assumptions of liabilities \* \* \*.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is April 12, 1999.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

**David P. Boergers,**  
*Secretary.*

[FR Doc. 99-6747 Filed 3-18-99; 8:45 am]

BILLING CODE 6717-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP98-203-000]

#### Northern Natural Gas Company; Notice of Informal Settlement Conference

March 15, 1999.

Take notice that an informal settlement conference will be convened in this proceeding commencing at 10:00 a.m. on Tuesday, March 23, 1999, at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, for the purpose of drafting a settlement document in the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Sandra J. Delude at (202) 208-0583, Bob Keegan at (202) 208-0158, or Edith A. Gilmore at (202) 208-2158.

**David P. Boergers,**  
*Secretary.*

[FR Doc. 99-6711 Filed 3-18-99; 8:45 am]

BILLING CODE 6717-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER99-1228-00]

#### Storm Lake Power Partners II LLC; Notice of Issuance of Order

March 15, 1999.

Storm Lake Power Partners II LLC (Storm Lake II), an affiliate of Portland General Electric Company, filed an application to engage in wholesale power sales at market-based rates pursuant to an Alternate Energy Production Electric Service Agreement (Purchase Power Agreement), and for certain waivers and authorizations. In particular, Storm Lake II requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Storm Lake II. On March 11, 1999, the Commission issued an Order Accepting For Filing Process Market-Based Rates (Order), in the above-docketed proceeding.

The Commission's March 11, 1999 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (E), (F), and (H):

(E) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Storm Lake II should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(F) Absent a request to be heard within the period set forth in Ordering Paragraph (E) above, Storm Lake II is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Storm Lake II, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(H) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of storm Lake's issuances of securities or assumptions of liabilities \* \* \*.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is April 12, 1999.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

**David P. Boergers,**

*Secretary.*

[FR Doc. 99-6746 Filed 3-18-99; 8:45 am]

BILLING CODE 6717-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project 2169, NC/TN]

#### Tapoco, Inc.; Notice of Meeting on Initial Information Package and Project Site Visit for an Alternative Licensing Procedure

March 15, 1999.

The Commission's regulations allow applicants to prepare their own Environmental Assessment (EA) for hydropower projects and file it with the Federal Energy Regulatory Commission (Commission) along with their license application as part of an alternative licensing procedure (ALP).<sup>1</sup> On February 9, 1999, the Commission approved the use of an ALP in the preparation of the license application for Tapoco, Inc.'s (Tapoco) Tapoco Project, No. 2169. The 326.5-megawatt Tapoco (originally known as the Tallasee project) project is located on the Little Tennessee and its tributary, the Cheoah River, in Blount and Monroe Counties, Tennessee, and Graham and Swain Counties, North Carolina.

The ALP include provisions for the distribution of an initial information package (IIP), and for the cooperative scoping of environmental issues and information needs. Tapoco plans to distribute its IIP for the Tapoco Project on March 12, 1999 to the mailing list for this proceeding.

#### Public Meeting and Project Site Visit

Tapoco will hold an informational meeting and project site visit on April 13 and 14, 1999. The purpose of the meeting is to review the information presented in the IIP and to initiate the identification of areas of interest which should be addressed in the licensing and related Applicant Prepared Environmental Assessment (APEA) processes. The meeting portions of the two day agenda will be held at the Calderwood Service Building at the Calderwood Development of the Tapoco Project. The specifics of the agenda will be provided in the IIP.

The site visit is intended to provide the opportunity for interested individuals to learn more about the project, its operations and the surrounding environment. Planned activities include facility tours, visits to public access sites, and tours of the project reservoirs and waterways.

Based on feedback received on the IIP and the project site visit, Tapoco will prepare a Scoping Document 1 (SD1) which will provide information on the scoping process, APEA schedule, background information, potential environmental issues, and proposed project alternatives. Additional meetings may be held in May and June to assist in the development of SD1.

Tapoco anticipates issuing SD1 during the third quarter of 1999. Upon issuance of SD1, Tapoco and the Commission will issue public notice of its availability and will hold a public scoping meeting(s) pursuant to the National Environmental Policy Act of 1969 (NEPA).

All interested individuals, organizations, and agencies are invited and encouraged to attend the information meeting on the IIP and project site visit and to assist in the identification of environmental issues that should be included in SD1.

For further information regarding the informational meeting and project site visit or to be added to the mailing list for the Tapoco ALP, please contact Ms. Sue Fugate of Tapoco at (423) 977-3321 or Ronald McKittrick of the Commission's staff at (770) 452-3778.

The IIP which includes the agenda may be viewed on the web at <http://ww.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

**David P. Boergers,**

*Secretary.*

[FR Doc. 99-6703 Filed 3-18-99; 8:45 am]

BILLING CODE 6717-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. GT99-12-000]

#### Transcontinental Gas Pipe Line Corporation; Notice of Refund Report

March 15, 1999.

Take notice that on March 10, 1999, Transcontinental Gas Pipe Line Corporation (Transco) filed a report reflecting the flow through of refunds received from CNG Transmission Corporation (CNG).

On February 12, 1999, in accordance with Section 4 of its Rate Schedule LSS and Section 3 of its Rate Schedule GSS,

Transco states that it refunded to its LSS and GSS customers \$6,493,319.52 resulting from the estimated refund of CNG Transmission Corporation's Docket No. RP97-406, et al. The refund covers the period from January 1998 to December 1998.

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 on or before March 22, 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. 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. 99-6701 Filed 3-18-99; 8:45 am]

BILLING CODE 6717-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. EG99-90-000, et al.]

#### Frontera Generation Limited Partnership, et al.; Electric Rate and Corporate Regulation Filings

March 10, 1999.

Take notice that the following filings have been made with the Commission:

##### 1. Frontera Generation Limited Partnership

[Docket No. EG99-90-000]

Take notice that on March 8, 1999, Frontera Generation Limited Partnership, 1616 Woodall Rodgers Freeway, Dallas, Texas 75202, filed with the Federal Energy Regulatory Commission, an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Frontera Generation Limited Partnership is a limited partnership, organized under the laws of the State of Delaware, and engaged directly and exclusively in owning and operating the Frontera Generation Limited

<sup>1</sup> 81 FERC ¶ 61,103 (1997)

Partnership electric generating facility (the Facility) to be located in Hidalgo County, Texas, and selling electric energy and related ancillary services at wholesale from the Facility. The Facility will consist of two combustion turbine generators and one steam turbine generator, with a combined nominal rating of approximately 500 MW, a metering station, and associated transmission interconnection components.

*Comment date:* March 31, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

**2. Orange and Rockland Utilities, Inc.; Consolidated Edison Company of New York, Inc.; Southern Energy NY-GEN, L.L.C.; Southern Energy Bowline, L.L.C.; Southern Energy Lovett, L.L.C.**

[Docket No. EC99-46-000]

Take notice that on March 5, 1999, pursuant to Section 203 of the Federal Power Act, Orange and Rockland Utilities, Inc. (O&R), Consolidated Edison Company of New York, Inc. (Consolidated Edison), Southern Energy NY-GEN, L.L.C. (Southern Energy NY-GEN), Southern Energy Bowline, L.L.C. (Southern Energy Bowline) and Southern Energy Lovett, L.L.C. (Southern Energy Lovett) (Southern Energy NY-GEN, Southern Energy Bowline and Southern Energy Lovett are referred to collectively as the Southern Energy Parties), filed a joint Application seeking all authorizations from the Commission necessary for the completion of a series of transactions (Divestiture Transaction) pursuant to which O&R and Consolidated Edison will divest all units at the Bowline Generating Station, O&R's Lovett Generating Station, O&R's four small hydroelectric generating stations (Montaup Hydroelectric Station, Swinging Bridge Hydroelectric Station, Rio Hydroelectric Station, and Grahamsville Hydroelectric Station) and O&R's two gas turbine generating stations (Hillburn and Shoemaker Gas Turbine Generating Stations) through the sale of such assets to the Southern Energy Parties.

The Applicants have requested an effective date of April 15, 1999.

*Comment date:* April 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

**3. Arizona Public Service Company v. Idaho Power Company**

[Docket No. EL99-44-000]

Take notice that on March 3, 1999, Arizona Public Service Company filed a complaint against Idaho Power Company and a request for expedited consideration.

*Comment date:* March 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

**4. FirstEnergy Trading and Power Marketing, Inc.**

[Docket No. ER99-1119-000]

Take notice that on March 5, 1999, FirstEnergy Trading and Power Marketing, Inc. tendered for filing its response to the Staff deficiency letter of February 2, 1999 in the above styled case. This filing is made pursuant to Section 205 of the Federal Power Act.

*Comment date:* March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

**5. Enjet, Inc.**

[Docket No. ER99-2061-000]

Take notice that on March 4, 1999, Enjet, Inc. (Enjet) petitioned the Commission for acceptance of its 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 of the Commission's Regulations.

Enjet intends to engage in wholesale electric power and energy purchases and sales as a power marketer. Enjet is not in the business of generating or transmitting electric power.

*Comment date:* March 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

**6. Northeast Utilities Service Company**

[Docket No. ER99-2062-000]

Take notice that on March 4, 1999, Northeast Utilities Service Company (NUSCO), on behalf of The Connecticut Light and Power Company, Western Massachusetts Electric Company and Public Service Company of New Hampshire, tendered for filing pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Commission's Regulations, a rate schedule change for sales of electric energy to Commonwealth Electric Company (CEC).

NUSCO states that a copy of this filing has been mailed to CEC.

NUSCO requests that the rate schedule change become effective on April 1, 1999.

*Comment date:* March 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

**7. Central Power and Light Company**

[Docket No. ER99-2063-000]

Take notice that on March 4, 1999, Central Power and Light Company (CPL) filed an Interconnection Agreement between CPL and Magic Valley Generation, L.P. (Magic Valley).

CPL requests an effective date for the Interconnection Agreement of February 25, 1999. Accordingly, CPL requests waiver of the Commission's notice requirements.

CPL states that a copy of the filing was served on Magic Valley and the Public Utility Commission of Texas.

*Comment date:* March 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

**8. Central Maine Power Company**

[Docket No. ER99-2064-000]

Take notice that on March 4, 1999, Central Maine Power Company (CMP) tendered for filing an Executed Service Agreement for sale of capacity and/or energy entered into with Constellation Power Source, Inc. Service will be provided pursuant to CMP's Wholesale Market Tariff, designated rate schedule CMP-FERC Electric Tariff, Original Volume No. 4.

CMP respectfully requests that the Service Agreement become effective as of March 1, 1999.

*Comment date:* March 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

**9. Smarr EMC**

[Docket No. ER99-2065-000]

Take notice that on March 4, 1999, Smarr EMC tendered for filing an initial rate schedule pursuant to Section 205 of the Federal Power Act and Section 35.12 of the regulations of the Federal Energy Regulatory Commission.

This filing consists of the Power Purchase Agreements, dated November 1, 1998, between Smarr EMC and each of its 36 member distribution cooperatives (Members), pursuant to which Smarr EMC will sell power and/or energy to those Members.

Smarr requests that the rate scheduled become effective upon May 3, 1999.

Copies of the filing were served upon Altamaha Electric Membership Corporation, Amicalola Electric Membership Corporation, Canoochee Electric Membership Corporation, Carroll Electric Membership Corporation, Central Georgia Electric Membership Corporation, Coastal Electric Membership Corporation, Cobb Electric Membership Corporation, Colquitt Electric Membership Corporation, Coweta-Fayette Electric Membership Corporation, Excelsior

Electric Membership Corporation, Flint Electric Membership Corporation, Greystone Power Corporation, Habersham Electric Membership Corporation, Hart Electric Membership Corporation, Irwin Electric Membership Corporation, Jackson Electric Membership Corporation, Jefferson Energy Cooperative, Lamar Electric Membership Corporation, Little Ocmulgee Electric Membership Corporation, Middle Georgia Electric Membership Corporation, Ocmulgee Electric Membership Corporation, Oconee Electric Membership Corporation, Okefenokee Rural Electric Membership Corporation, Pataula Electric Membership Corporation, Planters Electric Membership Corporation, Rayle Electric Membership Corporation, Satilla Rural Electric Membership Corporation, Sawnee Electric Membership Corporation, Slash Pine Electric Membership Corporation, Snapping Shoals Electric Membership Corporation, Sumter Electric Membership Corporation, Tri-County Electric Membership Corporation, Troup Electric Membership Corporation, Upson Electric Membership Corporation, Walton Electric Membership Corporation, Washington Electric Membership Corporation (the 36 member cooperatives) and the Georgia Public Service Commission.

*Comment date:* March 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

#### **10. Virginia Electric and Power Company**

[Docket No. ER99-2066-000]

Take notice that on March 5, 1999, Virginia Electric and Power Company (Virginia Power) tendered for filing the Service Agreement between Virginia Electric and Power Company and DukeSolutions, Inc. Under the Service Agreement, Virginia Power will provide services to DukeSolutions, Inc. under the terms of the Company's Revised Market-Based Rate Tariff designated as FERC Electric Tariff (Second Revised Volume No. 4), which was accepted by order of the Commission dated August 13, 1998 in Docket No. ER98-3771-000.

Virginia Power requests an effective date of March 5, 1999.

Copies of the filing were served upon DukeSolutions, Inc. the Virginia State Corporation Commission and the North Carolina Utilities Commission.

*Comment date:* March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

#### **11. PJM Interconnection, L.L.C.**

[Docket No. ER99-2067-000]

Take notice that on March 5, 1999, PJM Interconnection, L.L.C. tendered for filing an Executed Service Agreement for Firm Point-To-Point Transmission Service with Morgan Stanley Capital Group, Inc.

Copies of this filing were served upon Morgan Stanley Capital Group, Inc.

This Firm Point-To-Point Transmission Service Agreement will be in effect from June 1, 1999 to August 31, 2000.

*Comment date:* March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

#### **12. PJM Interconnection, L.L.C.**

[Docket No. ER99-2068-000]

Take notice that on March 5, 1999, PJM Interconnection, L.L.C. tendered for filing an Executed Service Agreement For Network Integration Transmission Service.

The effective date for the service agreement is March 1, 1999.

A copy of this filing was served upon Citizen Power Sales.

*Comment date:* March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

#### **13. Trident Energy Marketing, Inc.**

[Docket No. ER99-2069-000]

Take notice that on March 5, 1999, Trident Energy Marketing, Inc. (Trident) petitioned the Commission for acceptance of Trident 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.

Trident intends to engage in wholesale electric power and energy purchases and sales as a marketer. Trident is not in the business of generating or transmitting electric power. Trident is a wholly owned subsidiary of Dahlen, Berg and Co., a Minneapolis based energy management services company engaged in the provision of energy consulting and energy management services.

*Comment date:* March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

#### **14. Nevada Power Company**

[Docket No. OA97-2-004]

Take notice that on March 4, 1999, Nevada Power Company submitted a filing on the information that is available to its wholesale merchant function employees on its shared Energy Management System, in response the Commission's December 18, 1998 Order

on Rehearing and Clarification. 85 FERC ¶ 61,382 (1998).

*Comment date:* March 25, 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, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

**David P. Boergers,**

*Secretary.*

[FR Doc. 99-6698 Filed 3-18-99; 8:45 am]

BILLING CODE 6717-01-P

#### **DEPARTMENT OF ENERGY**

#### **Federal Energy Regulatory Commission**

[Docket No. EC99-45-000, et al.]

#### **LG&E Energy Marketing, Inc. et al.; Electric Rate and Corporate Regulation Filings**

March 9, 1999.

Take notice that the following filings have been made with the Commission:

##### **1. LG&E Energy Marketing Inc.**

[Docket No. EC99-45-000]

Take notice that on March 5, 1999, LG&E Energy Marketing Inc. (LEM) tendered for filing pursuant to Section 203 of the Federal Power Act, 16 U.S.C. § 824b (1994), and Part 33 of the Commission's regulations, 18 CFR Part 33, an Application requesting that the Commission approve the disposition of the rights and obligations under certain wholesale power sales agreements, and associated books and records, from LEM to four power marketers, namely Constellation Power Source, Inc., El Paso Energy Marketing Company, Southern Company Energy Marketing, L.P. and Avista Energy, Inc.

*Comment date:* April 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

## 2. Sempra Energy KN Energy, Inc.

[Docket No. EC99-48-000]

Take notice that on March 9, 1999, Sempra Energy (Sempra) and KN Energy, Inc. (KN), on behalf of their respective public utility subsidiaries, tendered for filing with the Federal Energy Regulatory Commission (Commission), pursuant to Section 203 of the Federal Power Act (FPA), 16 U.S.C. 824b (1994), and Part 33 of the Commission's regulations, 18 CFR Part 33, an application for an order approving a proposed disposition of jurisdictional facilities, or in the alternative, a disclaimer of jurisdiction.

Sempra is a holding company whose principal subsidiaries are Southern California Gas Company, San Diego Gas & Electric Company, and Sempra Energy Trading Corp. KN's principal subsidiaries are Natural Gas Pipeline Company of America, KN Interstate Gas Transmission Company and MidCon Texas Operator, Inc. KN also engages in gathering and processing, and operates local gas distribution systems in Nebraska, Colorado and Wyoming. In addition, KN engages in natural gas marketing and has interests in four qualifying facilities under the Public Utility Regulatory Policies Act of 1978. Sempra and KN will combine their businesses through a stock-and-cash transaction, by virtue of which KN will become a wholly-owned subsidiary of Sempra.

*Comment date:* May 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

## 3. Duke Energy South Bay, LLC

[Docket No. EG99-88-000]

Take notice that on March 5, 1999, Duke Energy South Bay LLC (South Bay), with its principal place of business at 1290 Embarcadero Road, Morro Bay, California 93442, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations. South Bay, a Delaware limited liability company, is a wholly-owned indirect subsidiary of Duke Energy Corporation. South Bay proposes to lease and operate a generating facility located in the State of California.

On March 4, 1999, the Public Utilities Commission of the State of California (CPUC) issued an opinion which concluded that allowing the facility to be an exempt wholesale generator

within the meaning of PUHCA would benefit consumers, would be in the public interest, and would not violate California law. South Bay attached a copy of the CPUC opinion to its application.

*Comment date:* March 30, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

## 4. FPL Energy MH50, L.P.

[Docket No. EG99-89-000]

Take notice that on March 5, 1999, FPL Energy MH50, L.P., 700 Universe Boulevard, Juno Beach, Florida 33408-2683 (FPL Energy MH50) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

FPL Energy MH50, an indirect wholly-owned subsidiary of FPL Group, Inc., an exempt public utility holding company, is acquiring a gas-fired cogeneration facility located in Marcus Hook, Pennsylvania, with a capacity of approximately 45 MW.

*Comment date:* March 30, 1999, in accordance with Standard Paragraph E at the end of this notice. The commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

## 5. Entergy Services, Inc.

[Docket Nos. ER99-519-001 and ER99-989-001 (Not consolidated)]

Take notice that on March 4, 1999, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., tendered for filing an amended Capacity and Energy Letter Agreement between Entergy Services, Inc. and Sam Rayburn G&T Electric Cooperative, Inc. in compliance with the February 2, 1999 letter order of the Director of the Division of Rate Applications.

*Comment date:* March 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

## 6. Rochester Gas and Electric Corporation

[Docket No. ER99-2047-000]

Take notice that on March 3, 1999, Rochester Gas and Electric Corporation (RG&E), tendered for filing a Market Based Service Agreement between RG&E and Merchant Energy Group of the Americas, Inc., (Customer). This Service Agreement specifies that the

Customer has agreed to the rates, terms and conditions of RG&E's FERC Electric Rate Tariff, Original Volume No. 3 (Power Sales Tariff) accepted by the Commission in Docket No. ER97-3553 (80 FERC ¶ 61,284 (1997)).

RG&E requests that the Commission grant waiver of the sixty (60) day notice provision, and accept this service agreement with an effective date of February 25, 1999.

*Comment date:* March 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

## 7. California Independent System Corporation

[Docket No. ER99-2055-000]

Take notice that on March 4, 1999, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 2 to the Participating Generator Agreement between the ISO and Wheelabrator Martell, Inc. (Wheelabrator Martell) for acceptance by the Commission. The ISO states that Amendment No. 2 includes an updated Schedule 1 which lists Wheelabrator Martell's generating units and their technical characteristics.

The ISO states that this filing has been served on all parties listed on the Service Lists in Docket Nos. ER98-2950-000 and ER98-4562-000.

*Comment date:* March 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

## 8. Southwestern Electric Power Company

[Docket No. ER99-2059-000]

Take notice that on March 4, 1999, Southwestern Electric Power Company (SWEPCO) submitted for filing actuarial reports in support of the amounts to be collected in SWEPCO's 1998 actual and 1999 projected formula rates for post-employment benefits other than pensions as directed by the Statement of Financial Accounting Standard No. 106 (SFAS 106), issued by the Financial Accounting Standards Board, and the collection in formula rates of other post-employment benefits as directed by SFAS 112.

SWEPCO has served copies of the transmittal letter on all of its formula rate customers, the Arkansas Public Service Commission, the Louisiana Public Service Commission and the Public Utility Commission of Texas. SWEPCO will provide copies of the actuarial report to any customer or state commission upon request.

*Comment date:* March 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

**9. Electric Energy, Inc.**

[Docket No. ER99-2074-000]

Take notice that on March 1, 1999, Electric Energy, Inc. tendered for filing a letter describing its compliance with the Commission's December 16, 1998 Order in North America Electric Reliability Council, 85 FERC ¶ 61,353 (1998) (Docket No. EL98-52-000) (the NERC Order) under its current Electric Open Access Transmission Tariff and current operating practices.

*Comment date:* March 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

**10. Northern Indiana Public Service Company**

[Docket No. ER99-2075-000]

Take notice that on March 1, 1999, Northern Indiana Public Service Company tendered for filing a letter describing its compliance with the Commission's December 16, 1998 Order in North America Electric Reliability Council, 85 FERC ¶ 61,353 (1998) (Docket No. EL98-52-000) (the NERC Order) under its current Electric Open Access Transmission Tariff and current operating practices.

*Comment date:* March 24, 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, N.E., Washington, D.C. 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. 99-6697 Filed 3-18-99; 8:45 am]

BILLING CODE 6717-01-P

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Docket No. ER99-1156-001, et al.]

**Michigan Gas Exchange, L.L.C., et al.; Electric Rate and Corporate Regulation Filings**

March 12, 1999.

Take notice that the following filings have been made with the Commission:

**1. Michigan Gas Exchange, L.L.C.**

[Docket No. ER99-1156-001]

Take notice that on March 8, 1999, Michigan Gas Exchange, L.L.C., tendered for filing notification of change in ownership status.

*Comment date:* March 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

**2. Lakewood Cogeneration Limited Partnership**

[Docket No. ER99-1213-001]

Take notice that on March 8, 1999, Lakewood Cogeneration Limited Partnership (Lakewood), tendered for filing an amended Code of Conduct Regarding the Relationship between Lakewood Cogeneration Limited Partnership and Consumers Energy Company (Code of Conduct) in compliance with Ordering Paragraph A of the Commission's February 26, 1999, Order Conditionally Accepted for filing proposed market-based rates.

*Comment date:* March 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

**3. Lamar Power Partners, L.P.**

[Docket No. ER99-2097-000]

Take notice that on March 8, 1999, Lamar Power Partners, L.P., tendered for filing notice name change.

*Comment date:* March 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

**4. Mid-Continent Area Power Pool**

[Docket No. ER99-2098-000]

Take notice that on March 8, 1999, Mid-Continent Area Power Pool (MAPP) filed an informational filing in accordance with the Commission's Order, 76 FERC ¶ 61,261 at 62,335-36 (1996), stating that Ameren Service Company (Ameren), Illinois Power Company (Illinois Power), and Western Resources, Inc. (Western) are Power and Energy Market (PEM) Participants, with rights and obligations associated with use of the PEM schedules. Ameren, Illinois Power and Western are not MAPP Members.

*Comment date:* March 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

**5. Southwest Power Pool**

[Docket No. ER99-2099-000]

Take notice that on March 8, 1999, Southwest Power Pool (SPP), tendered for filing five executed service agreements for loss compensation service under the SPP Tariff.

SPP requests an effective date of March 1, 1999, for each of these agreements.

Copies of this filing were served upon all signatories.

*Comment date:* March 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

**6. Commonwealth Edison Company**

[Docket No. ER99-2100-000]

Take notice that on March 9, 1999, Commonwealth Edison Company (ComEd), tendered for filing service agreements establishing Northern States Power Company (NSP), and West Penn Power d/b/a Allegheny Energy (AET) as customers under ComEd's FERC Electric Market-Based Rate Schedule for power sales.

ComEd requests an effective date of January 5, 1999, for the Service Agreement with NSP to coincide with the first day of service to NSP under this Agreement. ComEd requests and effective date of February 15, 1999, for the Service Agreement with AET, and accordingly, seeks waiver of the Commission's notice requirements.

Copies of the filing were served on NSP and AET.

*Comment date:* March 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

**7. PECO Energy Company**

[Docket No. ER99-2101-000]

Take notice that on March 9, 1999, PECO Energy Company (PECO), tendered for filing a Service Agreement dated November 3, 1998 with TransCanada Power Marketing Ltd. (TCPM), under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds TCPM as a customer under the Tariff.

PECO requests an effective date of March 4, 1999, for the Service Agreement.

PECO states that copies of this filing have been supplied to TCPM and to the Pennsylvania Public Utility Commission.

*Comment date:* March 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

**8. Boston Edison Company**

[Docket No. ER99-2102-000]

Take notice that on March 9, 1999, Boston Edison Company (Boston Edison), tendered for filing two service agreements between Boston Edison as the transmission provider and HQ Energy Services (U.S.) Inc., as the transmission customer. One service agreement provides for non-firm point-to-point transmission service; the other provides for firm point-to-point transmission service. Both services are to be provided under Boston Edison's Open-Access Transmission Tariff, FERC Volume No. 8.

Boston Edison requests an effective date of May 8, 1999.

Boston Edison states that copies of the filing have been served upon the affected customer and the Massachusetts Department of Telecommunications and Energy.

*Comment date:* March 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

**9. Commonwealth Edison Company**

[Docket No. ER99-2103-000]

Take notice that on March 9, 1999, Commonwealth Edison Company (ComEd), tendered for filing a revised Index of Customers reflecting name changes for current customers, Citizens Power Sales, renamed Citizens Power L.L.C. (CPL); AIG Trading Corporation, renamed Sempra Energy Trading Corp. (SETC); Vastar Power Marketing, Inc., Southern Company Energy Marketing L.P. (SCEM); Duke/Louis Dreyfus L.L.C., renamed Duke Energy Trading and Marketing, L.L.C. (DETM); Heartland Energy Services, Inc., renamed Cargill-Alliant, L.L.C. (CALT); Market Responsive Energy, Inc., renamed First Energy Trading & Power Marketing, Inc. (FETM); Noram Energy Services, renamed Reliant Energy Services, Inc. (RESI); and Plum Street Marketing, Inc., renamed Niagara Mohawk Energy (NME). The new names are now reflected as customers under the terms of ComEd's Power Sales and Reassignment of Transmission Rights Tariff PSRT-1 (PSRT-1 Tariff). The Commission has previously designated the PSRT-1 Tariff as FERC Electric Tariff, First Revised Volume No. 2.

ComEd requests an effective date of March 9, 1999, and accordingly seeks waiver of the Commission's notice requirements.

Copies of this filing were served on CPL, SETC, SCEM, DETM, CALT, FETM, RE and NME.

*Comment date:* March 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

**10. Commonwealth Edison Company**

[Docket No. ER99-2104-000]

Take notice that on March 9, 1999, Commonwealth Edison Company (ComEd), tendered for filing a revised Firm Service Agreement with Wisconsin Electric Power Company (WEPCO), under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests an effective date of March 1, 1999, for the revised service agreement, and accordingly, seeks waiver of the Commission's notice requirements.

Copies of this filing were served on Alliant.

*Comment date:* March 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

**11. South Carolina Electric & Gas Company**

[Docket No. ER99-2105-000]

Take notice that on March 9, 1999, South Carolina Electric & Gas Company (SCE&G), tendered for filing a service agreement establishing Tractebel Energy Marketing as a customer under the terms of SCE&G's Negotiated Market Sales Tariff.

SCE&G requests an effective date of one day subsequent to the date of filing. Accordingly, SCE&G requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Tractebel Energy Marketing and the South Carolina Public Service Commission.

*Comment date:* March 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

**12. Rochester Gas and Electric Corporation**

[Docket No. ER99-2106-000]

Take notice that on March 9, 1999, Rochester Gas and Electric Corporation (RG&E), tendered for filing a Service Agreement between RG&E and the Delmarva Power & Light Company (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of the RG&E open access transmission tariff filed on July 9, 1996 in Docket No. OA96-141-000.

RG&E requests waiver of the Commission's sixty (60) day notice requirements and an effective date of March 2, 1999, for the Delmarva Power & Light Company Service Agreement.

RG&E has served copies of the filing on the New York State Public Service Commission and on the Customer.

*Comment date:* March 29, 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, N.E., Washington, D.C. 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. 99-6700 Filed 3-18-99; 8:45 am]

BILLING CODE 6717-01-P

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Docket No. ER94-1691-022, et al.]

**Sempra Energy Trading Corporation, et al.; Electric Rate and Corporate Regulation Filings**

March 8, 1999.

Take notice that the following filings have been made with the Commission:

**1. Sempra Energy Trading Corporation**

[Docket No. ER94-1691-022]

Take notice that on March 2, 1999, Sempra Energy Trading Corporation (SET), tendered for filing notification that on February 21, 1999, the respective boards of directors of Sempra Energy (Sempra) (of which SET is a subsidiary) and of KN Energy, Inc. (KN), approved an agreement under which Sempra and KN will merge. The agreement is subject to the approval of the two companies' shareholders and of various regulatory authorities.

*Comment date:* March 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

**2. Enova Energy, Inc.**

[Docket No. ER96-2372-014]

Take notice that on March 2, 1999, Enova Energy, Inc., tendered for filing in compliance with the Commission's September 9, 1996 Order, notification

that on February 21, 1999, the respective boards of directors of Sempra Energy (Sempra) (of which Enova Energy, Inc., is a indirect subsidiary) and of KN Energy, Inc. (KN), approved an agreement under which Sempra and KN will merge. The agreement is subject to the approval of the two companies' shareholders and of various regulatory authorities.

*Comment date:* March 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 3. Cabrillo Power I LLC

[Docket No. ER99-1115-001]

Take notice that on March 3, 1999, Cabrillo Power I LLC tendered for filing its compliance filing in the above-captioned docket.

*Comment date:* March 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 4. Cabrillo Power II LLC

[Docket No. ER99-1116-001]

Take notice that on March 3, 1999, Cabrillo Power II LLC tendered for filing its compliance filing in the above-captioned docket.

*Comment date:* March 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 5. Southern Energy Lovett, L.L.C.

[Docket No. ER99-2043-000]

Take notice that on March 3, 1999, Southern Energy Lovett, L.L.C. (Southern Lovett), tendered for filing an application requesting approval of its proposed Market Rate Tariff, waiver of certain regulations, and blanket approvals. The proposed Market Rate Tariff would authorize Southern Lovett to engage in wholesale sales of capacity and energy and ancillary services to eligible customers at market rates. In addition, Southern Lovett requests acceptance of a long term service agreement under its Market Rate Tariff.

*Comment date:* March 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 6. Southern Energy Bowline, L.L.C.

[Docket No. ER99-2044-000]

Take notice that on March 3, 1999, Southern Energy Bowline, L.L.C. (Southern Bowline), tendered for filing an application requesting approval of its proposed Market Rate Tariff, waiver of certain regulations, and blanket approvals. The proposed Market Rate Tariff would authorize Southern Bowline to engage in wholesale sales of capacity, energy and ancillary services to eligible customers at market rates. In addition, Southern Bowline requests

acceptance of two long term service agreements under its Market Rate Tariff.

*Comment date:* March 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 7. Southern Energy NY-GEN, L.L.C.

[Docket No. ER99-2045-000]

Take notice that on March 3, 1999, Southern Energy NY-GEN, L.L.C. (Southern NY-GEN), tendered for filing an application requesting approval of its proposed Market Rate Tariff, waiver of certain regulations, and blanket approvals. The proposed Market Rate Tariff would authorize Southern NY-GEN to engage in wholesale sales of capacity and energy and ancillary services to eligible customers at market rates. In addition, Southern Lovett requests acceptance of a long term service agreement under its Market Rate Tariff.

*Comment date:* March 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 8. Niagara Mohawk Power Corporation

[Docket No. ER99-2046-000]

Take notice that on March 3, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing Service Agreements for transmission and wholesale requirements service in conjunction with an electric retail access pilot program that was established by the New York Public Service Commission effective November 1, 1997. The Service Agreements for transmission services are under Niagara Mohawk's FERC Electric Tariff, Original Volume No. 3; as modified by an Order of the Commission in this proceeding dated November 7, 1997. The Service Agreements for wholesale requirements services are under Niagara Mohawk's FERC Electric Tariff, Original Volume No. 4; as modified by an Order of the Commission in this proceeding dated November 7, 1997. Niagara Mohawk's customer is Enserch Energy Services (New York), Inc.

*Comment date:* March 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 9. Niagara Mohawk Power Corporation

[Docket No. ER99-2048-000]

Take notice that on March 3, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between Niagara Mohawk and National Fuel Resources, Inc., (NFR). This Transmission Service Agreement specifies that NFR 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. This Tariff, filed with FERC on July 9, 1996, will allow Niagara Mohawk and NFR to enter into separately scheduled transactions under which Niagara Mohawk will provide transmission service for NFR as the parties may mutually agree.

Niagara Mohawk requests an effective date of February 25, 1999. Niagara Mohawk has requested waiver of the notice requirements for good cause shown.

Niagara Mohawk has served copies of the filing upon the New York State Public Service Commission and NFR.

*Comment date:* March 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 10. Fitchburg Gas and Electric Light Company

[Docket No. ER99-2049-000]

Take notice that on March 3, 1999, Fitchburg Gas and Electric Light Company (Fitchburg), tendered for filing a service agreement between Fitchburg and Constellation Power Source, Inc., for service under Fitchburg's Market-Based Power Sales Tariff. This Tariff was accepted for filing by the Commission on September 25, 1997, in Docket No. ER97-2463-000.

Fitchburg requests an effective date of February 18, 1999 for the service agreement.

*Comment date:* March 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 11. Florida Power & Light Company

[Docket No. ER99-2050-000]

Take notice that on March 3, 1999, Florida Power & Light Company (FPL), tendered for filing: (a) a Cape Canaveral-Indian River #2—230 kV Interconnection Agreement between Florida Power & Light Company and Orlando Utilities Commission (OUC), and (b) a revised Exhibit A to the Contract for Interchange Service between Florida Power & Light Company and Orlando Utilities Commission. The revised Exhibit A to the Interchange Contract sets out the description of the new interconnection.

FPL proposes to make the Interconnection Agreement and the revised Exhibit A to the Interchange Contract effective April 15, 1999.

*Comment date:* March 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

**12. Carolina Power & Light Company**

[Docket No. ER99-2051-000]

Take notice that on March 3, 1999, Carolina Power & Light Company (CP&L), tendered for filing executed Service Agreements with OGE Energy Resources, Inc.; Central Virginia Electric Cooperative; and American Municipal Power—Ohio, Inc., under the provisions of CP&L's Market-Based Rates Tariff, FERC Electric Tariff No. 4. These Service Agreements supersede the un-executed Agreements originally filed in Docket No. ER98-3385-000 and approved effective May 18, 1998.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

*Comment date:* March 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

**13. American Electric Power Service Corporation**

[Docket No. ER99-2052-000]

Take notice that on March 3, 1999, the American Electric Power Service Corporation (AEPSC), tendered for filing executed Firm and Non-Firm Point-to-Point Transmission Service Agreements for CLECO Corporation and H.Q. Energy Services (U.S.) Inc., both under the AEP Companies' Open Access Transmission Service Tariff (OATT). The OATT has been designated as FERC Electric Tariff Original Volume No. 4, effective July 9, 1996.

AEPSC requests waiver of notice to permit the Service Agreements to be made effective for service billed on and after February 1, 1999.

A copy of the filing was served upon the Parties and the state utility regulatory commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

*Comment date:* March 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

**14. Otter Tail Power Company**

[Docket No. ER99-2057-000]

Take notice that on March 3, 1999, Otter Tail Power Company (OTP), tendered for filing a Service Agreement between OTP and Entergy Power Marketing Corp (Entergy Power). The Service Agreement allows Entergy Power to purchase capacity and/or energy under OTP's Coordination Sales Tariff.

*Comment date:* March 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

**15. Old Dominion Electric Cooperative**

[Docket No. ES99-33-000]

Take notice that on March 2, 1999, Old Dominion Electric Cooperative tendered for filing an application, under Section 204 of the Federal Power Act, for authorization to issue and renew short-term debt including, without limitation, commercial paper, notes or other obligations, with a maturity of one year or less, to be issued from time to time, during the period from May 1, 1999 through April 30, 2001, in an amount of up to \$118 million outstanding at any one time.

*Comment date:* March 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

**16. Southwest Power Pool**

[Docket No. ER99-2058-000]

Take notice that on March 3, 1999, Southwest Power Pool (SPP), tendered for filing 51 executed service agreements for loss compensation service under the SPP Tariff.

SPP requests an effective date of March 1, 1999, for each of these agreements.

Copies of this filing were served upon all signatories.

*Comment date:* March 23, 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, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

**David P. Boergers,**

Secretary.

[FR Doc. 99-6696 Filed 3-18-99; 8:45 am]

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**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Docket No. ER96-2715-011, et al.]

**UGI Power Supply, Inc., et al.; Electric Rate and Corporate Regulation Filings**

March 11, 1999.

Take notice that the following filings have been made with the Commission:

**1. UGI Power Supply, Inc.**

[Docket No. ER96-2715-011]

Take notice that on March 5, 1999, the above-mentioned power marketer filed a quarterly report with the Commission in the above-mentioned proceeding for information only. This filing is available for public inspection and copying in the Public Reference Room or on the internet at [www.ferc.fed.us/online/rims.htm](http://www.ferc.fed.us/online/rims.htm) for viewing and downloading (call 202-208-2222 for assistance).

**2. Howell Power Systems, Inc.; Energy Resource Management Corporation; Alternate Power Source, Inc.; The XERXE Group, Inc.**

[Docket Nos. ER94-178-017; ER96-358-011; ER96-1145-010; and ER98-1823-004]

Take notice that on March 8, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the Internet at [www.ferc.fed.us/online/rims.htm](http://www.ferc.fed.us/online/rims.htm) for viewing and downloading (call 202-208-2222 for assistance).

**3. Nevada Power Company**

[Docket No. ER99-356-000]

Take notice that on March 8, 1999, Nevada Power Company filed supplemental information regarding the above-referenced matter.

*Comment date:* March 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

**4. Portland General Electric Company**

[Docket No. ER99-2060-000]

Take notice that on March 4, 1999, Portland General Electric Company (PGE), tendered for filing under PGE's Final Rule pro forma tariff (FERC Electric Tariff First Revised Volume No. 8, Docket No. OA96-137-000), executed Service Agreements for Short-Term Firm Point to Point and Non-Firm Point-to-Point Transmission Service with Koch Energy Trading, Inc.

Pursuant to 18 CFR Section 35.11, and the Commission's Order in Docket No.

PL93-2-002 issued July 30, 1993, PGE respectfully requests that the Commission grant a waiver of the notice requirements of 18 CFR Section 35.3 to allow the Service Agreements to become effective March 1, 1999.

A copy of this filing was caused to be served upon Koch Energy Trading, Inc., as noted in the filing letter.

*Comment date:* March 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

##### 5. FirstEnergy System

[Docket No. ER99-2070-000]

Take notice that on March 5, 1999, FirstEnergy System filed a Service Agreement to provide Firm Point-to-Point Transmission Service for DukeSolutions, Inc., the Transmission Customer. Services are being provided under the FirstEnergy System Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER97-412-000.

FirstEnergy requests an effective date of March 3, 1999 for their service agreement.

*Comment date:* April 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

##### 6. FirstEnergy System

[Docket No. ER99-2071-000]

Take notice that on March 5, 1999, FirstEnergy System filed a Service Agreement to provide Non-Firm Point-to-Point Transmission Service for DukeSolutions, Inc., the Transmission Customer. Services are being provided under the FirstEnergy System Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER97-412-000.

FirstEnergy System requests that the effective date of their Service Agreement be March 3, 1999.

*Comment date:* March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

##### 7. FirstEnergy Corp. And Pennsylvania Power Company

[Docket No. ER99-2072-000]

Take notice that on March 5, 1999, FirstEnergy Corp. tendered for filing on behalf of itself and Pennsylvania Power Company, a Service Agreement for Network Integration Service and an Operating Agreement for the Network Integration Transmission Service under the Pennsylvania Electric Choice Program with DukeSolutions, Inc. pursuant to the FirstEnergy System Open Access Tariff. These agreements will enable the parties to obtain

Network Integration Service under the Pennsylvania Electric Choice Program in accordance with the terms of the Tariff.

FirstEnergy Corp., and Pennsylvania Power Company request that the effective date of the Service Agreement be March 3, 1999.

*Comment date:* March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

##### 8. Southern California Edison Company

[Docket No. ER99-2073-000]

Take notice that on March 5, 1999, Southern California Edison Company (SCE) tendered for filing Amendment No. 2 to the Winter Power Sale Agreement between Southern California Edison and PacifiCorp.

The Amendment addresses revised pricing and scheduling terms of operating procedures necessarily modified to enable the Agreement to provide for use of certain CAISO and PX market prices in determining contract rates for energy and capacity function in the restructured California market for electricity.

To the extent necessary, SCE seeks waiver of the 60 day prior notice requirement and requests that the Commission make the Amendment effective one day after filing, which would be March 6, 1999.

Copies of this filing were served upon the Public Utilities Commission of the State California and all interested parties.

*Comment date:* March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

##### 9. Cinergy Services, Inc.

[Docket No. ER99-2076-000]

Take notice that on March 8, 1999, Cinergy Services, Inc., acting as agent for and on behalf of The Cincinnati Gas & Electric Company and PSI Energy, Inc., tendered for filing pursuant to Section 205 of the Federal Power Act and Part 35 of the Commission's Regulations two service agreements between Cinergy Services and Nordic Electric, L.L.C., for sales under Cinergy's market-based Power Sales Tariff.

Cinergy states that it has served copies of its filing upon Nordic Electric, L.L.C.

*Comment date:* March 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

##### 10. Energy Masters International, Inc.

[Docket No. ER99-2077-000]

Take notice that on March 5, 1999, Energy Masters International, Inc. (EMI) tendered for filing a proposed Notice of

Cancellation of certain rate schedules on file with the Commission in order to cease its activities as a power marketer.

EMI has served copies of its Notice of Cancellation on counterparties under the affected rate schedules, and upon intervenors in Docket Nos. ER94-1402-000, ER95-974-000, ER94-1370-000, ER96-493-000, ER96-513-000, ER96-530-000, ER96-785-000, ER96-786-000, ER96-787-000, ER96-969-000, ER96-998-000, and ER97-3879-000.

EMI requests waiver of the Commission's regulations to permit its Notice of Cancellation to become effective on December 30, 1998.

*Comment date:* March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

##### 11. Public Service Company of New Mexico

[Docket No. ER99-2078-000]

Take notice that on March 5, 1999, Public Service Company of New Mexico (PNM) submitted for filing an executed copy of Exhibit B Revision No. 1 to Contract No. 8-07-40-P0695 between PNM and Western Area Power Administration (Western) to correct an error in the maximum amounts of reserved transmission capacity, identified by "Point of Delivery", that PNM provides to Western to serve Western's individual customers.

PNM requests waiver of the Commission's notice requirements to permit Exhibit B Revision No. 1 to Contract No. 8-07-40-P0695 to be made effective retroactive to April 1, 1997.

Copies of the filing have been provided to Western and the New Mexico Public Regulation Commission. The filing is available for public inspection at PNM's offices in Albuquerque, New Mexico.

*Comment date:* March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

##### 12. Reliant Energy Ormond Beach, L.L.C.

[Docket No. ER99-2079-000]

Take notice that on March 5, 1999, Reliant Energy Ormond Beach, L.L.C. filed a Notice of Succession pursuant to Section 35.16 of the Commission's Regulations under the Federal Power Act. As a result of a name change, Reliant Energy Ormond Beach, L.L.C. is succeeding to the FERC Electric Rate Schedule No. 1, and to the FERC Electric Tariff, Original Volume No. 2 of Ormond Beach Power Generation, L.L.C., effective February 8, 1999.

*Comment date:* March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

**13. Reliant Energy Mandalay, L.L.C.**

[Docket No. ER99-2080-000]

Take notice that on March 5, 1999, Reliant Energy Mandalay, L.L.C. filed a Notice of Succession pursuant to Section 35.16 of the Commission's Regulations under the Federal Power Act. As a result of a name change, Reliant Energy Mandalay, L.L.C. is succeeding to the FERC Electric Rate Schedule No. 1, and to the FERC Electric Tariff, Original Volume No. 2, of Ocean Vista Power Generation, L.L.C., effective February 8, 1999.

*Comment date:* March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

**14. Reliant Energy Ellwood, L.L.C.**

[Docket No. ER99-2081-000]

Take notice that on March 5, 1999, Reliant Energy Ellwood, L.L.C. filed a Notice of Succession pursuant to Section 35.16 of the Commission's Regulations under the Federal Power Act. As a result of a name change, Reliant Energy Ellwood, L.L.C. is succeeding to the FERC Electric Rate Schedule No. 1, and to the FERC Electric Tariff Original Volume No. 2, of Oeste Power Generation, L.L.C., effective February 8, 1999.

*Comment date:* March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

**15. Reliant Energy Coolwater, L.L.C.**

[Docket No. ER99-2082-000]

Take notice that on March 5, 1999, Reliant Energy Coolwater, L.L.C. filed a Notice of Succession pursuant to Section 35.16 of the Commission's Regulations under the Federal Power Act. As a result of a name change, Reliant Energy Coolwater, L.L.C. is succeeding to the FERC Electric Rate Schedule No. 1, and to the FERC Electric Tariff Original Volume No. 2, of Alta Power Generation, L.L.C., effective February 8, 1999.

*Comment date:* March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

**16. Reliant Energy Etiwanda, L.L.C.**

[Docket No. ER99-2083-000]

Take notice that on March 5, 1999, Reliant Energy Etiwanda, L.L.C. filed a Notice of Succession pursuant to Section 35.16 of the Commission's Regulations under the Federal Power Act. As a result of a name change, Reliant Energy Etiwanda, L.L.C. is succeeding to the FERC Electric Rate Schedule No. 1, and to the FERC Electric Tariff Original Volume No. 2 of Mountain Vista Power Generation, L.L.C., effective February 8, 1999.

*Comment date:* March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

**17. Orange and Rockland Utilities Inc.**

[Docket No. ER99-2084-000]

Take notice that on March 25, 1999, Orange and Rockland Utilities, Inc. (O&R), tendered for filing a Continuing Site/Interconnection Agreement with Southern Energy NY-Gen, L.L.C. (Southern Energy NY-Gen). The Agreement is part of a larger Divestiture Transaction in which O&R will divest all of its electric generation facilities. Southern Energy NY-Gen concurs in the filing.

O&R has requested an effective date of April 15, 1999.

*Comment date:* March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

**18. Cinergy Services, Inc.**

[Docket No. ER99-2085-000]

Take notice that on March 8, 1999, Cinergy Services, Inc. (Cinergy), tendered for filing a Firm Point-To-Point Service Agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff), entered into between Cinergy and Merrill Lynch Capital Services, Inc., (MLCS).

Cinergy and MLCS are requesting an effective date of February 8, 1999.

*Comment date:* March 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

**19. Cinergy Services, Inc.**

[Docket No. ER99-2086-000]

Take notice that on March 8, 1999, Cinergy Services, Inc. (Cinergy), tendered for filing a Non-Firm Point-To-Point Service Agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff) entered into between Cinergy and Merrill Lynch Capital Services, Inc., (MLCS).

Cinergy and MLCS are requesting an effective date of February 8, 1999.

*Comment date:* March 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

**20. Consumers Energy Company**

[Docket No. ER99-2087-000]

Take notice that on March 8, 1999, Consumers Energy Company (Consumers), tendered for filing executed service agreements for Non-Firm Point-to-Point Transmission Service and Firm Point-to-Point Transmission Service with Cargill-Alliant LLC., both agreements were pursuant to the Joint Open Access Transmission Service Tariff filed on December 31, 1996 by Consumers and

The Detroit Edison Company (Detroit Edison) and have effective dates of March 3, 1999.

Copies of the filed agreement were served upon the Michigan Public Service Commission, Detroit Edison and Cargill-Alliant LLC.

*Comment date:* March 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

**21. PP&L, Inc.**

[Docket No. ER99-2088-000]

Take notice that on March 8, 1999, PP&L, Inc. (PP&L), tendered for filing a Service Agreement dated February 25, 1999 with Select Energy, Inc. (Select), under PP&L's Market-Based Rate and Resale of Transmission Rights Tariff, FERC Electric Tariff, Revised Volume No. 5. The Service Agreement adds Select as an eligible customer under the Tariff.

PP&L requests an effective date of March 8, 1999, for the Service Agreement.

PP&L states that copies of this filing have been supplied to Select and to the Pennsylvania Public Utility Commission.

*Comment date:* March 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

**22. PP&L, Inc.**

[Docket No. ER99-2089-000]

Take notice that on March 8, 1999, PP&L, Inc. (PP&L), tendered for filing a Service Agreement dated March 1, 1999, with Great Bay Power Corporation (GBPC), under PP&L's Market-Based Rate and Resale of Transmission Rights Tariff, FERC Electric Tariff, Revised Volume No. 5. The Service Agreement adds GBPC as an eligible customer under the Tariff.

PP&L requests an effective date of March 8, 1999, for the Service Agreement.

PP&L states that copies of this filing have been supplied to GBPC and to the Pennsylvania Public Utility Commission.

*Comment date:* March 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

**23. Central Illinois Light Company**

[Docket No. ER99-2090-000]

Take notice that on March 8, 1999, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission a substitute Index of Customers under its Market Rate Power Sales Tariff reflecting a name change for one customer from American Energy Solutions, Inc., to American Energy Trading, Inc.

CILCO requested an effective date of March 5, 1999.

Copies of the filing were served on the affected customers and the Illinois Commerce Commission.

*Comment date:* March 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

#### 24. Central Illinois Light Company

[Docket No. ER99-2091-000]

Take notice that on March 8, 1999, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission an Index of Customers under its Coordination Sales Tariff reflecting a name change for one customer, from American Energy solutions, Inc., to American Energy Trading, Inc., one customer has asked CILCO to terminate their service agreement, Industrial Energy Applications, Inc.

CILCO requested an effective date of March 5, 1999.

Copies of the filing were served on the affected customers and the Illinois Commerce Commission.

*Comment date:* March 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

#### 25. Avista Corporation

[Docket No. ER99-2092-000]

Take notice that on March 8, 1999, Avista Corporation, tendered for filing, with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13, an executed Mutual Netting Agreement for allowing arrangements of amounts which become due and owing to one Party to be set off against amounts which are due and owing to the other Party with Coral Power, LLC.

Avista Corporation requests waiver of the prior notice requirement and requests an effective date of March 1, 1999.

*Comment date:* March 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

#### 26. Avista Corporation

[Docket No. ER99-2093-000]

Take notice that on March 8, 1999, Avista Corporation, tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13, an executed Service Agreement and Certificate of Concurrence under Avista Corporation's FERC Electric Tariff First Revised Volume No. 10, with The Montana Power Company.

Avista Corporation requests waiver of the prior notice requirements and requests an effective date of March 1, 1999.

*Comment date:* March 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

#### 27. Pacific Gas and Electric Company

[Docket No. ER99-2094-000]

Take notice that on March 8, 1999, Pacific Gas and Electric Company (PG&E), tendered for filing two Special Facilities Agreements between PG&E and Geysers Power Company, LLC (Geysers Power). These Special Facilities Agreements permit PG&E to recover the ongoing costs associated with owning, operating and maintaining the Special Facilities including the cost of any alterations and additions. As detailed in the Special Facilities Agreements, PG&E proposes to charge Geysers Power a monthly Cost of Ownership Charge equal to the rate for transmission-level, utility-financed facilities in PG&E's currently effective Electric Rule 2, as filed with the California Public Utilities Commission (CPUC).

PG&E's currently effective rate of 1.141% for transmission-level, utility-financed Special Facilities is contained in the CPUC's Advice Letter 1960-G/1587-E, effective August 5, 1996, a copy of which was included in PG&E's October 23, 1996, filing in FERC Docket No. ER97-205-000 as Attachment 3.

PG&E has requested permission to use automatic rate adjustments whenever the CPUC authorizes a new Electric Rule 2, Cost of Ownership Rate for transmission-level, utility-financed Special Facilities but cap the rate at 1.49% per month.

Copies of this filing have been served upon Geysers Power and the CPUC.

*Comment date:* March 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

#### 28. Michael E. Rescoe, Bruce R. Worthington

[Docket Nos. ID-3247-002; and ID-3248-002]

Take notice that on March 8, 1999, PG&E Energy Services Corporation, with its principal place of business at 345 California Street, San Francisco, California, 94104, filed with the Federal Energy Regulatory Commission an application for authority to hold interlocking positions on behalf of Michael E. Rescoe and Bruce R. Worthington, under Section 305(b) of the Federal Power Act, 16 U.S.C. 725(b).

*Comment date:* April 7, 1999, in accordance with Standard Paragraph E at the end of this notice.

#### 29. Pine Bluff Energy LLC

[Docket No. QF97-61-003]

Take notice that on March 4, 1999, Pine Bluff Energy LLC filed supplemental information to their application for certification of the Pine Bluff Energy Center as a qualifying cogeneration facility in response to a request from the commission staff to provide additional information regarding technical aspects of the cogeneration facility.

*Comment date:* April 5, 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 202-208-2222 for assistance).

**David P. Boergers,**

*Secretary.*

[FR Doc. 99-6699 Filed 3-18-99; 8:45 am]

BILLING CODE 6717-01-P

#### DEPARTMENT OF ENERGY

#### Federal Energy Regulatory Commission

#### Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

March 15, 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.:* 11648-000.

c. *Date Filed:* December 10, 1998.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Muskingum L&D #6 Hydroelectric Project.

f. *Location*: On the Muskingum River at river mile 40.2 in Morgan County, Ohio.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact*: Ronald S. Feltenberger, Universal Electric Power Corporation, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535-7115.

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.

All comments, motions to intervene, protests, and competing applications already filed with the Commission for Project No. 11648 are part of the Commission's record and need not be refilled with the Commission.

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.

k. *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 634.05 feet msl; (3) a new powerhouse on the tailrace side of the dam with a total installed capacity of 3,500 kW; (4) a new 12.7 or 14.7 kV transmission line; 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 22,000 MWh and that the cost of the studies under the permit would be \$1,000,000.

l. *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.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

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 bar 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. 99-6704 Filed 3-18-99; 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 15, 1999.

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P-11673-000.

c. *Date filed:* February 1, 1999.

d. *Applicant:* Universal Electric Power Corp.

e. *Name of Project:* Pike Island Lock and Dam Project.

f. *Location:* At the existing U.S. Army Corps of Engineers' Pike Island Lock and Dam on the Ohio River, near the Town of Wheeling, Ohio County, West Virginia.

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' Pike Island 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 39 megawatts; (2) a new 8,600-foot-long, 14.7-kilovolt transmission line; and (3) appurtenant facilities. The proposed average annual generation is estimated to be 174 gigawatthours. The cost of the studies under the permit will not exceed \$4,000,000.

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) 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, 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. 99-6705 Filed 3-18-99; 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 15, 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-11674-000.  
 c. *Dated filed*: February 1, 1999.  
 d. *Applicant*: Universal Electric Power Corp.  
 e. *Name of Project*: Berlin Dam Project.  
 f. *Location*: At the existing U.S. Army Corps of Engineers' Berlin Dam on the Mahoning River, near the Town of Pricetown, Portage Country, Ohio.  
 g. *Filed Pursuant to*: Federal Power Act 16 U.S.C. 791(a)—825(r)  
 h. *Applicant Contract*: 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*: 69 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' Berlin 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 1.1 megawatts; (2) a new 150-foot-long, 14.7-kilovolt transmission line; and (3) appurtenant facilities. The proposed average annual generation is estimated to be 7 gigawatthours. The cost of the studies under the permit will not exceed \$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 application 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. 99-6706 Filed 3-18-99; 8:45 am]

BILLING CODE 6717-01-M

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-6312-1]

### Agency Information Collection Activities: Proposed Collection; Comment Request; EPA Office of Site Remediation Enforcement Program Evaluation ICR

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

**ACTION:** Notice.

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**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following proposed Information Collection Request (ICR) to the Office of Management and Budget (OMB):

EPA Office of Site Remediation Enforcement Program Evaluation ICR, EPA ICR Number 1890.01. Before submitting the ICR to OMB for review and approval, EPA is soliciting

comments on specific aspects of the proposed information collection as described below.

**DATES:** Comments must be submitted on or before May 16, 1999.

**ADDRESSES:** EPA Office of Site Remediation Enforcement, 401 M Street, SW (MC 2273A), Washington, DC 20460. Interested persons may obtain a copy of the ICR by contacting Jack Jokian at this address or by calling (202) 564-6058 or by e-mailing [jojokian.jack@epamail.epa.gov](mailto:jojokian.jack@epamail.epa.gov). Electronic access to the ICR is available at <http://www.epa.gov/icr>.

**FOR FURTHER INFORMATION CONTACT:** Jack Jokian, (202) 564-6058, (202) 564-0074 (fax), [jojokian.jack@epamail.epa.gov](mailto:jojokian.jack@epamail.epa.gov).

**SUPPLEMENTARY INFORMATION:**

*Affected entities:* Entities potentially affected by this action are those which have been parties at Superfund sites where Superfund administrative reforms have been tested or implemented.

*Title:* EPA Office of Site Remediation Enforcement Program Evaluation ICR, EPA ICR Number 1890.01.

*Abstract:* During the last 3-5 years, EPA's Office of Site Remediation Enforcement (OSRE), in conjunction with EPA's Office of Emergency and Remedial Response (OERR), has been implementing a series of Administrative Reforms in the Superfund program. These reforms are an effort to make Superfund a faster, fairer, and more efficient program for all parties involved. With 3-5 years of implementation past for a number of these reforms, OSRE is interested to learn how well these Administrative Reforms have worked and whether they have achieved their stated intentions in the eyes of the external stakeholders whom the reforms were intended to impact. The purpose of this ICR is to enable OSRE to collect data on the effectiveness of Superfund Administrative Reforms so that we can understand which of the reforms are most effective, as well as to obtain anecdotal and statistically valid information on the outcomes of the reforms.

With each of the information collections described in this ICR, OSRE will be measuring whether or not the Administrative Reform is meeting its intended goal, such as speeding site study and cleanup and reducing private party transaction costs. Typical goals of the Administrative Reforms include: increasing the efficiency of reaching settlements with parties at Superfund sites; reducing transaction costs for parties at Superfund sites; increasing

the fairness of enforcement actions at Superfund sites; and facilitating the reuse of Superfund sites.

OSRE is planning to conduct program evaluations of up to 15 Superfund policies and Superfund reform initiatives. Eight of these reform initiatives are known and listed below. An additional seven program evaluations will take place as part of these information collections, but the exact topics are not known at this time. The eight known program evaluations are:

- (1) Orphan Share Compensation
- (2) Unilateral Administrative Order Administrative Reform
- (3) Effective Oversight Management Administrative Reform
- (4) Expedited Settlements Reform
- (5) De Minimis Settlements
- (6) PRP Response Costs and PRP Transaction Costs
- (7) Reuse of Superfund and Brownfield Sites
- (8) Disbursement of Response Costs to PRPs Performing Work from Special Accounts

Information will be collected through a series of mail, telephone, and on-line survey questionnaires. Responses to these information collection requests are voluntary and one-time efforts.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Burden Statement:* This ICR has an estimated respondent burden of 27,132 hours and \$594,333. EPA estimates that

9,520 respondents will participate, with an average respondent burden of 2.84 hours and \$62.43. Responses will be one-time and voluntary, and no capital or start-up expenses will be required. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: March 11, 1999.

**Jack Jokian,**

*Program Planning and Evaluation Division, Office of Site Remediation Enforcement.*

[FR Doc. 99-6779 Filed 3-18-99; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-6312-3]

### Microbial Disinfectants/Disinfection Byproducts Advisory Committee; Notice of Charter Renewal

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

**ACTION:** Notice of charter renewal.

**SUMMARY:** The Charter for the Environmental Protection Agency's (EPA) Microbial Disinfectants/Disinfection Byproducts Advisory Committee (MDBPAC) will be renewed for an additional two-year period, in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. Appl. section 9(c). MDBPAC is a necessary committee which is in the public interest. The purpose of MDBPAC is to provide advice and recommendations to the Administrator of EPA on issues associated with the development of regulations to address microorganisms and disinfectants/disinfection byproducts in public water supplies. It is determined that MDBPAC is in the public interest in connection with the performance of duties imposed on the Agency by law.

**FOR FURTHER INFORMATION CONTACT:** Inquiries may be directed to Martha Kucera, Designated Federal Officer, MDBPAC, U.S. EPA, (mail code 4607), 401 M Street, SW, Washington, DC 20460.

Dated: March 12, 1999.

**J. Charles Fox,**

*Assistant Administrator, Office of Water.*

[FR Doc. 99-6763 Filed 3-18-99; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-6240-8]

### Environmental Impact Statements; Notice of Availability

**RESPONSIBLE AGENCY:** Office of Federal Activities, General Information (202) 564-7167 or (202) 564-7153.

Weekly receipt of Environmental Impact Statements

Filed March 08, 1999 Through March 12, 1999

Pursuant to 40 CFR 1506.9

EIS No. 990071, DRAFT EIS, FHW, CT, CT 82/85/11 Corridor Transportation Improvements, Funding and COE Section 404 Permit, In the Towns of Salem, Montville, East Lyme and Waterford, CT, Due: May 07, 1999, Contact: Donald J. West (860) 659-6703.

EIS No. 990072, FINAL EIS, FHW, OR, Mount Hood Corridor Study, US 26 Rhododendron to OR-35 Junction, Improvements, Funding, Clackamas County, OR, Due: April 19, 1999, Contact: John H. Gernhauser (503) 399-5749.

EIS No. 990073, DRAFT EIS, AFS, AK, Luck Lake Timber Sales Project, Implementation, Tongass National Forest, Thorne Bay Ranger District, Prince of Wales Island, AK, Due: May 03, 1999, Contact: Steve Kimball (907) 828-3304.

EIS No. 990074, FINAL EIS, IBR, NV, Clark County Wetlands Park Master Plan, Construction and Operation, Erosion Control Structures in Las Vegas Wash, COE Section 404 Permit, Right-of-Way Permit and Endangered Species Act Section 4, Clark County, NV, Due: April 19, 1999, Contact: Del Kidd (702) 293-8698.

EIS No. 990075, FINAL EIS, COE, TX, Dallas Floodway Extension, Implementation, Trinity River Basin, Flood Damage Reduction and Environmental Restoration, Dallas County, TX, Due: April 19, 1999, Contact: Gene T. Rice, Jr. (817) 978-2110.

EIS No. 990076, DRAFT EIS, FHW, MS, Airport Parking/Mississippi 25 Connectors, Construction at Intersection of High Street/ Interstate 55 (I-55) in the City of Jackson, Hinds and Rankin Counties, MS, Due: April 30, 1999, Contact: Cecil W. Vick, Jr. (601) 965-4217.

EIS No. 990077, FINAL SUPPLEMENT, EPA, CA, International Wastewater Treatment Plant and South Bay Ocean Outfall, Preferred Alternative Selected the Completely Mixed Aerated (CMA) System at Hofer Site, Interim Operation, Tijuana River, San Diego, CA, Due: April 19, 1999, Contact: Elizabeth Borowiec (415) 744-1165.

EIS No. 990078, DRAFT EIS, FHW, WV, Coalfields Expressway Transportation Improvements, Funding, NPDES and COE Section 404 Permits, McDowell, Wyoming and Raleigh Counties, WV, Due: May 14, 1999, Contact: David E. Bender (304) 347-5928.

EIS No. 990079, DRAFT EIS, AFS, OR, Wolfmann Projects, Implementation, Blue River Landscape Strategy, Central Cascades Adaptive Management Area, Blue River Ranger District, Willamette National Forest, Lane County, OR, Due: May 03, 1999, Contact: Karen Geary (541) 822-3317.

EIS No. 990080, DRAFT SUPPLEMENT, BLM, CA, Imperial Project, Open-Pit Precious Metal Mining Operation Utilizing Heap Leach Processes, Updated Information, Plan of Operations, Right-of-Way, Conditional Use Permit, US COE Permit and Reclamation Plan Approvals, El Centro Resource Area, California Area District, Imperial County, CA, Due: May 19, 1999, Contact: Glen Miller (760) 337-4400.

EIS No. 990081, DRAFT EIS, UAF, LA, TX, NM, Realistic Bomber Training Initiative, Improve the B-52 and B-1 Aircrews Mission Training and Maximize Combat Training Time, Barksdale Air Force Base, La, NM and TX, Due: May 03, 1999, Contact: Major Brent Adams (915) 696-2863.

EIS No. 990082, FINAL EIS, NOA, Atlantic Tunas, Swordfish and Sharks, Highly Migratory Species Fishery Management Plan, Due: April 19, 1999, Contact: Rebecca Lent (301) 713-2347.

### Amended Notices

EIS No. 990068, FINAL EIS, DOE, SC, Accelerator for Production of Tritium at the Savannah River Site (DOE/EIS-0270), Site Specific, Construction and Operation, Aiken and Barnwell Counties, SC, Due: April 12, 1999, Contact: Andrew Grainger  
Published FR-03-12-99  
Correction to Title.

EIS No. 990069, FINAL EIS, DOE, SC, Tritium Extraction Facility (TEF), Construction and Operation near the Center of Savannah River Site at H Area, (DOE/EIS-0271), Aiken and Barnwell Counties, SC, Due: April 12, 1999, Contact: Andrew R. Grainger (800) 881-7292.

Published FR-03-12-99

Correction to Title.

EIS No. 990070, FINAL EIS, DOE, TN, AL, Commercial Light Water Reactor for the Production of Tritium at one or more Facilities: Watt Bar 1. Spring City, TN; Sequoyah 1 and 2 Soddy Daisy, TN; Bellefonte Unit 1 and 2, Hollywood, AL, Approval of Permits and Licenses, (DOE/EIS-0288) TN and AL, Due: April 12, 1999, Contact: Jay Rose (202) 586-5484.

Published FR-03-12-99

Correction to Title.

Dated: March 16, 1999.

**William D. Dickerson,**

*Director, Office of Federal Activities.*

[FR Doc. 99-6803 Filed 3-18-99; 8:45 am]

BILLING CODE 6560-50-U

## ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-6240-9]

### Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared February 22, 1999 Through February 26, 1999 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564-7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1998 (63 FR 17856).

### Draft EISs

ERP No. D-COE-E34030-FL, Rating EC2, Programmatic EIS—Central and Southern Florida Multi-Purpose Project, Comprehensive Review Study, Everglades National Park, Orlando to Florida Bay, FL.

**SUMMARY:** EPA supports the restoration concept and encourages their proper implementation. EPA believes that improving water quantity delivery alone will not restore the Everglades and the South Florida ecosystem; instead, both water quantity and water quality components are needed to provide the clean water volumes

required for true natural system restoration. EPA encouraged the COE to include additional water quality features in the pending FPEIS and future optimization of water quality features. EPA expressed concerns regarding project uncertainties associated with the proposed aquifer recovery system funding and modeling.

ERP No. D-COE-K39055-AZ, Rating LO, Alamo Lake Reoperation and Ecosystem Restoration Feasibility Study, Implementation, Reoperation of Alma Dam on the Bill Williams River, La Paz and Mohave Counties, AZ.

**SUMMARY:** EPA had no objections to the project which would result in increased seasonal flows from Alamo Lake that should have positive effects on riparian habitat downstream.

ERP No. D-IBR-K39054-CA Rating EC2, Groundwater Replenishment System, Implementation to Repurifying Water from Orange County Water District (OCWD) Orange County Sanitation District (OCS), Funding and COE Section 404 Permit, Orange County, CA.

**SUMMARY:** EPA supported the project which focuses on wastewater reuse and recycling, and supported the project benefit of postponing the need for an additional ocean outfall discharge pipe. EPA urged the project sponsors to continue to aggressively pursue other demand management measures. EPA expressed concerns and requested additional information regarding: (1) potential adverse effects on flood protection, (2) operation and effectiveness of the saltwater intrusion barrier, and (3) implementation and effectiveness monitoring.

#### Final EISs

ERP No. F-COE-C39010-NJ, Lower Cape May Meadows—Cape May Point Feasibility Study, Ecosystem Restoration, New Jersey Shore Protection Study, Cape May County, NJ.

**SUMMARY:** EPA expressed environmental concerns that implementation of multiple projects of the type (and other projects effecting the same resources) could result in adverse cumulative impacts. EPA suggested that a comprehensive cumulative impacts analysis be prepared for all of these projects prior to construction.

ERP No. F-COE-F35042-IN, Indiana Harbor and Canal Dredging and Confined Disposal Facility, Construction and Operation, Comprehensive Management Plan, East Chicago, Lake County, ID.

**SUMMARY:** The Final EIS has adequately resolved EPA's previous concerns. Therefore, EPA has no

objections to the implementation of the proposed project.

ERP No. F-TVA-E39037-00, Shoreline Management Initiative: An Assessment of Residential Shoreline Development Impacts in the Tennessee Valley, Mainstream Tennessee River and Tributary Reservoirs in AL, KY, NC, TN, GA, MS and VA.

**SUMMARY:** EPA continues to have some environmental concerns due to the inherent nature of shoreline development relative to erosion, water quality, habitat loss, and induced (secondary) impacts associated with development.

ERP No. FS-COE-C32030-00, Arthur Kill Channel—Howland Hook Marine Terminal, Deepening and Realignment, Limited Reevaluation Report (LRR) Port of New York and New Jersey, NY and NJ.

**SUMMARY:** EPA does not anticipate that the proposed project would result in significant adverse environmental impacts and does not object to its implementation.

Dated: March 16, 1999.

**William D. Dickerson,**  
*Director, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. 99-6804 Filed 3-18-99; 8:45 am]

BILLING CODE 6560-50-U

## ENVIRONMENTAL PROTECTION AGENCY

[OPP-00453; FRL-6070-4]

### Notice of Availability of Regional Environmental Stewardship Program Grants

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

**ACTION:** Notice.

**SUMMARY:** EPA is announcing the availability of approximately \$498 thousand in fiscal year 1999 grant/cooperative agreement funds under section 20 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (the Act), for grants to States and all federally recognized Native American Tribes. The grant dollars are targeted at State and Tribal programs that address reduction of the risks associated with pesticide use in agricultural and non-agricultural settings in the United States. EPA's Office of Pesticide Programs is offering the following grant opportunities to interested and qualified parties.

**DATES:** In order to be considered for funding during the FY 99 award cycle, all applications must be received by the appropriate EPA regional office on or

before May 3, 1999. EPA will make its award decisions by June 2, 1999.

**FOR FURTHER INFORMATION CONTACT:** Your EPA Regional Pesticide Environmental Stewardship Program Coordinator. Contact names for the coordinators are listed under Unit IV. of this document.

#### SUPPLEMENTARY INFORMATION:

##### I. Availability of FY'99 Funds

With this publication, EPA is announcing the availability of approximately \$498 thousand in grant/cooperative agreement funds for FY'99. The Agency has delegated grant making authority to the EPA Regional Offices. Regional offices are responsible for the solicitation of interest, the screening of proposals, and the selection of projects. Grant guidance will be provided to all applicants along with any supplementary information the Regions may wish to provide. All applicants must address the criteria listed under Unit III.B. of this document. In addition, applicants may be required to meet any supplemental Regional criteria. Interested applicants should contact their Regional PESP coordinator listed under Unit IV. of this document for more information.

##### II. Eligible Applicants

In accordance with the Act “. . . Federal agencies, universities, or others as may be necessary to carry out the purposes of the act, . . .” are eligible to receive a grant; however, because of restrictions associated with the funds appropriated for this program, the eligible applicants are limited. Eligible applicants for purposes of funding under this grant program include the 50 States, the District of Columbia, the U.S. Virgin Islands, the Commonwealth of Puerto Rico, any territory or possession of the United States, any agency or instrumentality of a State including State universities, and all federally recognized Native American Tribes. For convenience, the term “State” in this notice refers to all eligible applicants. Local governments, private universities, private nonprofit entities, private businesses, and individuals are not eligible. The organizations excluded from applying directly are encouraged to work with eligible applicants in developing proposals that include them as participants in the projects. Contact your EPA Regional PESP coordinator for assistance in identifying and contacting eligible applicants. EPA strongly encourages this type of cooperative arrangement.

### III. Activities and Criteria

#### A. General

The goal of PESP is to reduce the risks associated with pesticide use in agricultural and non-agricultural settings in the United States. The purpose of the grant program is to support the establishment and expansion of Integrated Pest Management (IPM) as a tool to be used to accomplish the goals of PESP. The grant program is also designed to research alternative pest management practices, research and publish/demonstrate unique application techniques, research control methods for pest complexes, research and produce educational materials for better pest identification or management, and other activities that further the goals of PESP. EPA specifically seeks to build State and local IPM capacities or to evaluate the economic feasibility of new IPM approaches at the State level (i.e., innovative approaches and methodologies that use application or other strategies to reduce the risks associated with pesticide use). Funds awarded under the grant program should be used to support the Environmental Stewardship Program and its goal of reducing the risk/use of pesticides. State projects might focus on, for example:

- Researching the effectiveness of multimedia communication activities for, including but not limited to: promoting local IPM activities, providing technical assistance to pesticide users; collecting and analyzing data to target outreach and technical assistance opportunities; developing measures to determine and document progress in pollution prevention; and identifying regulatory and non-regulatory barriers or incentives to pollution prevention.

- Researching methods for establishing IPM as an environmental management priority, establishing prevention goals, developing strategies to meet those goals, and integrating the ethic within both governmental and non-governmental institutions of the State or region.

- Initiating research or other projects that test and support: innovative techniques for reducing pesticide risk or using pesticides in a way to reduce risk, innovative application techniques to reduce worker and environmental exposure, various approaches and methodologies to measure progress towards meeting the goal of 75% implementation of IPM by the year 2000.

A list of projects funded in FY'98 may be obtained from the internet at URL

<http://www.epa.gov/oppbppd1/PESP/grants.htm> or from the Regional PESP coordinator listed under Unit IV. of this document.

#### B. Criteria

Proposals will be evaluated based on the following criteria:

1. Qualifications and experience of the applicant relative to the proposed project.

- Does the applicant demonstrate experience in the field of the proposed activity?

- Does the applicant have the properly trained staff, facilities, or infrastructure in place to conduct the project?

2. Consistency of applicant's proposed project with the risk reduction goals of the PESP.

3. Provision for a quantitative or qualitative evaluation of the project's success at achieving the stated goals.

- Is the project designed in such a way that it is possible to measure and document the results quantitatively and qualitatively?

- Does the applicant identify the method that will be used to measure and document the project's results quantitatively and qualitatively?

- Will the project assess or suggest a means for measuring progress in reducing risk/use of pesticides in the United States?

4. Likelihood the project can be replicated to benefit other communities or the product may have broad utility to a widespread audience. Can this project, taking into account typical staff and financial restraints, be replicated by similar organizations in different locations to address the same or similar problem?

#### C. Program Management

Awards of FY'99 funds will be managed through the EPA Regional Offices.

#### D. Contacts

A generic request for proposal will be available on EPA's PESP web site on or before March 19, 1999 at <http://www.epa.gov/oppbppd1/PESP/grants.htm>. Interested applicants must also contact the appropriate EPA Regional PESP coordinator listed under Unit IV. of this document to obtain specific instructions, regional criteria, and guidance for submitting proposals.

### IV. Regional Pesticide Environmental Stewardship Program Contacts

Region I: (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont), Robert Koethe, (CPT), 1 Congress St., Boston,

MA 02203, Telephone: (617) 918-1535, [koethe.robert@epamail.epa.gov](mailto:koethe.robert@epamail.epa.gov)

Region II: (New Jersey, New York, Puerto Rico, Virgin Islands), Audrey Moore, (MS-500), 2890 Woodbridge Ave., Edison, NJ 08837, Telephone: (732) 906-6809, [moore.audrey@epamail.epa.gov](mailto:moore.audrey@epamail.epa.gov)

Region III: (Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia), Lisa Donahue, (3WC32), 1650 Arch St., Philadelphia, PA 19103, Telephone: (215) 814-2062, [donahue.lisa@epamail.epa.gov](mailto:donahue.lisa@epamail.epa.gov)

Region IV: (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee), Lora Lee Schroeder, 12th Floor, Atlanta Federal Center, 61 Forsyth St., SW., Atlanta, GA 30303-3104, Telephone: (404) 562-9015, [schroeder.lora@epamail.epa.gov](mailto:schroeder.lora@epamail.epa.gov)

Region V: (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin), David Macarus, (DT-8J), 77 West Jackson Blvd., Chicago, IL 60604, Telephone: (312) 353-5814, [macarus.david@epamail.epa.gov](mailto:macarus.david@epamail.epa.gov)

Region VI: (Arkansas, Louisiana, New Mexico, Oklahoma, Texas), Jerry Collins, (6PD-P), 1445 Ross Ave., 6th Floor, Suite 600, Dallas, TX 75202, Telephone: (214) 665-7562, [collins.jerry@epamail.epa.gov](mailto:collins.jerry@epamail.epa.gov)

Region VII: (Iowa, Kansas, Missouri, Nebraska), Jamie Green, 726 Minnesota Ave., Kansas City, KS 66101, Telephone: (913) 551-5332, [green.jamie@epamail.epa.gov](mailto:green.jamie@epamail.epa.gov)

Region VIII: (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming), Cindy Schaffer, (8P2-TX), 999 18th St., Suite 500, Denver, CO 80202-2466, Telephone: (303) 312-6417, [schaffer.cindy@epamail.epa.gov](mailto:schaffer.cindy@epamail.epa.gov)

Region IX: (Arizona, California, Hawaii, Nevada, American Samoa, Guam), Roccena Lawatch, (CMD4-3), 75 Hawthorne St., San Francisco, CA 94105, Telephone: (415) 744-1068, [lawatch.roccena@epamail.epa.gov](mailto:lawatch.roccena@epamail.epa.gov)

Region X: (Alaska, Idaho, Oregon, Washington), Karl Arne, (ECO-084), 1200 Sixth Ave., Seattle, WA 98101, Telephone: (206) 553-2576, [rne.karl@epamail.epa.gov](mailto:rne.karl@epamail.epa.gov)

#### List of Subjects

Environmental protection.

Dated: March 12, 1999.

**Janet L. Andersen,**

*Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.*

[FR Doc. 99-6785 Filed 3-18-99; 8:45 am]

BILLING CODE 6560-50-F

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-6312-4]

**Interagency Project To Clean Up Open Dumps on Tribal Lands: Request for Proposals****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice of availability.

**SUMMARY:** The national Tribal Solid Waste Interagency Workgroup (Workgroup) is soliciting proposals for its Tribal Open Dump Cleanup Project (Cleanup Project). Approximately \$1.6 million is available to fund selected proposals with the possibility of additional funds depending on the scope of the individual project. The Cleanup Project is intended to demonstrate the Federal government's ability to provide comprehensive solid waste management funding and technical support to tribes by assisting three to six tribes with the closure or upgrade of "high priority" waste disposal sites. In determining whether a site is high priority, the Workgroup will generally rely on the Indian Health Service's 1997 Report—*Open Dumps on Indian Lands*. The Workgroup recognizes that an individual tribe may have information on high priority sites that are not included in the IHS Report. To address such sites, the Request for Proposals package includes criteria that allow a tribe to demonstrate that a site represents a serious threat to human health and the environment and should be considered high priority. The Workgroup plans to use information gathered from the Cleanup Project to devise a strategy to support further tribal efforts to address solid waste management needs.

The Tribal Solid Waste Interagency Workgroup was established in April 1998 to devise a Federal plan for helping tribes bring their waste disposal sites into compliance with the municipal solid waste landfill criteria (40 CFR part 258), i.e., closing or upgrading open dumps and planning for appropriate alternative disposal. Current workgroup members include representatives from EPA (Office of Solid Waste and Emergency Response, Office of Enforcement and Compliance Assurance, and American Indian Environmental Office), the Bureau of Indian Affairs, the Indian Health Service, the Federal Aviation Administration, the National Oceanic and Atmospheric Administration, the U.S. Geological Survey, and the Departments of Agriculture (Hazardous

Waste Management Group and Rural Utilities Service) and Defense.

**Criteria:** Eligible recipients of assistance under the Cleanup Project include Federally recognized tribes, Alaska native villages, and multi-tribe 501(c)(3) organizations whose membership consists of Federally recognized tribes and/or Alaska native villages. Proposals should be no more than 10 pages in length, excluding supporting documentation. A full explanation of the submittal process, the qualifying requirements, and the criteria that will be used to evaluate proposals for this Cleanup Project may be found in the Request for Proposals package.

**DATES:** To be considered, proposals must be postmarked no later than April 23, 1999.

**FOR FURTHER INFORMATION CONTACT:** For copies of the Request for Proposals package, or, if you have questions regarding this request or the Tribal Solid Waste Interagency Workgroup, please contact your regional EPA office or EPA—Melanie Barger Garvey, 202-564-2579 or Beverly Goldblatt, 703-308-7278, IHS—Steve Aoyama, 301-443-1046, BIA—Jerry Gidner, 202-208-5696.

The Request for Proposals package may be downloaded from the Internet at <www.epa.gov/tribalmsw>. Click on "What's New."

**Matthew Hale,***Acting Director, Office of Solid Waste.*

[FR Doc. 99-6783 Filed 3-18-99; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-6312-8]

**Air Quality Criteria for Particulate Matter****AGENCY:** Environmental Protection Agency.**ACTION:** Notice of public meeting.

**SUMMARY:** The National Center for Environmental Assessment of the U.S. Environmental Protection Agency (EPA) announces a public meeting to review draft chapters of a forthcoming EPA document entitled, *Air Quality Criteria for Particulate Matter*. This meeting will discuss the following topics as they pertain to particulate matter (PM) as an air pollutant: atmospheric chemistry, sources and emissions, concentrations in ambient air, exposure, epidemiology, dosimetry, toxicology, and controlled human exposure.

**DATES:** The meeting is open to the public and will be held April 6-9, 1999, from 8:30 a.m. to 5:00 p.m., daily. To

accommodate seating for those parties interested in attending, please make reservations with Ms. Emily Lee at the U.S. Environmental Protection Agency, National Center for Environmental Assessment-RTP Office, MD-52, Research Triangle Park, NC 27711; telephone: 919-541-4169; facsimile: 919-541-5078; E-mail: lee.emily@epa.gov.

**ADDRESSES:** The meeting site is the Embassy Suites, 201 Harrison Oaks Blvd., Cary, NC 27513; phone 919-677-1840.

**FOR FURTHER INFORMATION CONTACT:** Dr. Dennis Kotchmar, National Center for Environmental Assessment-RTP Office (MD-52), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone: 919-541-4158; facsimile: 919-541-1818; E-mail: kotchmar.dennis@epa.gov.

**SUPPLEMENTARY INFORMATION:** The U.S. Environmental Protection Agency (EPA) is updating and revising, where appropriate, the EPA's *Air Quality Criteria for Particulate Matter* (PM). Sections 108 and 109 of the Clean Air Act require that the EPA carry out a periodic review and revision, where appropriate, of the criteria and the National Ambient Air Quality Standards (NAAQS) for the "criteria" air pollutants such as PM.

The Agency will consider the discussions at the April 6-9 meeting in further revisions of the draft chapters prior to their incorporation into an external review draft of the revised *Air Quality Criteria for Particulate Matter* and will release the draft document for public review and comment in July or August 1999. The Clean Air Scientific Advisory Committee (CASAC) will meet to review the external review draft document in November or December 1999. This meeting will be open to the public, and interested parties will have an opportunity to make statements. Through subsequent **Federal Register** notices, the EPA will keep the public informed of opportunities to comment on the first external review draft and to make statements at the CASAC review meeting.

Dated: March 15, 1999.

**Arthur Payne,***Acting Director, National Center for Environmental Assessment.*

[FR Doc. 99-6781 Filed 3-18-99; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-6312-2]

**Proposed CERCLA Prospective Purchaser Agreement for the Phoenix Metals Site****AGENCY:** Environmental Protection Agency ("EPA").**ACTION:** Proposal of CERCLA prospective purchaser agreement for the Phoenix Metals Site.

**SUMMARY:** In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), 42 U.S.C. 9601 *et seq.*, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), Public Law 99-499, notice is hereby given that a proposed purchaser agreement ("PPA") for the Phoenix Metals Removal Action Site ("the Site") located in Baldwin, Wisconsin, has been executed by Brooks D. Ketchum d/b/a Custom Welding. The proposed PPA has been submitted to the Attorney General for approval.

The Site is located on approximately 4.8 acres of industrially zoned land. Rosen Metals, Inc., began processing spent automotive and industrial lead-acid batteries for their lead content at the Site in the 1970s. From January 1993 through September 1996, the Site was the subject of a Federally funded enforcement action, specifically, lead contaminated soil removal activities. Brooks D. Ketchum d/b/a Custom Welding, intends to purchase and redevelop the Site. The proposed PPA would require Brooks D. Ketchum d/b/a Custom Welding to pay the United States \$6,000 to be applied toward response costs incurred by the United States. The Site is not on the National Priorities List, and no further response activities at the Site are anticipated at this time.

**DATES:** Comments on the proposed PPA must be received by EPA on or before April 19, 1999.

**ADDRESSES:** A copy of the proposed PPA is available for review at U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Please contact Mary McAuliffe at (312) 886-6237, prior to visiting the Region 5 office.

Comments on the proposed PPA should be addressed to Mary McAuliffe, Office of Regional Counsel, U.S. EPA, Region 5, 77 West Jackson Boulevard (Mail Code C-14J), Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** Mary McAuliffe at (312) 886-6237, of

the U.S. EPA Region 5 Office of Regional Counsel.

A 30-day period, commencing on the date of publication of this notice, is open for comments on the proposed PPA. Comments should be sent to the addressee identified in this document.

**William E. Muno,**

*Director, Superfund Division, Region 5.*

[FR Doc. 99-6780 Filed 3-18-99; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-6312-7]

**Notice of Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act: J C Pennco****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice; request for public comment.

**SUMMARY:** In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement concerning the J C Pennco Superfund Site in San Antonio, Texas, with the following settling parties referenced in the Supplementary Information portion of this document.

The settlement requires the settling *major* parties to pay \$479,000 to the Hazardous Substances Superfund. The settlement includes a covenant not to sue pursuant to section 107 of CERCLA, 42 U.S.C. 9607.

For thirty (30) days following the date of publication of this document, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at 1445 Ross Avenue, Dallas, Texas, 75202-2733.

**DATES:** Comments must be submitted on or before April 19, 1999.

**ADDRESSES:** The proposed settlement and additional background information relating to the settlement are available for public inspection at 1445 Ross Avenue, Dallas, Texas, 75202-2733. A copy of the proposed settlement may be

obtained from Dan Hochstetler, 1445 Ross Avenue, Dallas, Texas, 75202-2733 at (214) 665-6569. Comments should reference the J C Pennco Superfund Site in San Antonio, Texas, and EPA Docket Number 06-5-98, and should be addressed to Dan Hochstetler at the address listed above.

**FOR FURTHER INFORMATION CONTACT:** Jim Costello, 1445 Ross Avenue, Dallas, Texas, 75202-2733 at (214) 665-8045.

**SUPPLEMENTARY INFORMATION:** Ashley Salvage Company, Inc.  
The Coleman Company, Inc.

The Dee Howard Company  
Defense Reutilization and Marketing Service

Fairchild Aircraft Incorporated  
Fairchild Gen-Aero, Inc.  
Senior Flexonics, Inc.  
Via Metropolitan Transit Authority  
Victor Service Center, Inc.

Dated: March 10, 1999.

**Myron O. Knudson,**

*Acting Regional Administrator, Region 6.*

[FR Doc. 99-6782 Filed 3-18-99; 8:45 am]

**BILLING CODE 6560-50-P**

**FEDERAL COMMUNICATIONS COMMISSION****Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission**

March 10, 1999.

**SUMMARY:** The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

**DATES:** Written comments should be submitted on or before May 18, 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, Room 1-A804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to lesmith@fcc.gov.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collections contact Les Smith at (202) 418-0217 or via the Internet at lesmith@fcc.gov.

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 3060-0885.

*Title:* Telephone Number Portability, CC Docket No. 95-116, Third Report and Order (Local Number Portability Worksheet and Recordkeeping Requirement).

*Form Number:* FCC Form 487.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business or other for-profit entities.

*Number of Respondents:* 4,400.

*Estimated Time Per Response:* 1.74 hours (avg.).

*Frequency of Response:*

Recordkeeping; Annual and on occasion reporting requirements.

*Total Annual Burden:* 7,675 hours.

*Total Annual Cost:* \$2,257,000.

*Needs and Uses:* In the Third Report and Order issued in CC Docket No. 95-116, the Commission implements, for long-term number portability costs, the statutory requirement that all telecommunications carriers bear the costs of number portability on a competitively neutral basis, as set forth in Section 251(e)(2) of the Telecommunications Act of 1996. The Third Report and Order requires telecommunications carriers to provide the information about their international and regional end-user telecommunications revenues that will enable the regional database administrator to allocate the costs of the number portability regional databases in a competitively neutral manner. FCC Form 487, LNP Worksheet is designed to capture this information. The Third Report and Order requires incumbent local exchange carriers (LECs) to maintain records that detail both the nature and specific amount of these carrier-specific costs that are directly related to number portability, and those carrier-specific costs that are not directly related to number portability.

Federal Communications Commission.

**Shirley S. Suggs,**

*Chief, Publications Branch.*

[FR Doc. 99-6731 Filed 3-18-99; 8:45 am]

BILLING CODE 6712-01-M

**FEDERAL COMMUNICATIONS COMMISSION**

**Public Information Collections Approved by Office of Management and Budget**

March 8, 1999.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104-13. 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. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418-1379.

**Federal Communications Commission**

*OMB Control No.:* 3060-0785.

*Expiration Date:* 09/30/99.

*Title:* Universal Service Worksheet.

*Form No.:* FCC Form 457.

*Respondents:* Business or other for profit.

*Estimated Annual Burden:* 5000 respondents; 13.69 hours per response (avg.); 68,450 total annual burden hours.

*Estimated Annual Reporting and Recordkeeping Cost Burden:* \$4903.

*Frequency of Response:* Semi-annual; on occasion.

*Description:* The Telecommunications Act of 1996 (1996 Act) directed the Commission to initiate a rulemaking to reform our system of universal service so that universal service is preserved and advanced as markets move toward competition. To fulfill that mandate, on March 8, 1996, the Commission adopted a Notice of Proposed Rulemaking (NPRM) in CC Docket No. 96-45 to implement the congressional directives set forth in section 254 of the Communications Act of 1934, as amended by the 1996 Act. Pursuant to section 254(a)(1), the NPRM also referred numerous issues related to universal service to a Federal-State Joint Board for recommended decision. On November 8, 1996, the Joint Board released a Recommended Decision in which it made recommendations to assist and counsel the Commission in the creation of effective universal service support mechanisms that would ensure that the goals of affordable,

quality service and access to advanced services are met by means that enhance competition. On November 18, 1996, the Commission's Common Carrier Bureau released a Public Notice (DA 96-1891) seeking public comment on the issues addressed and recommendations made by the Joint Board in the Recommended Decision. On May 8, 1997, the Commission released the Report and Order on Universal Service in CC Docket No. 96-45 that established new federal universal service support mechanisms consistent with the universal service provisions of section 254. In the Second Order on Reconsideration in CC Docket Nos. 97-21, and 96-45, the Commission adopted the Worksheet. The Worksheet required universal service contributors to report as end-user telecommunications revenues any revenues derived from inside wiring maintenance. In the Sixth Order on Reconsideration, in CC Docket No. 96-45, the Commission reconsidered its decision in the Second Order on Reconsideration regarding inside wiring maintenance. The Commission concluded that the provision of inside wiring maintenance does not constitute telecommunications or a telecommunications service, and therefore revenues derived from inside wiring maintenance should not be included as end-user telecommunications revenues on the Worksheet. The Commission directed that carriers should adjust the 1998 full-year data reported on the Worksheet due on March 31, 1999 to reflect this change. Pursuant to the authority delegated under section 54.711(c) of the Commission's rules, the Common Carrier Bureau has updated the Worksheet so that revenues from inside wiring maintenance are no longer reported as end-user telecommunications revenues. Specifically, revenues from inside wiring maintenance formerly reported on Line (34) as end-user telecommunications revenues are now reported on Line (50) as non-telecommunications revenues. Contributors must use the revised Worksheet for their filings due on March 31, 1999. Copies of the revised Worksheet (February 1999 edition) and instructions may be downloaded from the Commission's forms Web Page, [www.fcc.gov/formpage.html](http://www.fcc.gov/formpage.html). Copies may also be obtained from the Universal Service Administrative Company at 973-560-4400. Obligation to respond: Mandatory.

*OMB Control No.:* 3060-0816.

*Expiration Date:* 08/31/99.

*Title:* Local Competition in the Local Exchange Telecommunications Services Report.

*Form No.:* N/A.

*Respondents:* Business or other for profit.

*Estimated Annual Burden:* 20 respondents; 26 hours per response (avg.); 5520 total annual burden hours.

*Estimated Annual Reporting and Recordkeeping Cost Burden:* \$0.

*Frequency of Response:* On occasion; quarterly.

*Description:* The Telecommunications Act of 1996 (1996 Act) imposes obligations and responsibilities on telecommunications carriers, particularly incumbent local exchange carriers (LECs), that are primarily designed to open telecommunications markets to competitive entry, to promote universal service, and to lessen the need for government regulation of telecommunications. Pursuant to these overall goals, the statute directed the Commission to adopt regulations to implement specific statutory requirements, including regulations governing the provisions of interconnection of incumbent LEC facilities with new local exchange service competitors, and the competitive entry of Bell Operating Companies (BOCs) into previously prohibited interexchange and other services markets. As part of its responsibilities toward achieving the intent of the statute, the Commission must have adequate data at hand to evaluate the success of these efforts. Moreover, in section 706(b) of the 1996 Act, Congress directed the Commission to report to it on the pace of deployment of "advanced telecommunications capability"—broadband telecommunications services such as high-speed Internet access. The Commission adopted a Report (in CC Docket 98-146) on January 28, 1999, in which it formally undertook to issue annual reports detailing the status of broadband deployment. Gathering relevant data about broadband deployment is, therefore, essential if the Commission is to successfully accomplish this statutory requirement. Gathering information also is critical to the Commission's deregulatory agenda. Gathering data about the development of local competition and broadband deployment will help ensure that the Commission can properly evaluate the nature and impact of its existing regulation and, where appropriate, reduce or eliminate regulation. New sections 10 and 11 of the 1996 Act both require the Commission to undertake reviews of existing Commission regulations with a view towards their elimination, but both require that the

Commission's analysis include an economic analysis of the state of competition among service providers. The Commission has designed a survey form to capture this information and is asking certain carriers to complete the survey form. Obligation to response: Voluntary.

Public reporting burden for the collections of information is as noted above. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden to Performance Evaluation and Records Management, Washington, DC 20554.

Federal Communications Commission.

**Shirley S. Suggs,**

*Chief, Publications Branch.*

[FR Doc. 99-6728 Filed 3-18-99; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

March 15, 1999.

**SUMMARY:** The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

**DATES:** Written comments should be submitted on or before April 19, 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 Commissions, Room 1-804, 445 12th Street, SW, Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collections contact Les Smith at (202) 418-0217 or via the Internet at lesmith@fcc.gov.

#### SUPPLEMENTARY INFORMATION:

*OMB Control Number:* 3060-0804.

*Title:* Universal Service—Health Care

Providers Universal Service Program.

*Form Number(s):* FCC 465, FCC 466, FCC 467, and FCC 468.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Not-for-profit institutions; and Businesses or other for-profit entities.

*Number of Respondents:* 18,400.

*Estimated Time per Response:* 1.5 to 2.5 hours.

*Frequency of Response:*

Recordkeeping; On occasion reporting requirements.

*Total Annual Burden:* 121,500 hours.

*Total Annual Costs:* \$270,000.

*Needs and Uses:* The Commission adopted rules providing support for all telecommunications services, limited distance charges, and Internet access for all health care providers. Health care providers who want to participate in the universal service program must file the following forms. FCC Form 465 to request eligible services; FCC Form 466 to certify that the most cost effective method of providing the services has been requested; FCC Form 467 to confirm the receipt of the requested services; and FCC Form 468 to ensure that the proper amount of universal service support has been calculated. All the information is used to administer the universal service health care program.

Federal Communications Commission.

**Shirley S. Suggs,**

*Chief, Publications Branch.*

[FR Doc. 99-6730 Filed 3-18-99; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

[DA 99-385]

### Unified Policy For Dismissing Applications and Pleadings

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** This document released on February 24, 1999, under delegated authority, announced a unified policy regarding dismissing and returning applications and dismissing pleadings associated with applications. The policy is intended to promote: the correct filing of applications and pleadings associated with such applications, expedited processing of all wireless applications, and consistency in the treatment of all applications received by the Wireless Telecommunications Bureau.

**EFFECTIVE DATE:** May 1, 1999.

**FOR FURTHER INFORMATION CONTACT:** Charlene Lagerwerff, Commercial Wireless Division, at (202) 418-1349 or Steve Linn, Private Wireless Division, at 717-338-2646.

**SUPPLEMENTARY INFORMATION:** This Public Notice released on February 24, 1999, is available for inspection and copying during normal business hours in the FCC Reference Center, 2025 M Street, NW, Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc. 1231 20th Street, NW, Washington DC 20036 (202) 857-3800.

The document is also available via the Internet at

[http://www.fcc.gov/Bureaus/Wireless/Public\\_Notices/1999/da990385.wp](http://www.fcc.gov/Bureaus/Wireless/Public_Notices/1999/da990385.wp)  
[http://www.fcc.gov/Bureaus/Wireless/Public\\_Notices/1999/da990385.txt](http://www.fcc.gov/Bureaus/Wireless/Public_Notices/1999/da990385.txt)  
[http://www.fcc.gov/Bureaus/Wireless/Public\\_Notices/1999/da990385.pdf](http://www.fcc.gov/Bureaus/Wireless/Public_Notices/1999/da990385.pdf)

Federal Communications Commission.

**Steven E. Weingarten,**

*Chief, Commercial Wireless Division, Wireless Telecommunications Bureau.*

[FR Doc. 99-6729 Filed 3-18-99; 8:45 am]

**BILLING CODE 6712-01-P**

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## FEDERAL DEPOSIT INSURANCE CORPORATION

### Sunshine Act Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 11:00 a.m. on Tuesday, March 23, 1999, to consider the following matters:

*Summary Agenda:* No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors

requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' meetings.  
 Reports of actions taken pursuant to authority delegated by the Board of Directors and summary and status reports.

Annual Alternative Dispute Resolution Report.

Memorandum and resolution re: Amendment to Appendix C of Part 325 (Market Risk) to Eliminate the Minimum Standard Specific Risk Capital Charge for Banks with Qualifying Internal Models.

#### *Discussion Agenda:*

Memorandum and resolution re: Recommendation concerning proposed amendments to Part 326 of FDIC's Rules and Regulations—Minimum Security Devices and Procedures and Bank Secrecy Act Compliance Program ("Know Your Customer").

Memorandum and resolution re: Final amendment to Part 330—Deposit Insurance Regulations; Joint Accounts and "Payable-on-Death" Accounts.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, NW., Washington, D.C.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 416-2449 (Voice); (202) 416-2004 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898-6757.

Dated: March 16, 1999.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 99-6866 Filed 3-17-99; 10:51 am]

**BILLING CODE 6714-01-M**

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## FEDERAL ELECTION COMMISSION

[Notice 1999-6]

### Filing Dates for the Louisiana Special Election

**AGENCY:** Federal Election Commission.

**ACTION:** Notice of filing dates for special election.

**SUMMARY:** Louisiana has scheduled a special election on May 1, 1999, to fill the U.S. House seat in the First Congressional District vacated by Congressman Robert Livingston. Under Louisiana law, a majority winner in a non-partisan special election is declared elected. Should no candidate achieve a majority vote, a Special Runoff Election will be held on May 29, 1999, between the top two vote-getters.

Committees participating in the Louisiana special elections are required to file pre-and post-election reports. Filing dates for these reports are affected by whether one or two elections are held.

**FOR FURTHER INFORMATION CONTACT:** Ms. Bobby Zarin, Information Division, 999 E Street, NW, Washington, DC 20463, Telephone: (202) 694-1100; Toll Free (800) 424-9530.

**SUPPLEMENTARY INFORMATION:** All principal campaign committees of candidates who participate in the Louisiana Special General and Special Runoff Elections and all other political committees not filing monthly which support candidates in these elections shall file a 12-day Pre-General Report on April 19, 1999, with coverage dates from the close of the last report filed, or the day of the committee's first activity, whichever is later, through April 11, 1999; a Pre-Runoff Report on May 17, 1999, with coverage dates from April 12 through May 9, 1999; and a Post-Runoff Report on June 28, 1999, with coverage dates from May 10 through June 18, 1999.

All principal campaign committees of candidates in the Special General Election *only* and all other political committees not filing monthly which support candidates in the Special General Election shall file a 12-day Pre-General Report on April 19, with coverage dates from the close of the last report filed, or the date of the committee's first activity, whichever is later, through April 11, and a Pre-General Report on June 1, with coverage dates from April 12 through May 21, 1999.

All political committees not filing monthly which support candidates in the Special Runoff *only* shall file a 12-day Pre-Runoff Report on May 17, with coverage dates from the last report filed or the date of the committee's first activity, whichever is later, through May 9, and a Post-Runoff Report on June 28, with coverage dates from May 10 through June 18, 1999.

## CALENDAR OF REPORTING DATES FOR LOUISIANA SPECIAL ELECTION

Report	Close of books	Reg./Cert. mailing date <sup>2</sup>	Filing date
If Only the Special General is Held (05/01/99), Committees Must File:			
Pre-General .....	04/11/99	04/16/99	04/19/99
Post-General .....	05/21/99	<sup>3</sup> 06/01/99	<sup>3</sup> 06/01/99
If Two Elections Are Held, But a Committee is Involved Only in the Special General (05/01/99):			
Pre-General .....	04/11/99	04/16/99	04/19/99
Mid-Year .....	06/30/99	07/31/99	07/31/99
Committees Involved in the Special General (05/01/99) and Special Runoff (05/29/99) Must File:			
Pre-General .....	04/11/99	04/16/99	04/16/99
Pre-Runoff .....	05/09/99	05/14/99	05/17/99
Post-Runoff .....	06/18/99	06/28/99	06/28/99
Committees Involved Only in the Special Runoff (05/29/99) Must File:			
Pre-Runoff .....	05/09/99	05/14/99	05/17/99
Post-Runoff .....	06/18/99	06/28/99	06/28/99

<sup>1</sup> The period begins with the close of books of the last report filed by the committee. If the committee has filed no previous reports, the period begins with the date of the committee's first activity.

<sup>2</sup> Reports sent by registered or certified mail must be postmarked by the mailing date; otherwise, they must be received by the filing date.

<sup>3</sup> The date has been adjusted because the computed date would have fallen on a federal holiday.

Dated: March 15, 1999.

**Scott E. Thomas,**

*Chairman, Federal Election Commission.*

[FR Doc. 99-6663 Filed 3-18-99; 8:45 am]

BILLING CODE 6715-01-M

## FEDERAL MARITIME COMMISSION

### Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

*Agreement No.:* 202-011604-003.

*Title:* USA Conference.

*Parties:* Farrell Lines Incorporated; Sea-Land Service, Inc.

*Synopsis:* The proposed modification revises Articles 13 (Independent Action) and 14 (Service Contracts) of the Agreement to conform with the requirements of the Ocean Shipping Reform Act of 1998. The modification also reflects a prior and now effective modification to Article 3 (the resignation of A.P. Moller-Maersk), and makes reference to the Ocean Shipping Reform Act of 1998 under Article 4.

*Agreement No.:* 232-11655.

*Title:* MSC/Evergreen South America Slot Charter Agreement.

*Parties:* Evergreen Marine Corporation; Mediterranean Shipping Company.

*Synopsis:* The proposed Agreement authorizes the parties to charter space to one other and enter into related cooperative arrangements in the trades between U.S. East Coast and ports in Argentina, Brazil, Uruguay, Paraguay and Venezuela. The parties have requested expedited review.

*Agreement No.:* 207-011656.

*Title:* West Coast Express Joint Service Agreement.

*Parties:* Associated Transport Line, L.L.C. ("ATL"); G.G.E. Express Line L.L.C. ("GGE"); West Coast Express (the "Joint Service").

*Synopsis:* The proposed agreement would authorize the parties to establish a joint service, known as the West Coast Express, that will operate in the trade between United States Atlantic and Gulf Coast ports and points, and ports and points in Panama, Ecuador, Peru and Chile. The parties have requested expedited review.

*Agreement No.:* 224-201071.

*Title:* San Francisco Mexican Line Marine Terminal Agreement.

*Parties:* San Francisco Port Commission; Mexican Line Limited.

*Synopsis:* The proposed agreement provides for the non-exclusive use of a pier and runs through March 31, 2004.

Dated: March 16, 1999.

By Order of the Federal Maritime Commission.

**Bryant L. VanBrakle,**

*Secretary.*

[FR Doc. 99-6758 Filed 3-18-99; 8:45 am]

BILLING CODE 6730-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Toxic Substances and Disease Registry

[Program Announcement 99059]

### Childhood Asthma and Hazardous Substances Applied Research and Development; Notice of the Availability of Funds

#### A. Purpose

The Agency for Toxic Substances and Disease Registry (ATSDR) announces the availability of fiscal year (FY) 1999 funds for a cooperative agreement program to conduct research on the impact of hazardous substances on childhood asthma. This program addresses the "Healthy People 2000" priority area of Environmental Health.

The purpose of this program is to: (1) Use secondary data sources available for asthma and evaluate the contribution of environmental exposures to asthma morbidity among children, (2) provide generalizable scientific information about the association between hazardous substances and childhood asthma morbidity; and (3) develop a methodology which could serve as a useful model for other organizations when responding to questions concerning the health impact of air releases of hazardous substances.

#### B. Eligible Applicants

Assistance will be provided to official public health agencies of States or their bona fide agents or instrumentalities. This includes the District of Columbia, American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Federated States of Micronesia, Guam,

the Northern Mariana Islands, the Republic of the Marshall Islands, the Republic of Palau, and federally recognized Indian Tribal governments. State organizations, including State universities, State colleges, and State research institutions, must establish that they meet their respective State's legislature definition of a State entity or political subdivision to be considered to be an eligible applicant.

### C. Availability of Funds

Approximately \$185,000 may be available in FY 1999 to fund one or two awards. It is expected that the average award will be \$100,000, ranging from \$80,000 to \$105,000. The award(s) are expected to begin on or about September 30, 1999, and will be made for a 12-month budget period within a project period of up to three years. Funding estimates are subject to change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

#### Use of Funds

Funds may be expended for reasonable program purposes, such as personnel, travel, supplies and services. Funds for contractual services may be requested; however, the primary recipient of ATSDR funds, must perform a substantive role in carrying out project activities and not merely serve as a conduit for an award to another party or provide funds to an ineligible party. Equipment may be purchased with these funds, however, the equipment proposed should be appropriate and reasonable for the research activity to be conducted. Equipment may be acquired only when authorized and the application should provide a justification of need to acquire equipment, the description, and the cost of purchase versus lease. At the completion of the project, the equipment must be returned to ATSDR.

#### Funding Priorities

Priority will be given to the proposed project that is conducted in a community where a completed air pathway has already been established for one or more hazardous substances from a particular point source(s).

### D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for activities under 1. (Recipient Activities), and ATSDR will be responsible for the activities listed under 2. (ATSDR Activities).

#### 1. Recipient Activities

a. Develop a research project which evaluates the contribution of environmental exposures, from a point source using secondary data. Provide scientific information concerning hazardous substances and childhood asthma and develop a model for others to address the health impact of hazardous substances.

b. Develop, field test, and revise data extraction instruments.

c. Conduct the activities. Analyze data and interpret findings.

d. Disseminate research results to community members, and publish in written format.

e. Provide evidence of collaborate efforts with the state health department on proposed and future community outreach activities.

f. Collaborate with ATSDR on these program activities, and meet annually to coordinate planned efforts and review progress.

#### 2. ATSDR Activities

a. Provide scientific, epidemiologic, and environmental assistance.

b. Collaborate on the development of the protocol and evaluation of the data extraction instruments.

c. Collaborate with awardee(s) on data analysis and interpretation of findings.

d. Provide technical assistance to awardees (if more than one award is made) to ensure a sharing of information and methodologies, as appropriate.

e. Provide assistance for the dissemination of information to community members resulting from this project.

f. Facilitate an annual meeting between awardee(s) and ATSDR to coordinate planned efforts and review progress.

### E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed so it is important to follow them in laying your program plan. The application must be developed in accordance with PHS Form 5161-1 (OMB Number 0937-0189) information. The entire application, including appendices, should not exceed 50 pages and the Proposal Narrative section contained therein should not exceed 30 pages. Pages should be clearly numbered and a complete table of contents to the application and any appendices included. The original and each copy of the application must be submitted unstapled and unbound. All

materials must be typewritten, double-spaced, with unreduced type (font size 12 point) on 8½" by 11" paper, with at least 1" margins, headers, and footers, and printed on one side only. Do not include any spiral or bound materials or pamphlets.

#### 1. Title Page

The heading should include the title of cooperative agreement announcement, project title, organization, name and address, project director's name address and telephone number.

#### 2. Abstract

A one page, singled-spaced, typed abstract must be submitted with the application. The heading should include the title of cooperative agreement announcement, project title, organization, name and address, project director and telephone number. This abstract should include a work plan identifying activities to be developed, activities to be completed, and a timeline for completion of these activities.

#### 3. Application Narrative

The narrative of each application must address the evaluation component in addition to the following:

a. Briefly state the applicant's understanding of the need or problem to be addressed, the purpose, and goals over the 3 year period of the cooperative agreement.

b. Describe in detail the objectives and the methods to be used to achieve the objectives of the project. The objectives should be specific, time-phased, measurable, and achievable during each budget period. The objectives should directly relate to the program goals. Identify the steps to be taken in planning and implementing the objectives and the responsibilities of the applicant for carrying out the steps.

c. Provide the name, qualifications, and proposed time allocation of the Principal Investigator who will be responsible for administering the project. Describe staff, experience, facilities, equipment available for performance of this project, and other resources that define the applicant's capacity or potential to accomplish the requirements stated above. List the names (if known), qualifications, and time allocations of the existing professional staff to be assigned to (or recruited for) this project, the support staff available for performance of this project, and the available facilities including space.

d. Document the applicant's expertise, and extent of experience in the areas of

asthma, environmental health, and population-based epidemiologic studies.

e. Provide letters of support or other documentation demonstrating coordination with the state health department and all other agencies or organizations described as participating in the project.

f. Describe how the affected communities will be involved in the proposed project.

g. Human Subjects: State whether or not Humans are subjects in this proposal. (See Human Subjects in the Evaluation Criteria and Other Requirements sections.)

h. Inclusion of women, ethnic, and racial groups: Describe how the CDC/ATSDR policy requirements will be met regarding the inclusion of women, ethnic, and racial groups in the proposed research. (See Women, Racial and Ethnic Minorities in the Evaluation Criteria and Other Requirements sections.)

#### 4. Budget

Provide a detailed budget which indicates anticipated costs for personnel, equipment, travel, communications, supplies, postage, and the sources of funds to meet these needs. The applicant should be precise about the program purpose of each budget item. For contracts described within the application budget, applicants should name the contractor, if known; describe the services to be performed; and provide an itemized breakdown and justification for the estimated costs of the contract; the kinds of organizations or parties to be selected; the period of performance; and the method of selection. Place the budget narrative pages showing, in detail, how funds in each object class will be spent, directly behind form 424A. Do not put these pages in the body of the application. ATSDR may not approve or fund all proposed activities.

#### F. Submission and Deadline

##### *Pre-Application Letter of Intent*

In order to enable ATSDR to determine the level of interest in the program announcement, a non-binding letter-of-intent to apply is requested from potential applicants. The letter should be submitted to Lisa Garbarino, Grants Management Officer, Attn: Nelda Godfrey, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, Georgia, 30341-4146. It should be postmarked no later than May 17, 1999. The letter should identify program announcement number 99059,

and name and phone number of contact person.

##### *Application*

The original and two copies of the application PHS Form 5161-1 must be submitted to Lisa Garbarino, Grants Management Officer, Attn: Nelda Y. Godfrey, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Suite 3000, Atlanta, Georgia, 30341-4146 on or before July 16, 1999. (By formal agreement, the CDC Procurement and Grants Office will act for and on behalf of ATSDR on this matter.)

1. Deadline: Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date, or

b. Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants should request a legibly-dated U.S. Postal Service postmark or obtain a legibly-dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. Late Applications: Applications which do not meet the criteria in 1.a. or 1.b. above are considered late applications. Late applications will not be considered and will be returned to the applicant.

#### G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an objective review group appointed by ATSDR.

##### *Review Criteria*

1. Understanding of the Problem (10 percent) Responsiveness to the objectives of the cooperative agreement including:

a. The applicant's understanding of the problems related to community exposures to hazardous substances and concerns regarding morbidity from childhood asthma, and

b. Relevance of the proposed program to these and related problems.

2. Program Personnel (20 percent).

a. Applicant's technical experience and understanding (e.g. in the areas of asthma, environmental health, and population-based epidemiologic studies).

b. Qualifications and time allocation of the professional staff to be assigned to this project.

c. Extent to which the management staff and their working partners are clearly described.

3. Goals and Objectives (10 percent).

The extent to which the proposed goals

and objectives are clearly stated and measurable.

4. Study Design and Methods (30 percent).

a. Adequacy of the study design and methodology for accomplishing the stated goals and objectives.

b. The degree to which efficient and innovative approaches are proposed to address the problems.

c. The extent to which the applicant's plans and schedule proposed for accomplishing the activities to be carried out in this project are clearly stated, are realistic given the length of the funding period, and can be achieved within the proposed budget.

d. Adequacy of plan for recruitment and outreach for study participants including the process of establishing partnerships with community(ies), the state health department, and recognition of the mutual benefits.

5. Community Involvement and Dissemination of Results (20 percent).

Adequacy of plans to address community concerns and create lines of communication. Adequacy of methods to disseminate the study results to state and local public health officials, tribal governments, Indian Health Service, community residents, and to other concerned individuals and organizations.

6. Facilities and Resources (9 percent). The adequacy of the applicant's facilities, equipment, and other resources available for performance of this project.

7. Minority Populations (1 percent). The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research.

This includes:

a. The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

b. The proposed justification when representation is limited or absent.

c. A statement as to whether the design of the study is adequate to measure differences when warranted.

d. A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community (ies) and recognition of mutual benefits.

8. Human Subjects (Not scored).

Does the application adequately address the requirements of 45 CFR 46 for the protection of human subjects?

\_\_\_\_\_ yes \_\_\_\_\_ no Comments:

\_\_\_\_\_ A statement must address whether or not exempt from the Department of Health and Human

Services (DHHS) regulations. Are procedures adequate for the protection of human subjects? Recommendations on the adequacy of protections include: (a) protections appear adequate, and there are no comments to make or concerns to raise, (b) protections appear adequate, but there are comments regarding the protocol, (c) protections appear inadequate and the Objective Review Group has concerns related to human subjects, or (d) disapproval of the application is recommended because the research risks are sufficiently serious and protection against the risks are inadequate as to make the entire application unacceptable.

9. Budget Justification (Not Scored) The budget will be evaluated to the extent that it is reasonable, clearly justified, and consistent with the intended use of funds.

#### H. Other Requirements

##### Technical Reporting Requirements

Provide CDC with the original and two copies of:

1. Semi-annual progress report (Attachment 2)
2. Financial Status Report (FSR) no more than 90 days after the end of the budget period
3. Final financial status report and performance report, no more than 90 days after the end of the project.

Send all reports to: Nelda Y. Godfrey, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Cooperative Agreement Number: \_\_\_\_\_, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Suite 3000, Atlanta, Georgia 30341-4146.

The following additional requirements are applicable to this program. For complete description of each, see Attachment 1 in the application kit.

- AR-1 Human Subjects Requirements
- AR-2 Requirements of Inclusion of Women and Racial and Ethnic Minorities in Research
- AR-10 Smoke-Free Workplace Requirements
- AR-11 Healthy People 2000
- AR-17 Peer Review and Technical Reviews of Final

#### REPORTS OF HEALTH STUDIES— ATSDR

- |          |                               |
|----------|-------------------------------|
| AR-18 .. | Cost Recovery—ATSDR.          |
| AR-19 .. | Third Party Agreements—ATSDR. |

#### I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized in Sections 104(i)(1)(E) and (15) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) as amended by the Superfund Amendments and Reauthorization Act (SARA) [42 U.S.C. 9604 (i)(1)(E) and (15)]. The Catalog of Federal Domestic Assistance number is 93.161.

#### J. Where To Obtain Additional Information

Please refer to Program Announcement 99059 when you request 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. If you have any questions after reviewing the contents of the application kit please contact: Nelda Y. Godfrey, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Suite 3000, Atlanta, Georgia 30341-4146, Telephone (770) 488-2722, E-mail address: nag9@cdc.gov.

To obtain technical assistance, contact: Sherri Berger, Epidemiologist, Health Investigations Branch, Division of Health Studies, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., Mail Stop E-31, Atlanta, Georgia 30333, Telephone: (404) 639-5149, E-mail address: sob8@cdc.gov.

See also the CDC home page on the Internet: <http://www.cdc.gov>.

Dated: March 12, 1999.

#### Georgi Jones,

*Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.*

[FR Doc. 99-6712 Filed 3-18-99; 8:45 am]

BILLING CODE 4163-70-P

#### 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 notice announcing the availability of Fiscal Year 1999 funds for the Human Immunodeficiency Virus (HIV) Prevention Public Health Conference Support Program was published in the **Federal Register** on March 10, 1998, [Vol. 64 FR No.46, pages 11911-11914] [FR Doc. 99-5867]. The notice is rescinded in its entirety, due to lack of funds.

Dated: March 15, 1999.

#### John L. Williams,

*Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 99-6734 Filed 3-18-99; 8:45 am]

BILLING CODE 4163-18-P

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### Food And Drug Administration

[Docket No. 99F-0461]

#### Ticona; Filing of Food Additive Petition

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that Ticona has filed a petition proposing that the food additive regulations be amended to provide for the safe use of polyphenylene sulfone resins as articles or components of articles intended for repeated use in contact with food.

**FOR FURTHER INFORMATION CONTACT:** Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-418-3081.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 9B4644) has been filed by Ticona, c/o Keller and Heckman LLP, 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposes to amend the food additive regulations in Part 177 *Indirect Food*

*Additives: Polymers* (21 CFR 177) to provide for the safe use of polyphenylene sulfone resins as articles or components of articles intended for repeated use in contact with food.

The agency has determined under 21 CFR 25.32(i) that this action is of the type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: February 26, 1999.

**Laura M. Tarantino,**

*Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.*

[FR Doc. 99-6750 Filed 3-18-99; 8:45 am]

BILLING CODE 4160-01-F

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 99D-0297]

#### Draft Guidance for Industry on Formal Dispute Resolution; Appeals Above the Division Level; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled "Formal Dispute Resolution: Appeals Above the Division Level." This draft guidance is intended to provide guidance for industry on procedures that will be adopted by the Center for Drug Evaluation and Research (CDER) and the Center for Biologics Evaluation and Research (CBER) for resolving scientific and procedural disputes that cannot be resolved at the division level.

**DATES:** Written comments on the draft guidance document may be submitted by May 18, 1999. General comments on agency guidance documents are welcome at any time. Submit written comments on the information collection provisions by April 19, 1999.

**ADDRESSES:** Copies of this draft guidance for industry are available on the Internet at "<http://www.fda.gov/cder/guidance/index.htm>" or "<http://www.fda.gov/cber/guidelines.htm>". Submit written requests for single copies of the draft guidance to the Drug Information Branch (HFD-210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or Office of

Communication, Training, and Manufacturers Assistance (HFM-40), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, MD 20852-1448, 301-827-3844, or FAX 888-CBERFAX or 301-827-3844. Send two self-addressed adhesive labels to assist the office in processing your request. Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Requests and comments should be identified with the docket number found in brackets in the heading of this document.

#### FOR FURTHER INFORMATION CONTACT:

Patricia L. DeSantis, Center for Drug Evaluation and Research (HFD-2), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-594-5400, or Rebecca A. Devine, Center for Biologics Evaluation and Research (HFM-10), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448, 301-827-0373.

#### SUPPLEMENTARY INFORMATION:

##### I. Description of the Guidance

FDA is announcing the availability of a draft guidance for industry entitled "Formal Dispute Resolution: Appeals Above the Division Level." The draft guidance is intended to provide guidance for industry on procedures that will be adopted by CDER and CBER for resolving scientific and procedural disputes that cannot be resolved at the division level. This draft guidance describes procedures for formally appealing such disputes to the office or center level and for submitting information to assist agency officials in resolving the issue(s) presented.

FDA regulations § 10.75 (21 CFR 10.75) provide a mechanism for any interested person to obtain formal review of any agency decision by raising the matter with the supervisor of the employee who made the decision. If the issue is not resolved at the primary supervisory level, the interested person may request that the matter be reviewed at the next higher supervisory level. This process may continue through the agency's entire supervisory chain of command, through the centers to the Deputy Commissioner for Operations and then to the Commissioner. CDER and CBER regulations for dispute resolution during the investigational new drug (IND) process (§ 312.48 (21 CFR 312.48)) and the new drug application (NDA)/abbreviated new drug application (ANDA) process (§ 314.103 (21 CFR 314.103)) establish

similar procedures for the resolution of scientific and procedural matters at the division level and subsequent formal review of decisions through center management.

On November 21, 1997, President Clinton signed into law the Food and Drug Administration Modernization Act of 1997 (the Modernization Act) (Pub. L. 105-115). Section 404 of the Modernization Act creates new section 562 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360bbb-1). Section 562 of the act provides that if, regarding an obligation concerning drugs or devices under the act or section 351 of the Public Health Service Act (the PHS Act) (42 U.S.C. 262), there is a scientific dispute between the agency and a sponsor, applicant, or manufacturer, and no specific provision of the act or regulation provides a right of review of the matter in controversy, FDA shall, by regulation, establish a procedure under which such sponsor, applicant, or manufacturer may request a review of the controversy, including review by an advisory committee. Section 562 of the act further provides that such review of the controversy shall take place in a timely manner. In the **Federal Register** of November 18, 1998 (63 FR 63978), FDA amended § 10.75 to explicitly state that a sponsor, applicant, or manufacturer of a drug or device may request review of a scientific controversy by an appropriate advisory committee. In the preamble to the final rule, FDA stated that implementation of this provision would be undertaken by the individual FDA centers and would be described in guidance documents.

The Prescription Drug User Fee Act of 1992 (PDUFA) (Pub. L. 102-571) was reauthorized in November 1997 (PDUFA 2) as part of the Modernization Act. In conjunction with PDUFA 2, FDA agreed to specific performance goals (PDUFA goals) for activities associated with the development and review of products in human drug applications as defined in section 735(1) of the act (21 U.S.C. 379g(1)) (PDUFA products). The PDUFA goals are summarized in "PDUFA Reauthorization Performance Goals and Procedures," an enclosure to a letter dated November 12, 1997, from the Secretary of Health and Human Services, Donna E. Shalala, to Senator James M. Jeffords. The PDUFA goals for major dispute resolution describe specific timeframes for CDER and CBER response to formally appealed decisions regarding scientific or procedural matters concerning PDUFA products.

The policies and procedures described in this draft guidance document will implement agency

regulations, section 562 of the act, and the PDUFA goals for dispute resolution. Unless stated otherwise in the draft guidance, the document applies to PDUFA products and non-PDUFA products (e.g., generic drugs).

This draft Level 1 guidance is being issued consistent with FDA's "Good Guidance Practices" (62 FR 8961, February 27, 1997). It represents the agency's current thinking on formal dispute resolution in CDER and CBER. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes, regulations, or both.

## II. Comments

Interested persons may, on or before May 18, 1999, submit to the Dockets Management Branch (address above) written comments on the draft guidance document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

## III. The Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act (the PRA) (44 U.S.C. 3501-3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth below.

With respect to the following collection of information, FDA invites comment on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection on respondents,

including through the use of automated collection techniques, when appropriate, and other forms of information technology.

*Title:* Draft Guidance for Industry on Formal Dispute Resolution: Appeals Above the Division Level.

*Description:* FDA is issuing a draft guidance on the process for formally resolving scientific and procedural disputes in CDER and CBER that cannot be resolved at the division level. The draft guidance describes procedures for formally appealing such disputes to the office or center level and for submitting information to assist center officials in resolving the issue(s) presented. The draft guidance provides information on how the agency will interpret and apply provisions of the existing regulations regarding internal agency review of decisions (§ 10.75) and dispute resolution during the IND process (§ 312.48) and the NDA/ANDA process (§ 314.103). In addition, the draft guidance provides information on how the agency will interpret and apply the specific PDUFA goals for major dispute resolution associated with the development and review of PDUFA products.

Existing regulations, which appear primarily in parts 10, 312, and 314 (21 CFR parts 10, 312, and 314), establish procedures for the resolution of scientific and procedural disputes between interested persons and the agency, CDER, and CBER. All agency decisions on such matters are based on information in the administrative file (§ 10.75(d)). In general, the information in an administrative file is collected under existing regulations in parts 312 (OMB Control No. 0910-0001), 314 (OMB Control No. 0910-0014), and part 601 (21 CFR part 601) (OMB Control No. 0910-0315), which specify the information that manufacturers must submit so that FDA may properly evaluate the safety and effectiveness of drugs and biological products. This information is usually submitted as part of an IND, NDA, or biologics license application (BLA), or as a supplement to an approved application. While FDA already possesses in the administrative file the information that would form the basis of a decision on a matter in dispute resolution, the submission of particular information regarding the request itself and the data and information relied on by the requestor in the appeal would facilitate timely resolution of the dispute. The draft guidance describes the following collection of information not expressly specified under existing regulations: The submission of the request for dispute resolution as an amendment to

the application for the underlying product, including the submission of supporting information with the request for dispute resolution.

Agency regulations (§§ 312.23(11)(d), 314.50, 314.94, and 601.2) state that information provided to the agency as part of an IND, NDA, ANDA, or BLA is to be submitted in triplicate and with an appropriate cover form. Form FDA 1571 must accompany submissions under IND's and Form FDA 356h must accompany submissions under NDA's, ANDA's, and BLA's. Both forms have valid OMB control numbers as follows: FDA Form 1571, OMB Control No. 0910-0014, expires December 31, 1999; and FDA Form 356h, OMB Control No. 0910-0338, expires April 30, 2000.

In the draft guidance document, CDER and CBER ask that a request for formal dispute resolution be submitted as an amendment to the application for the underlying product and that it be submitted to the agency in triplicate with the appropriate form attached, either Form FDA 1571 or Form FDA 356h. The agency recommends that a request be submitted as an amendment in this manner for two reasons: To ensure that each request is kept in the administrative file with the entire underlying application and to ensure that pertinent information about the request is entered into the appropriate tracking databases. Use of the information in the agency's tracking databases enables the appropriate agency official to monitor progress on the resolution of the dispute and to ensure that appropriate steps will be taken in a timely manner.

CDER and CBER have determined and the draft guidance recommends that the following information should be submitted to the appropriate center with each request for dispute resolution so that the Center may quickly and efficiently respond to the request:

- A brief but comprehensive statement of each issue to be resolved, including a description of the issue, the nature of the issue (i.e., scientific, procedural, or both), possible solutions based on information in the administrative file, whether informal dispute resolution was sought prior to the formal appeal, whether advisory committee review is sought, and the expected outcome;
- A statement identifying the review division/office that issued the original decision on the matter and, if applicable, the last agency official that attempted to formally resolve the matter;
- A list of documents in the administrative file, or additional copies of such documents, that are deemed

necessary for resolution of the issue(s); and

- A statement that the previous supervisory level has already had the opportunity to review all of the material relied on for dispute resolution. The information that the agency suggests submitting with a formal request for dispute resolution consists of: (1) Statements describing the issue from the perspective of the person with a dispute, (2) brief statements describing the history of the matter, and (3) documents previously submitted to FDA under an OMB approved collection of information (see previous discussion).

Based on FDA's experience with dispute resolution, the agency expects that most persons seeking formal dispute resolution will have gathered the materials listed previously when identifying the existence of a dispute with the agency. Consequently, FDA anticipates that the collection of information attributed solely to the guidance will be minimal.

*Description of Respondents:* A sponsor, applicant, or manufacturer of a

drug or biologic product regulated by the agency under the act or section 351 of the PHS Act who requests formal resolution of a scientific or procedural dispute.

*Burden Estimate:* Table 1 of this document provides an estimate of the annual reporting burden for requests for dispute resolution. In fiscal year (FY) 1998, 39 sponsors and applicants (respondents) submitted requests for formal dispute resolution to CDER and 12 respondents submitted requests for formal dispute resolution to CBER. Although the procedures for requesting formal dispute resolution that are set forth in the draft guidance document were not in place in FY 1998, FDA estimates that the number of respondents who would submit requests for dispute resolution under the guidance would remain the same. The total annual responses are the total number of requests submitted to CDER and CBER in 1 year, including requests for dispute resolution that a single respondent submits more than one time. In FY 1998, CDER received

approximately 49 requests and CBER received approximately 15 requests. The agency estimates that the total annual responses will remain the same, averaging to 1.26 responses per respondent. The hours per response is the estimated number of hours that a respondent would spend preparing the information to be submitted with a request for formal dispute resolution in accordance with this draft guidance, including the time it takes to gather and copy brief statements describing the issue from the perspective of the person with the dispute, brief statements describing the history of the matter, and supporting information that has already been submitted to the agency. Based on experience, FDA estimates that approximately 8 hours on average would be needed per response. Therefore, FDA estimates that 512 hours will be spent per year by respondents requesting formal dispute resolution under the guidance.

FDA invites comments on this analysis of information collection burdens.

TABLE 1.—Estimated Annual Reporting Burden<sup>1</sup>

Requests for Formal Dispute Resolution	No. of Respondents	No. of Responses per Respondent	Total Annual Responses	Hours per Response	Total Hours
CDER	39	1.26	49	8	392
CBER	12	1.25	15	8	120
Total					512

<sup>1</sup>There are no capital costs or operating and maintenance costs associated with this collection of information.

In compliance with section 3507(d) of the PRA (44 U.S.C. 3507(d)), the agency has submitted the information collection provisions of this draft guidance to OMB for review. Interested persons are requested to send comments on this information collection by April 19, 1999, 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.

Dated: March 15, 1999.

**William K. Hubbard,**

*Acting Deputy Commissioner for Policy.*

[FR Doc. 99-6749 Filed 3-18-99; 8:45 am]

BILLING CODE 4160-01-F

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 99D-0302]

#### Draft "Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #2;" Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled "Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #2." This draft guidance is neither final nor is it in effect at this time. The final regulations implementing the Mammography Quality Standards Act of 1992 (the MQSA) will become effective April 28, 1999, and will replace the interim regulations which, under the

MQSA, currently regulate mammography facilities. The draft guidance document is intended to assist facilities and their personnel to meet the MQSA final regulations.

**DATES:** Written comments concerning this draft guidance must be received by June 17, 1999.

**ADDRESS:** See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the draft guidance. Submit written requests for single copies on a 3.5" diskette of the draft guidance document entitled "Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #2" to the Division of Small Manufacturers Assistance (HFZ-220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301-443-8818. Written comments concerning this draft guidance must be submitted to the Dockets Management Branch (HFA-

305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** Charles A. Finder, Center for Devices and Radiological Health (HFZ-240), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301-594-3332.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The MQSA was passed on October 27, 1992, to establish national quality standards for mammography. After October 1, 1994, the MQSA required all mammography facilities, except facilities of the U.S. Department of Veterans Affairs, to be accredited by an approved accreditation body and certified by the Secretary of Health and Human Services (the Secretary). The authority to approve accreditation bodies and to certify facilities was delegated by the Secretary to FDA. In the **Federal Register** of October 28, 1997 (62 FR 55852), FDA published the MQSA final regulations. The final regulations will become effective April 28, 1999, and will replace the interim regulations (58 FR 67558 and 58 FR 67565, December 21, 1993) which, under the MQSA, currently regulate mammography facilities. Development of this guidance document began in August 1998 and is based in part on discussions with, and input from, the National Mammography Quality Assurance Advisory Committee.

**II. Significance of Guidance**

This draft guidance document represents the agency's current thinking on the final regulations implementing the MQSA. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute, regulations, or both.

The agency has adopted Good Guidance Practices (GGP's), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). This draft guidance document is issued as a Level 1 guidance consistent with GGP's.

**III. Electronic Access**

In order to receive "Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #2" via your fax machine, call the CDRH Facts-On-Demand (FOD)

system at 800-899-0381 or 301-827-0111 from a touch-tone telephone. At the first voice prompt press 1 to access DSMA Facts, at second voice prompt press 2, and then enter the document number (1498) followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the draft guidance may also do so using the World Wide Web (WWW). CDRH maintains an entry on the WWW for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the WWW. Updated on a regular basis, the CDRH home page includes "Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #2," device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information. The CDRH home page may be accessed at "<http://www.fda.gov/cdrh>".

"Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #2" will be available at "<http://www.fda.gov/cdrh/dmqrp.html>".

**IV. Comments**

Interested persons may, on or before June 17, 1999, submit to Dockets Management Branch (address above) written comments regarding this draft guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 10, 1999.

**Linda S. Kahan,**

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

[FR Doc. 99-6665 Filed 3-18-99; 8:45 am]

BILLING CODE 4160-01-F

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

[Docket No. 98D-0697]

**Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #1; Availability**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of the guidance entitled "Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #1." The final regulations implementing the Mammography Quality Standards Act of 1992 (the MQSA) will become effective April 28, 1999, and will replace the interim regulations which, under the MQSA, currently regulate mammography facilities. The guidance is intended to assist facilities and their personnel to meet the MQSA final regulations.

**DATES:** Written comments may be submitted at any time.

**ADDRESSES:** Submit written requests for single copies on a 3.5" diskette of the guidance entitled "Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #1" to the Division of Small Manufacturers Assistance (HFZ-220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301-443-8818. See the SUPPLEMENTARY INFORMATION section for information on electronic access to the guidance.

Submit written comments on "Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #1" to the contact person listed below.

**FOR FURTHER INFORMATION CONTACT:** Charles A. Finder, Center for Devices and Radiological Health (HFZ-240), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301-594-3332.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

FDA published a notice of availability of a draft of this guidance for public comment in the **Federal Register** of August 27, 1998 (63 FR 45828). The agency discussed the draft guidance

with a working group of the Conference of Radiation Control Program Directors in October 1998 and with the National Mammography Quality Assurance Advisory Committee in November 1998. The guidance has been modified from the original draft proposal to address public comments and to conform to the changes mandated by the Mammography Quality Standards Reauthorization Act (MQSRA) of 1998. The major changes include:

1. New guidance for patient communication of results to conform to MQSRA,
2. Reinstatement of the exemption from adverse finding after continuing experience requalification for interpreting physicians and extension to radiologic technologists,
3. Modification of the Automatic Exposure Control mode guidance so that it applies to those modes used clinically at the facility,
4. Revision of the repeat analysis guidance to be consistent with currently accepted practice,
5. Inclusion of the fact that FDA has proposed changes to the collimation requirements,
6. Clarification of what constitutes a major change to the film processor,
7. Further clarification as to what constitutes a "serious complaint",
8. Raising inspection finding levels for failure to have a standard operating procedure for infection control and handling consumer complaints, and
9. Raising inspection finding levels for failure to comply with manufacturer's recommendations when performing digital mammography.

## II. Significance of Guidance

This guidance represents the agency's current thinking on the final regulations implementing the MQSA. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute, regulations, or both.

The agency has adopted good guidance practices (GGP's), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). This guidance is issued as a level 1 guidance consistent with GGP's.

## III. Electronic Access

In order to receive "Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #1" via your fax machine, call the CDRH Facts-On-Demand (FOD) system at 800-899-0381 or 301-827-

0111 from a touch-tone telephone. At the first voice prompt press 1 to access DSMA Facts, at second voice prompt press 2, and then enter the document number (1499) followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the guidance may also do so using the World Wide Web (WWW). CDRH maintains an entry on the WWW for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the WWW. Updated on a regular basis, the CDRH home page includes "Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #1", device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information. The CDRH home page may be accessed at "http://www.fda.gov/cdrh". The "Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #1" will be available at "http://www.fda.gov/cdrh/dmqrp.html".

## IV. Comments

Interested persons may, at any time, submit to the contact person (address above) written comments regarding this guidance. Such comments will be considered when determining whether to amend the current guidance.

Dated: March 10, 1999.

**Linda S. Kahan,**

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

[FR Doc. 99-6666 Filed 3-18-99; 8:45 am]

BILLING CODE 4160-01-F

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 99D-0296]

#### Draft Guidance for Industry on Formal Meetings with Sponsors and Applicants for PDUFA Products; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled "Formal Meetings with

Sponsors and Applicants for PDUFA Products." This draft guidance document is intended to provide guidance to industry on procedures that will be adopted by the Center for Drug Evaluation and Research (CDER) and the Center for Biologics Evaluation and Research (CBER) for formal meetings between the agency and sponsors or applicants concerning certain drug products.

**DATES:** Written comments on the draft guidance may be submitted by May 18, 1999. General comments on agency guidance documents are welcome at any time.

**ADDRESSES:** Copies of the draft guidance for industry are available on the Internet at "http://www.fda.gov/cder/guidance/index.htm" or "http://www.fda.gov/cber/guidelines.htm". Submit written requests for single copies of "Formal Meetings with Sponsors and Applicants for PDUFA Products" to the Drug Information Branch (HFD-210), Center for Drug Evaluation and Research (CDER), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or Office of Communication, Training, and Manufacturers Assistance (HFM-40), Center for Biologics Evaluation and Research (CBER), 1401 Rockville Pike, Rockville, MD 20852-1448, 301-827-3844, or FAX 888-CBERFAX. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on the draft guidance to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Requests and comments are to be identified with the docket number found in brackets in the heading of this document. After the comment period, comments may be submitted to the centers at the following addresses.

#### FOR FURTHER INFORMATION CONTACT:

Murray M. Lumpkin, Center for Drug Evaluation and Research (HFD-2), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-594-5400, or Rebecca A. Devine, Center for Biologics Evaluation and Research (HFM-10), 1401 Rockville Pike, Rockville, MD 20852-1448, 301-827-0373.

#### SUPPLEMENTARY INFORMATION:

##### I. Description of the Draft Guidance

FDA is announcing the availability of a draft guidance for industry entitled "Formal Meetings with Sponsors and Applicants for PDUFA Products." CDER and CBER participate in many meetings each year with sponsors of

investigations and applicants for marketing who seek guidance relating to the development and review of products in human drug applications as defined in section 735(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 379g(1)) (the Prescription Drug User Fee Act (PDUFA) products). These meetings often represent critical points in the regulatory process. It is essential that FDA maintain procedures for the timely and effective conduct of such meetings.

Section 119(a) of the Food and Drug Administration Modernization Act of 1997 (the Modernization Act) (Pub. L. 105-115) amends section 505(b) of the act (21 U.S.C. 355(b)) and directs FDA to meet with sponsors and applicants, provided certain conditions are met, for the purpose of reaching agreement on the design and size of clinical trials intended to form the primary basis of an effectiveness claim in a new drug application (NDA) submitted under section 505(b) of the act or in a biologics license application (BLA) submitted under section 351 of the Public Health Service Act (42 U.S.C. 262) (21 U.S.C. 355(b)(4)(B)). Moreover, in conjunction with the reauthorization of PDUFA in November 1997, FDA agreed to specific performance goals for the management of meetings with sponsors and applicants for PDUFA products. The performance goals are summarized in an enclosure to a letter dated November 12, 1997, from Donna E. Shalala, Secretary of Health and Human Services, to Senator James M. Jeffords.

The procedures and policies described in this draft guidance document are designed to promote efficient, well-managed meetings between sponsors, applicants, and CDER or CBER. These procedures will implement section 119(a) of the Modernization Act and are consistent with the timeframes described in the performance goals.

FDA participates in formal meetings with various external constituents who seek guidance relating to the development or marketing of drug and biological products. This draft guidance document is the first of two guidances describing CDER's and CBER's procedures for formal meetings. FDA intends to issue additional guidance documents describing CDER's and CBER's procedures for formal meetings with sponsors and applicants for non-PDUFA products (including generic drug products) and for nonapplication related meetings with external constituents.

This draft Level 1 guidance document is being issued consistent with FDA's "Good Guidance Practices" (62 FR 8961,

February 27, 1997). It represents the agency's current thinking on formal meetings with sponsors and applicants for PDUFA products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

Interested persons may, on or before May 18, 1999, submit to the Dockets Management Branch (address above) written comments on the draft guidance document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

## II. The Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act (the PRA) (44 U.S.C. 3501-3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comment on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques and other forms of information technology, when appropriate.

**Title:** Draft Guidance for Industry on Formal Meetings with Sponsors and Applicants for PDUFA Products.

**Description:** FDA is issuing a draft guidance on the procedures for formal meetings between FDA and sponsors or

applicants regarding the development and review of PDUFA products. The draft guidance describes procedures for requesting, scheduling, conducting, and documenting such formal meetings. The draft guidance provides information on how the agency will interpret and apply section 119(a) of the Modernization Act, specific PDUFA goals for the management of meetings associated with the review of human drug applications for PDUFA products, and provisions of existing regulations describing certain meetings (§§ 312.47 and 312.82 (21 CFR 312.47 and 312.82)).

The draft guidance describes two collections of information: The submission of a meeting request containing certain information and the submission of an information package in advance of the formal meeting. Agency regulations at § 312.47(b)(1)(ii), (b)(1)(iv), and (b)(2) describe information that should be submitted in support of a request for an End-of-Phase 2 meeting and a Pre-NDA meeting. The information collection provisions of § 312.47 have been approved by OMB (OMB Control No. 0910-0014). However, the draft guidance provides additional recommendations for submitting information to FDA in support of a meeting request. As a result, FDA is providing revised estimates in this notice.

### A. Request for a Meeting

Under the draft guidance, a sponsor or applicant interested in meeting with CDER or CBER should submit a meeting request to the appropriate FDA component as an amendment to the underlying application.

FDA regulations (§§ 312.23, 314.50, and 601.2 (21 CFR 312.23, 314.50, and 601.2)) state that information provided to the agency as part of an IND, NDA, or BLA must be submitted in triplicate and with an appropriate cover form. Form FDA 1571 must accompany submissions under IND's and Form FDA 356h must accompany submissions under NDA's and BLA's. Both forms have valid OMB control numbers as follows: FDA Form 1571, OMB Control No. 0910-0014, expires December 31, 1999; and FDA Form 356h, OMB Control No. 0910-0338, expires April 30, 2000.

In the draft guidance document, CDER and CBER ask that a request for a formal meeting be submitted as an amendment to the application for the underlying product under the requirements of §§ 312.23, 314.50, and 601.2; therefore, requests should be submitted to the agency in triplicate with the appropriate form attached, either Form FDA 1571 or Form FDA 356h. The agency

recommends that a request be submitted in this manner for two reasons: (1) To ensure that each request is kept in the administrative file with the entire underlying application, and (2) to ensure that pertinent information about the request is entered into the appropriate tracking data bases. Use of the information in the agency's tracking data bases enables the agency to monitor progress on the activities attendant to scheduling and holding a formal meeting and to ensure that appropriate steps will be taken in a timely manner.

Under the draft guidance, the agency requests that sponsors and applicants include in meeting requests certain information about the proposed meeting. Such information includes:

- Information identifying and describing the product;
- The type of meeting being requested;
- A brief statement of the purpose of the meeting;
- A list of objectives and expected outcomes from the meeting;
- A preliminary proposed agenda;
- A draft list of questions to be raised at the meeting;
- A list of individuals who will represent the sponsor or applicant at the meeting;
- A list of agency staff requested to be in attendance;
- The approximate date that the information package will be sent to the agency; and
- Suggested dates and times for the meeting.

This information will be used by the agency to determine the utility of the meeting, to identify agency staff necessary to discuss proposed agenda items, and to schedule the meeting.

#### B. Information Package

A sponsor or applicant submitting an information package to the agency in advance of a formal meeting should provide summary information relevant to the product and supplementary information pertaining to any issue raised by the sponsor, applicant, or agency. The agency recommends that information packages generally include:

- Identifying information about the underlying product;
- A brief statement of the purpose of the meeting;
- A list of objectives and expected outcomes of the meeting;
- A proposed agenda for the meeting;
- A list of specific questions to be addressed at the meeting;
- A summary of clinical data that will be discussed (as appropriate);
- A summary of preclinical data that will be discussed (as appropriate);

and

- Chemistry, manufacturing, and controls information that may be discussed (as appropriate).

The purpose of the information package is to provide agency staff the opportunity to adequately prepare for the meeting, including the review of relevant data concerning the product. Although FDA reviews similar information in the meeting request, the information package should provide updated data that reflect the most current and accurate information available to the sponsor or applicant. The agency finds that reviewing such information is critical to achieving a productive meeting.

The collection of information described in the draft guidance reflects the current and past practice of sponsors and applicants to submit meeting requests as amendments to IND's, NDA's, and BLA's and to submit background information prior to a scheduled meeting. Agency regulations currently permit such requests and recommend the submission of an information package before an End-of-Phase 2 meeting (§ 312.47(b)(1)(ii) and (b)(1)(iv)) and a Pre-NDA meeting (§ 312.47(b)(2)).

*Description of Respondents:* A sponsor or applicant for a drug or biologic product who requests a formal meeting with the agency regarding the development and review of a PDUFA product.

*Burden Estimate:* Table 1 of this document provides an estimate of the annual reporting burden for the submission of meeting requests and information packages under the guidance.

*Request for a formal meeting.* Based on data collected from the review divisions and offices within CDER and CBER, FDA estimates that in fiscal year (FY) 1998, 548 sponsors and applicants (respondents) requested formal meetings with CDER and 495 respondents requested formal meetings with CBER regarding the development and review of a PDUFA product. FDA anticipates that the potential number of respondents submitting meeting requests will remain the same, and therefore estimates that the total number of respondents will be 1,043. The agency further estimates that the total annual responses, i.e., the total number of meetings requested per year, will be 1,043, based on data collected from the offices within CDER and CBER. The hours per response, which is the estimated number of hours that a respondent would spend preparing the information to be submitted with a meeting request in accordance with the

draft guidance, is estimated to be approximately 10 hours. Based on FDA's experience, the agency expects it will take respondents this amount of time to gather and copy brief statements about the product and a description of the purpose and details of the meeting. Therefore, the agency estimates that sponsors will use 10,430 hours per year requesting formal meetings with CDER and CBER regarding the development and review of PDUFA products.

*Information package.* Based on data collected from the review divisions and offices within CDER and CBER, FDA estimates that in FY 1998, CDER held 527 formal meetings and CBER held 415 formal meetings regarding the review of human drug applications as defined in section 735(1) of the act. FDA anticipates that the potential number of meetings will remain the same; thus, the agency estimates that total annual responses will be 942. As stated previously, it is the current practice for sponsors and applicants to submit information packages to the agency in advance of any such meeting. In FY 1998, 527 respondents submitted information packages to CDER and 415 respondents submitted information packages to CBER prior to the scheduled meetings. FDA anticipates that the potential number of respondents submitting an information package will remain the same; thus, the agency estimates that the total number of respondents will be 942. The hours per response, which is the estimated number of hours that a respondent would spend preparing the information package in accordance with this draft guidance, is estimated to be approximately 18 hours. Based on FDA's experience, the agency expects it will take respondents this amount of time to gather and copy brief statements about the product, a description of the details for the anticipated meeting, and data and information that generally would already have been compiled for submission to the agency. Therefore, the agency estimates that respondents will spend 16,856 hours per year submitting information packages to the agency prior to a formal meeting regarding the development and review of a PDUFA product.

As stated earlier, the draft guidance provides information on how the agency will interpret and apply section 119(a) of the Modernization Act, specific PDUFA goals for the management of meetings associated with the review of human drug applications for PDUFA products, and provisions of existing regulations describing certain meetings (§§ 312.47 and 312.82). The information collection provisions in § 312.47

concerning End-of-Phase 2 meetings and Pre-NDA meetings have been approved by OMB (OMB Control No. 0910-0014). These estimates provide for 100 respondents submitting 100 total annual responses at 24 hours per response, equalling 2,400 total burden hours. Therefore, FDA is subtracting these

estimates from the estimates described previously for all formal meetings between FDA and sponsors or applicants regarding the development and review of PDUFA products. Specifically, the agency is subtracting in Table 1 of this document burden estimates for meeting requests and

information packages for End-of-Phase 2 meetings and Pre-NDA meetings. This reduces the total estimated burden hours from 27,386 to 24,986.

FDA invites comments on this analysis of information collection burdens.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN<sup>1</sup>

Meeting Requests and Information Packages	No. of Respondents	No. of Responses per Respondent	Total Annual Responses	Hours per Response	Total Hours
Meeting Requests					
CDER	548	1	548	10	5,480
CBER	495	1	495	10	4,950
Total					10,430
Information Packages					
CDER	527	1	527	18	9,486
CBER	415	1	415	18	7,470
Total					16,956
Subtotal					27,386
Less 2,400 hours					24,986
TOTAL					24,986

<sup>1</sup>There are no capital costs or operating and maintenance costs associated with this collection of information.

In compliance with section 3507(d) of the PRA (44 U.S.C. 3507(d)), the agency has submitted the information collection provisions of this draft guidance to OMB for review. Interested persons are requested to send comments on this information collection by April 19, 1999, 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.

Dated: March 9, 1999.

**William K. Hubbard,**

*Acting Deputy Commissioner for Policy.*

[FR Doc. 99-6748 Filed 3-18-99; 8:45 am]

BILLING CODE 4160-01-F

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4442-N-07]

### Notice of Proposed Information Collection for Public Comment

**AGENCY:** Office of the Assistant Secretary for Policy Development and Research, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The soliciting public comments on the subject proposal.

**DATES:** Comments are due May 18, 1999.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name or OMB Control Number and be sent to: Reports Liaison Officer, Office of Policy Development and Research, U.S. Department of Housing and Urban Development, 451 7th Street, SW, Room 8226, Washington, DC 20410.

**FOR FURTHER INFORMATION CONTACT:** Jane Karadbil, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410. Telephone (202) 708-1537. This is not a toll-free number. Copies of the proposed forms and other available documents to be submitted to OMB may be obtained from Ms. Karadbil.

**SUPPLEMENTARY INFORMATION:** The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected entities concerning the proposed information collection to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of 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 technology; e.g., permitting electronic submission of responses.

This Notice also lists the following information:

*Title of the Proposal:* Notice of Funding Availability and Application Kit for the Hispanic-Serving Institutions Work Study Program (HSI-WSP).

*Description of the need for the information and proposed use:* The information is being collected to select grantees in this statutorily-created competitive grant program. The information is also being used to monitor the performance of grantees to ensure that they meet statutory and program goals and requirements.

*Members of the affected public:* Certain Hispanic-serving institutions of higher education: 40 applicants and 15 grantees.

*Estimation of the total number of hours needed to prepare the information collection including the number of respondents, frequency of response, and hours of response:* Information pursuant to submitting applications will be submitted once. Information pursuant to grantee monitoring requirements will be submitted once a year.

The following chart details the respondent burden on an annual basis:

	Number of respondents	Total annual responses	Hours per response	Total hours
Application .....	40	40	40	1,600
Annual Reports .....	15	30	6	180
Final Reports .....	15	15	8	120
Recordkeeping .....	15	15	5	75
<b>Total</b> .....				<b>1,975</b>

**Status of proposed information collection:** OMB approved an emergency paperwork clearance for this information collection and assigned it OMB Control No. 2528-0182, expiration date March 31, 2000.

**Authority:** Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 12, 1999.

**Lawrence L. Thompson,**

*General Deputy Assistant Secretary for Policy Development and Research.*

[FR Doc. 99-6722 Filed 3-18-99; 8:45 am]

BILLING CODE 4210-62-M

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

[Docket No. FR-4442-N-08]

**Notice of Proposed Information Collection for Public Comment**

**AGENCY:** Office of the Assistant Secretary for Policy Development and Research, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** Comments are due May 18, 1999.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name or OMB Control Number and be sent to: Reports Liaison Officer, Office of Policy Development and Research, U.S. Department of Housing and Urban Development, 451 7th Street, SW, Room 8226, Washington, DC 20410.

**FOR FURTHER INFORMATION CONTACT:** Jane Karadbil, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410. Telephone (202) 708-1537. This is not a toll-free number. Copies of the proposed forms and other available documents to be submitted to OMB may be obtained from Ms. Karadbil.

**SUPPLEMENTARY INFORMATION:** The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected entities concerning the proposed information collection to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance

the quality, utility, and clarity of 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 technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

**Title of the Proposal:** Notice of Funding Availability and Application Kit for the Community Development Work Study Program (CDWSP).

**Description of the need for the information and proposed use:** The information is being collected to select grantees in this statutorily-created competitive grant program. The information is also being used to monitor the performance of grantees to ensure that they meet statutory and program goals and requirements.

**Members of the affected public:** Institutions of higher education offering graduate degrees in community development fields: 60 applicants and 30 grantees.

**Estimation of the total number of hours needed to prepare the information collection including the number of respondents, frequency of response, and hours or response:** Information pursuant to submitting applications will be submitted once. Information pursuant to grantee monitoring requirements will be submitted once a year.

The following chart details the respondent burden on an annual basis:

	Number of respondents	Total annual responses	Hours per response	Total hours
Application .....	60	60	40	2,400
Annual Reports .....	30	30	6	180
Final Reports .....	30	30	8	240
Record keeping .....	30	30	5	150
<b>Total</b> .....				<b>2,970</b>

*Status of proposed information collection:* OMB approved a paperwork clearance for this information collection and assigned it OMB Control No. 2528-0175, expiration date March 31, 1999.

**Authority:** Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 12, 1999.

**Lawrence L. Thompson,**

*General Deputy Assistant Secretary for Policy Development and Research.*

[FR Doc. 99-6723 Filed 3-18-99; 8:45 am]

BILLING CODE 4210-62-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4432-N-11]

### Federal Property Suitable as Facilities To Assist the Homeless

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

**EFFECTIVE DATE:** March 19, 1999.

#### FOR FURTHER INFORMATION CONTACT:

Mark Johnston, Department of Housing and Urban Development, Room 7256, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708-1226; TTY number for the hearing- and speech-impaired (202) 708-2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1-800-927-7588.

**SUPPLEMENTARY INFORMATION:** In accordance with the December 12, 1988 court order in *National Coalition for the Homeless v. Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless.

Today's Notice is for the purpose of announcing that additional properties have been determined suitable or unsuitable this week.

Dated: March 11, 1999.

**Fred Karnas, Jr.,**

*Deputy Assistant Secretary for Economic Development.*

[FR Doc. 99-6340 Filed 3-18-99; 8:45 am]

BILLING CODE 4210-29-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[UTU-76195]

#### Notice of Coal Lease Offering by Sealed Bid; The Pines Tract

U.S. Department of the Interior, Bureau of Land Management, Utah State Office, P.O. Box 45155, Salt Lake City, Utah 84145-0155. Notice is hereby given that at 11:00 a.m., April 15, 1999, certain coal resources in lands hereinafter described in Sevier and Emery Counties, Utah will be offered for competitive lease by sealed bid of \$100.00 per acre or more to the qualified bidder submitting the highest bonus bid in accordance with the provisions of the Mineral Leasing Act of 1920, as amended (41 Stat. 437). *However, no bid will be accepted for less than fair market value as determined by the authorized officer.* A company or individual is limited to *one sealed bid*. If a company or individual submits two or more sealed bids for this tract, all of the company's or individual's bids will be rejected.

This lease is being offered for sale under the provisions set forth in the regulations for Leasing on Application at 43 CFR 3425.

The lease sale will be held in the Bureau of Land Management Conference Room, 324 South State Street, Suite 302, Salt Lake City, Utah, at 11:00 a.m. on April 15, 1999. At that time, the sealed bids will be opened and read. No bids received after 10:00 a.m., April 15, 1999, will be considered.

#### Coal Offered

The coal resources to be offered consist of all recoverable reserves available in the following described lands located in Sevier and Emery Counties, Utah, approximately 5 miles northwest of Emery, Utah on public land located in the Manti-LaSal National Forest:

- T. 20 S., R. 5E., SLM, Utah
    - Sec. 35, S2NE, SENW, NESW, S2SW, SE;
    - Sec. 36, W2SW, SESW.
  - T. 21 S., R. 5E., SLM, Utah
    - Sec. 1, lots 3, 4, S2SW, SWSE;
    - Sec. 2, lots 1-4, S2S2;
    - Sec. 10, E2;
    - Sec. 11 through 14, all inclusive;
    - Sec. 15 E2;
    - Sec. 22, E2;
    - Sec. 23 and 24, all inclusive;
    - Sec. 25 N2, N2S2;
    - Sec. 26, N2, NESW, E2NWSW, SE.
  - T. 21 S., R. 6E., SLM, Utah
    - Sec. 19, lots 3, 4, E2SW;
    - Sec. 30, lots 1-3, E2NW, NESW.
- Containing 7,171.66 acres.

The tract has one potentially minable coal seam, the Upper Hiawatha. The minable portions of the seam in this area are from 6 to 14 feet in thickness. This tract contains an estimated 60 million tons of recoverable high volatile C bituminous coal.

The estimated coal quality using averages of core samples on an as-received basis is:

11.539 .....	BTU/lb.;
8.37 .....	Percent moisture;
0.5 .....	Percent sulphur;
8.78 .....	Percent ash;
45.98 .....	Percent fixed carbon;
36.87 .....	Percent volatile matter.
(Totals do not equal 100% due to rounding)	

#### Rental and Royalty

A lease issued as a result of this offering will provide for payment of an annual rental of \$3 per acre or fraction thereof and a royalty payable to the United States of 12.5 percent of the value of coal mined by surface methods, and 8 percent of the value of coal mined by underground methods. The value of coal shall be determined in accordance with BLM Manual 3070.

#### Notice of Availability

Bidding instructions are included in the Detailed Statement of Lease Sale. A copy of the detailed statement and the proposed coal lease are available by mail at the Bureau of Land Management, Utah State Office, P.O. Box 45155, Salt Lake City, Utah 84145-0155 or in the Public Room (Room 400), 324 South State Street, Salt Lake City, Utah 84111. All case file documents and written comments submitted by the public on Fair Market Value or royalty rates except those portions identified as proprietary by the commentator and meeting exemptions stated in the Freedom of Information Act, are available for public inspection in the Public Room (Room 400) of the Bureau of Land Management.

**Douglas M. Koza,**

*Deputy State Director, Natural Resources.*

[FR Doc. 99-6732 Filed 3-18-99; 8:45 am]

BILLING CODE 4310-D9-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[CO-932-1430-01; COC-60316]

#### Public Land Order No. 7377; Withdrawal of Public Land for Unawep Seep Research Natural Area; Colorado

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public land order.

**SUMMARY:** This order withdraws 1,440 acres of public land from surface entry and mining for 20 years for the Bureau of Land Management to protect the Unaweep Seep Research Natural Area which includes riparian values and rare and endangered species. The land has been and will remain open to mineral leasing.

**EFFECTIVE DATE:** March 19, 1999.

**FOR FURTHER INFORMATION CONTACT:**

Doris E. Chelius, BLM, Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215-7076, 303-239-3706.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2 (1994)), but not the mineral leasing laws, to protect fragile resource values in the Unaweep Seep Research Area:

**Sixth Principal Meridian**

T. 14 S., R. 103 W.,

Sec. 32, E<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub> and SE<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>;

Sec. 33, W<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub> and NW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>.

T. 15 S., R. 103 W.,

Sec. 2, lot 5 and SE<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>;

Sec. 3, SE<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, E<sup>1</sup>/<sub>2</sub>SE<sup>1</sup>/<sub>4</sub>,

E<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>, and SW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>;

Sec. 4, SW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>;

Sec. 5, lot 1, E<sup>1</sup>/<sub>2</sub> 10 chains of lot 2, E<sup>1</sup>/<sub>2</sub>SW<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>, N<sup>1</sup>/<sub>2</sub>SE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>, SW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>, NW<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>, S<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>2</sub>SE, E<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>, NE<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>, and SE<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>;

Sec. 8, E<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>;

Sec. 9, SW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>,

NW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>, S<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>,

NW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>, E<sup>1</sup>/<sub>2</sub>SW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>,

W<sup>1</sup>/<sub>2</sub>SE<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>, SE<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>,

E<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, NW<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>,

NE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>, S<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>,

NW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>, NE<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>, and

SE<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>;

Sec. 10, N<sup>1</sup>/<sub>2</sub>N<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub>, SW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>,

NE<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>, SE<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>,

NE<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>, S<sup>1</sup>/<sub>2</sub>SW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>,

N<sup>1</sup>/<sub>2</sub>SE<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>, SW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>,

NW<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, NW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>,

N<sup>1</sup>/<sub>2</sub>SW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, and SW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>;

Sec. 15, NW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>;

Sec. 16, E<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub>, SE<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>,

NE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>, W<sup>1</sup>/<sub>2</sub>E<sup>1</sup>/<sub>2</sub>SE<sup>1</sup>/<sub>4</sub>, and

E<sup>1</sup>/<sub>2</sub>W<sup>1</sup>/<sub>2</sub>SE<sup>1</sup>/<sub>4</sub>;

Sec. 21, East 10 chains of lot 1 (excepting therefrom that portion within MS 3257), E<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub>, E<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>, and NE<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>;

Sec. 22, West 10 chains of lot 1 (excepting therefrom that portion within MS 3257), and W<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>.

The area described contains 1,440 acres in Mesa County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the land under lease, license, or permit, or governing the disposal of the mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date

pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1994), the Secretary determines that the withdrawal shall be extended.

Dated: March 12, 1999.

**John Berry,**

*Assistant Secretary of the Interior.*

[FR Doc. 99-6739 Filed 3-18-99; 8:45 am]

BILLING CODE 4310-JB-P

**DEPARTMENT OF THE INTERIOR**

**Bureau of Land Management**

[UT-941-1420-00-241A]

**Filing of Plat of Survey**

**AGENCY:** Bureau of Land Management, Utah, DOI.

**ACTION:** Notice.

**SUMMARY:** The following list of original cadastral survey plats was accepted by the Chief for Public Services and Land Records Section, Utah State Office, Bureau of Land Management on August 10, 1998. The following list of official documents was also transmitted by certified mail to the Director for the Denver Service Center (SC-675), Bureau of Land Management on August 10, 1998. The requested copies of microfilm for each survey group was received back from the Denver Service Center on October 28, 1998, and was put on file with the Information Access Center, Utah State Office, Bureau of Land Management.

Number	Group	Township	Meridian	Approved
[01] .....	[766] .....	[T20S R20E]	[SLM]	[98-05-05]
[02] .....	[766] .....	[T21S R20E]	[SLM]	[98-05-05]
[03] .....	[785] .....	[T11S R15E]	[SLM]	[98-03-13]
[04] .....	[785] .....	[T12S R15E]	[SLM]	[98-03-13]
[05] .....	[789][824] .....	[T20N R03E]	[SLM]	[97-12-24]
[06] .....	[789][824] .....	[T20N R03E]	[SLM]	[97-12-24]
[07] .....	[798] .....	[T36S R10W]	[SLM]	[98-03-18]
[08] .....	[801] .....	[T02N R01E]	[USM]	[98-03-18]
[09] .....	[809] .....	[T24S R07W]	[SLM]	[97-09-11]

**UTAH CADASTRAL FIELD NOTES AND SURVEY PLATS**

Number	Group	Township	Meridian	Approved
[10] .....	[832] .....	[T27S R23E]	[SLM]	[98-03-18]
[11] .....	[838] .....	[T23S R24E]	[SLM]	[98-03-18]
[12] .....	[839] .....	[T25S R23E]	[SLM]	[97-12-24]
[13] .....	[840] .....	[T28S R26E]	[SLM]	[97-12-24]
[14] .....	[842] .....	[T03S R04W]	[SLM]	[98-03-18]
[15] .....	[843] .....	[T29S R23E]	[SLM]	[97-12-24]
[16] .....	[846] .....	[T37S R23E]	[SLM]	[98-02-23]
[17] .....	[851] .....	[T10S R04W]	[SLM]	[98-03-18]
[18] .....	[852] .....	[T11S R04W]	[SLM]	[98-03-18]
[19] .....	[853] .....	[T13S R04W]	[SLM]	[98-03-18]
[20] .....	[854] .....	[T26S R07W]	[SLM]	[98-04-23]
[21] .....	[855] .....	[T28S R09W]	[SLM]	[98-04-23]
[22] .....	[857] .....	[T12S R02W]	[SLM]	[98-03-18]

UTAH CADASTRAL FIELD NOTES AND SURVEY PLATS—Continued

Number	Group	Township	Meridian	Approved
[23] .....	[858]	[T13S R01W]	[SLM]	[97-09-11]
[24] .....	[860]	[T14S R01W]	[SLM]	[98-03-18]
[25] .....	[870]	T41S R11W]	[SLM]	[97-11-07]
[26] .....	[875]	[T20S R25E]	[SLM]	[98-03-18]
[27] .....	[876]	[T43S R15W]	[SLM]	[98-03-18]
[28] .....	[877]	[T41S R13W]	[SLM]	[98-02-02]

AMENDED PROTRACTION DIAGRAMS

Number	Group	Township	Meridian	Approved
[29] .....	[P001]	[TOWNSHIP]	[INDEX]	[97-10-30]
[30] .....	[P002]	[T01N R20E]	[SLM]	[97-10-30]
[31] .....	[P003]	[T01S R20E]	[SLM]	[97-10-30]
[32] .....	[P004]	[T02S R20E]	[SLM]	[97-10-30]
[33] .....	[P005]	[T01N R21E]	[SLM]	[97-10-30]
[34] .....	[P006]	[T02N R21E]	[SLM]	[97-10-30]
[35] .....	[P007]	[TOWNSHIP]	[INDEX]	[97-10-30]
[36] .....	[P008]	[T01S R10E]	[SLM]	[97-10-30]
[37] .....	[P009]	[T01N R11E]	[SLM]	[97-10-30]
[38] .....	[P010]	[T01S R11E]	[SLM]	[97-10-30]
[39] .....	[P011]	[T01N R12E]	[SLM]	[97-10-30]
[40] .....	[P012]	[T01S R12E]	[SLM]	[97-10-30]
[41] .....	[P013]	[T01N R13E]	[SLM]	[97-10-30]
[42] .....	[P014]	[T01S R13E]	[SLM]	[97-10-30]
[43] .....	[P015]	[T01N R14E]	[SLM]	[97-10-30]
[44] .....	[P016]	[T02N R14E]	[SLM]	[97-10-30]
[45] .....	[P017]	[TOWNSHIP]	[INDEX]	[97-10-30]
[46] .....	[P018]	[T01N R15E]	[SLM]	[97-10-30]
[47] .....	[P019]	[T02N R15E]	[SLM]	[97-10-30]
[48] .....	[P020]	[T01N R16E]	[SLM]	[97-10-30]
[49] .....	[P021]	[T02N R16E]	[SLM]	[97-10-30]

UTAH CADASTRAL FIELD NOTES AND SURVEY PLATS

Number	Group	Township	Meridian	Approved
[50] .....	[P022]	[T01N R17E]	[SLM]	[97-10-30]
[51] .....	[P023]	[T02N R17E]	[SLM]	[97-10-30]
[52] .....	[P024]	[T01N R18E]	[SLM]	[97-10-30]
[53] .....	[P025]	[T02N R18E]	[SLM]	[97-10-30]
[54] .....	[P026]	[T01S R18E]	[SLM]	[97-10-30]
[55] .....	[P027]	[T02S R18E]	[SLM]	[97-10-30]
[56] .....	[P028]	[T03S R18E]	[SLM]	[97-10-30]
[57] .....	[P029]	[T01N R19E]	[SLM]	[97-10-30]
[58] .....	[P030]	[T01S R19E]	[SLM]	[97-10-30]
[59] .....	[P031]	[T02S R19E]	[SLM]	[97-10-30]

Dated: March 12, 1999.

**Roger Zortman,**

*Deputy State Director, Operations.*

[FR Doc. 99-6733 Filed 3-18-99; 8:45 am]

BILLING CODE 4310-D9-M

**DEPARTMENT OF JUSTICE**

**Antitrust Division**

**Public Comments and Plaintiff's Responses; United States v. Mercury PCS II, L.L.C.**

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h), that a public

comment and plaintiff's response thereto has been filed with the United States District Court for the District of Columbia in *United States v. Mercury PCS II, L.L.C.*, Civil Case No. 98-2751 (PLF).

On November 10, 1998, the United States filed a civil antitrust complaint alleging that Mercury PCS II, L.L.C. ("Mercury") violated Section 1 of the Sherman Act, 15 U.S.C. 1. In its complaint, the plaintiff alleged that the defendant used coded bids during a Federal Communications Commission auction of radio spectrum licenses for personal communication services. The complaint further alleges that, through the use of these coded bids, the

defendant reached an agreement to stop bidding against another bidder in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. The proposed Final Judgment, filed the same time as the Complaint, prohibits Mercury from entering into anticompetitive agreements and from using coded bids in future FCC auctions.

Public comment was invited within the statutory sixty-day comment period. One comment was received, and the response thereto, are hereby published in the **Federal Register** and filed with the Court. Copies of the comment and the response are available for inspection in Room 215 of the U.S. Department of Justice, Antitrust Division, 325 Seventh

Street, N.W., Washington, DC 20530 (telephone: (202) 514-2481) and at the office of the Clerk of the United States District Court for the District of Columbia, 333 Constitution Avenue, N.W., Washington, DC 20001. Copies of these materials may be obtained on request and payment of a copying fee.

**Rebecca P. Dick,**

*Director of Civil Non-Merger Enforcement  
Antitrust Division.*

United States of America, Plaintiff, v. Mercury PCS II, L.L.C., Defendant. Civil Case No. 98-2751 (PLF).

### Plaintiff's Response to Public Comment

I

#### Background

Pursuant to section 2(d) of the Antitrust Procedures and Penalties Act (the "APPA"), 15 U.S.C.A § 16(d), the United States files this response to the single public comment received regarding the proposed Final Judgment submitted for entry in this case.

Plaintiff filed a civil antitrust complaint on November 10, 1998, alleging that Mercury PCS II, L.L.C. ("Mercury") violated Section 1 of the Sherman Act, 15 U.S.C. 1. In its complaint, the plaintiff alleged that the defendant used coded bids during a Federal Communications Commission ("FCC") auction of radio spectrum licenses for personal communication services. The complaint further alleges that, through the use of these coded bids, the defendant reached an agreement to stop bidding against another bidder in violation of Section 1 of the Sherman Act, 15 U.S.C. 1.

The proposed Final Judgment, filed the same time as the complaint, prohibits Mercury from entering into anticompetitive agreements and from using coded bids in future FCC auctions. A competitive impact statement ("CIS") filed by the United States describes the complaint, the proposed Final Judgment, and the remedies available to private litigants who may have been injured by the alleged violation. The plaintiff and the defendant have stipulated that the proposed Final Judgment may be entered after compliance with the APPA.

The APPA requires a sixty-day period of the submission of public comments on the proposed Final Judgment following publication of the proposed Final Judgment in the **Federal Register**. 15 U.S.C. 16(b). The proposed Final Judgment was published in the **Federal Register** on November 25, 1998; the comment period terminated on January 25, 1999. The United States received

only on comment, from High Plains Wireless, L.P. ("High Plains").<sup>1</sup>

II

#### Response to the Public Comment

In its comment, High Plains states that the factual descriptions in the complaint and CIS do not distinguish between the conduct of Mercury and High Plains—the two parties to the alleged illegal agreement. High Plains claims it was a "victim of Mercury's scheme" and notes that High Plains notified the FCC about Mercury's use of BTA numbers in its bids for the Amarillo and Lubbock licenses shortly after it detected the message contained within Mercury's bids. High Plains requests that the plaintiff amend the complaint and CIS to reflect its role as a victim and a whistle blower. High Plains' comment does not address the adequacy of the proposed Final Judgment.

The complaint properly alleges an illegal agreement between High Plains and Mercury—indeed High Plains does not dispute the allegations that establish the agreement.<sup>2</sup> And the complaint already distinguishes in a fundamental way between Mercury and High Plains—only Mercury is named as a defendant. The complaint also reflects the different conduct engaged in by each party, it alleges that Mercury actively solicited the agreement through repeated use of BTA numbers, while High Plains eventually assented to Mercury's offer by ceasing to bid in a market Mercury wanted. That High Plains immediately complained to the FCC about Mercury's use of BTA numbers is a matter of public record.<sup>3</sup> It is, however, irrelevant to the complaint against Mercury and for that reason was not included.

The sole concern of this Tunney Act proceeding is with the adequacy of the relief obtained to address the offense charged in the complaint. After careful consideration of the comment, the plaintiff concludes that High Plains' comment does not change its determination that entry of the proposed Final Judgment will provide an effective and appropriate remedy for the antitrust violation alleged in the complaint and is in the public interest. The relief

<sup>1</sup> The comment is attached. The United States plans to publish promptly the comment and this response in the **Federal Register**. The United States will provide the Court with a certificate of compliance with the requirements of the Tunney Act and file a motion for entry of the Final Judgment once publication takes place.

<sup>2</sup> See *United States v. Mercury PCS II, LLC* (Civil Case No. 98-2751 (PLF)), ¶¶ 19-21 (D.D.C.) (Complaint, filed November 10, 1998).

<sup>3</sup> See, e.g., Notice of Apparent Liability for Forfeiture, FCC 97-388 (Rel. October 28, 1997).

obtained as to Mercury is fully adequate to address the complaint against that firm. The plaintiff will move the Court to enter the proposed Final Judgment after the public comment and this Response have been published in the **Federal Register**, as 15 U.S.C. § 16(d) requires.

Dated this 9th day of March, 1999.

Respectfully submitted,

Jill Ptacek,

J. Richard Doidge,

*U.S. Department of Justice, Antitrust Division,  
325 7th Street, NW, Suite 500, Washington,  
D.C. 20530, (202) 307-6607.*

#### Certificate of Service

I hereby certify that I have caused a copy of the foregoing Plaintiff's Response to Public Comments, as well as the attached copy of the public comment received from Jonathan P. Graham on behalf of High Plains Wireless, L.P., to be served on counsel for the defendant by first class mail, postage prepaid, as the addresses set forth below.

Charles A. James, Esq.,

*Jones, Day, Reavis & Pogue, Metropolitan  
Square, 1450 G Street, N.W., Washington, D.C.  
20005.*

Dated: March 9, 1999.

Jill Ptacek

#### Williams & Connolly

*725 Twelfth Street, N.W., Washington, D.C.  
20005-5901, (202) 434-5000, FAX (202) 434-  
5029*

January 25, 1999.

By Hand

Mr. Roger W. Fones,

*Chief, Transportation Energy and Agriculture  
Section, Antitrust Division, 325 Seventh  
Street, N.W., Suite 500, Washington, D.C.  
20530.*

Dear Mr. Fones: We represent High Plains Wireless, L.P. ("High Plains"). Enclosed, pursuant to the Tunney Act, 15 U.S.C. § 16(b)-(h), please find the Comments of High Plains in connection with the antitrust complaint and competitive impact statement filed in *United States v. Mercury PCS II, L.L.C.*, CA No. 1:98CV02751 (D.D.C.).

If you require any further information or have any questions, please write or call me at the address and number listed above.

Very truly yours,

Jonathan P. Graham

#### Comments of High Plains Wireless, L.P. on the Proposed Final Judgment in United States v. Mercury PCS II, L.L.C., CA No. 1:98CV02751

High Plains Wireless, L.P. ("High Plains") is a victim of the conduct engaged in by Mercury PCS II, L.L.C. ("Mercury") in *United States v. Mercury PCS II, L.L.C.*, CA No. 1:98CV02751 (D.D.C.). Because the Complaint and

Competitive Impact Statement do not provide all of the background facts necessary to understand High Plains' role in the matter and may harm High Plains by incorrectly suggesting that it willingly participated in an agreement to violate the antitrust laws, High Plains is making this Tunney Act submission. See 15 U.S.C. § 16(b)-(h). High Plains respectfully requests that the Department amend its Complaint, and make corresponding modifications in its Competitive Impact Statement, to reflect accurately High Plains' role in this matter.

High Plains is concerned that the Complaint and the Competitive Impact Statement filed by the Department of Justice neglect to explain fully the relevant circumstances. The Complaint alleges that Mercury and High Plains reached an agreement to refrain from bidding against one another for PCS licenses in certain markets in violation of Section 1 of the Sherman Act. See Complaint ¶¶ 3, 19, 20, 21. Similarly, the Competitive Impact Statement filed with the Court alleges that High Plains reached an agreement with Mercury to cease bidding on particular PCS licenses. See Competitive Impact Statement at 1-2, 6-8. Although it is accurate that Mercury threatened, through bid-signaling, to outbid High Plains for the Amarillo F block license, and that in order to confirm Mercury's intention, High Plains ceased bidding on the Lubbock F block license, the Complaint and Competitive Impact Statement fail to explain that High Plains (1) was the object of Mercury's improper conduct, (2) immediately reported Mercury's wrongdoing to the FCC, and (3) did not benefit from Mercury's misconduct. The Complaint and Competitive Impact Statement thus incorrectly suggest that High Plains was a willing participant in a violation of the antitrust laws of the United States.

#### Relevant Facts

From August 26, 1996 to January 14, 1997, both Mercury and High Plains participated in an auction conducted by the Federal Communications Commission ("FCC") of licenses to use certain broadband radio spectrum in the operation of personal communications services ("PCS"). The auction comprised numerous rounds of bidding. As stated in the Competitive Impact Statement, High Plains had been the high bidder for the Amarillo F Block license since Round 68 and continuing through round 120. High Plains was also bidding for the Lubbock F block license. Mercury, on the other hand, had shown no interest in the Amarillo market, but

was an active participant in the bidding for the Lubbock F block license.

In round 117 of the auction, when only Mercury and High Plains were bidding, Mercury made the last three digits of its bid match the "BTA code" assigned to the Amarillo market ("013"), for which High Plains was then the high bidder. High Plains did not then understand that there was any connection between the Amarillo market and Mercury's bid amount for the Lubbock market containing the BTA code for Amarillo. High Plains continued bidding for the Lubbock F block license over the next three rounds. In round 121, Mercury for the first time placed a bid for the Amarillo F block license; its bid ended in the three digits that served as the BTA code for the Lubbock market ("264"). Still not understanding Mercury's intent, High Plains continued to bid for the Lubbock F block license. Mercury responded by making the message clearer—it placed bids ending in "013" in the Lubbock market in round 123, "264" in the Amarillo market in round 125, and "013" in the Lubbock market in round 127.

After the conclusion of round 127, High Plains realized that Mercury was signalling High Plains to stop its bidding in Lubbock. In order to test its theory that Mercury was signaling it through the use of BTA code numbers, High Plains stopped bidding for the F block license in Lubbock. The theory was confirmed when Mercury immediately ceased bidding for the F block license in Amarillo. As soon as High Plains' fears were confirmed, it immediately contacted the FCC by telephone on November 22 and 25, 1996 and followed up on November 26, 1996 by filing an Emergency Motion for Disqualification. That notification led to an investigation of Mercury's conduct by the FCC and to the FCC's referral of the matter to the Department of Justice.

#### Summary and Request for Amendment

In light of this history, we believe it is both inaccurate and unfair to describe the conduct of High Plains as if that conduct were no different that of Mercury. High Plains respectfully requests that the Complaint and Competitive Impact Statement be amended to reflect that the conduct and actions of Mercury and High Plains were significantly different. High Plains was the party that first brought this matter to the attention of the FCC. Because High Plains promptly reported and later filed a formal complaint with the FCC identifying the illegal conduct of Mercury, Mercury's misconduct was exposed. If the only facts about High

Plains were those alleged in the Complaint, then presumably the United States would have pursued the same judicial course of action against High Plains that it followed against Mercury. Unfortunately, the *only* facts in the record are those alleged in the complaint; High Plains, the good citizen that observed and reported the crime, is condemned by association.

Having observed what it believed to be a violation of the FCC's rules and an apparent violation of Section 1 of the Sherman Act, High Plains was in the difficult position of no longer being completely free to pursue its own best interests and High Plains could not just ignore Mercury's misconduct. High Plains immediately reported Mercury's conduct to the FAA—the only thing it could have done in the circumstances to bring the improper conduct to a halt and to avoid being wrongly implicated in Mercury's scheme. Thus, we respectfully request that the Complaint and Competitive Impact Statement be amended to reflect that High Plains was a victim of Mercury's scheme, that High Plains promptly brought the scheme to the attention of the proper authorities, and that High Plains did not willingly participate in any agreement that violated the antitrust laws.

Respectfully submitted,  
Williams & Connolly  
Steven R. Kuney  
Jonathan P. Graham  
[FR Doc. 99-6677 Filed 3-18-99; 8:45 am]  
BILLING CODE 4410-11-M

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Atlantic Richfield Company ("ARCO"): LPG Blends Evaluation Test Program

Notice is hereby given that, on January 15, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Atlantic Richfield Company ("ARCO"): LPG Blends Evaluation Test has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to

Section 6(b) of the Act, the identities of the parties are Atlantic Richfield Company, Anaheim, CA; California Air Resources Board, Sacramento, CA; Engine Manufacturer's Association, Chicago, IL; Ford Motor Company, Dearborn, MI; National Propane Gas Association, Scottsdale, AZ; Natural Resources Canada—Canmet Energy Technology Centre, Ottawa, Ontario, CANADA; Propane Gas Association of Canada, Calgary, CANADA; Railroad Commission of Texas—Alternative Fuels Research & Education Division, Austin, TX; Shell Martinez Refining Company, Martinez, CA; The Adept Group, Inc., Los Angeles, CA; Tosco Refining Company, Martinez, CA; and Western Propane Gas Association, Sacramento, CA.

The California Air Resources Board ("ARB") approved a delay for a 5 percent propene limit on liquefied petroleum gases ("LPG") used as a motor vehicle fuel and directed ARB staff to investigate the feasibility of alternative specification of in-use motor vehicle LPG. An alternative may be adopted to the present ARB standard (based on equivalence of emissions, performance, and durability). ARB formed an LPG Task Group to direct the organization and implementation of the investigations. (LPG Task Group members are the parties identified above.) The Adept Group, Inc. serves as Project Manager.

The LPG Task Group and test program will determine if alternative specifications to proposed ARB standards for motor vehicle grade LPG will provide equivalent or better emissions, performance, and durability in existing engines. The task group and program will evaluate various LPG blends to determine if there are equivalent specifications that would address supply and distribution concerns for users and suppliers of LPG motor vehicles. The Blends Evaluation Test Program will include emissions testing, performance, combustion testing, and durability testing.

The parties plan to perform acts allowed by the National Cooperative Research and Production Act that would advance these goals.

Information regarding participation in the LPG Blends Evaluation Test Program may be obtained from Mr. Alex Sparatu, President, The Adept Group, Inc., 1575 Westwood Blvd., Suite 200, Los Angeles, CA 90024-5620.

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*  
[FR Doc. 99-6684 Filed 3-18-99; 8:45 am]

BILLING CODE 4410-11-M

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—CommerceNet Consortium

Notice is hereby given that, on December 15, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), CommerceNet Consortium (the "Consortium") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Oracle Corporation, Redwood Shores, CA; and Cisco Systems, San Jose, CA joined the Consortium as Executive Sponsor members. Engage Technologies, Andover, MA; and American Express, New York, NY joined the Consortium as Portfolio members. FASTXchange, Inc., Marina del Rey, CA; SITI, Kista, SWEDEN; McCutchen, Doyle, Brown, and Enersen LLP, Palo Alto, CA; Inference Corporation, Novato, CA; and The Gap Inc., San Bruno, CA joined the Consortium as Core members. Also, AMP, Inc., Harrisburg, PA; NeoMedia Technologies, Inc., Fort Myers, FL; BAX Global Logistics/Logistics Advantage, Atlanta, GA; National Housewares Mfg. Assoc. NHMA, Rosemont, IL; SpaceWorks, Inc., Rockville, MD; WorldPoint, Honolulu, HI; SupplyWorks, Lexington, MA; Digital Island, San Francisco, CA; and GEIS, Rockville, MD have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CommerceNet Consortium intends to file additional written notification disclosing all changes in membership.

On June 13, 1994, CommerceNet Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on August 31, 1994 (59 FR 45012).

The last notification was filed with the Department on October 29, 1998. A

notice has not yet been published in the **Federal Register**.

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*  
[FR Doc. 99-6690 Filed 3-18-99; 8:45 am]

BILLING CODE 4410-11-M

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—CommerceNet Consortium

Notice is hereby given that, on October 29, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), CommerceNet Consortium (the "Consortium") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, France Telecom, New York, NY; and Satcom Electronic Commerce Service, Osborne Park, WA have joined the Consortium as Portfolio members. American Century, Kansas City, MO has joined the Consortium as an Executive Sponsor member. American Management Systems, Inc., Fairfax, VA; and Ascend Communications, Inc., Alameda, CA has joined the Consortium as Corporate Sponsor members. ChannelPoint, Inc., Colorado Springs, CO; Electric Press, Inc., Reston, VA; Extol, Inc., Pottsville, PA; GlobeID, Paris, FRANCE; and Texas Dept. of Information Resources, Austin, TX have joined the Consortium as Core members. Also, First Chicago NBD, Chicago, IL; InterTrust Technologies Corp., Sunnyvale, CA; NetGrocer, New York, NY; and The Vision Factory, Scotts Valley, CA; and Internet Mall, Sausalito, CA have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CommerceNet Consortium intends to file additional written notification disclosing all changes in membership.

On June 13, 1994, CommerceNet Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to

Section 6(b) of the Act on August 31, 1994 (59 FR 45012).

The last notification was filed with the Department on October 2, 1998. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 31, 1998 (63 FR 72329).

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99-6691 Filed 3-18-99; 8:45 am]

BILLING CODE 4410-11-M

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Consortium for Integrated Intelligent Manufacturing, Planning and Execution (CIIMPLEX)

Notice is hereby given that, on January 19, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Consortium for Integrated Intelligent Manufacturing, Planning and Execution ("CIIMPLEX") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, The Boeing Company, Kent, WA has been added as a party to this venture. Also, The Haley Enterprise, Inc., Sewickley, PA; and Ingersoll-Rand Company, Woodcliff Lake, NJ have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Consortium for Integrated Intelligent Manufacturing, Planning and Execution ("CIIMPLEX") intends to file additional written notification disclosing all changes in membership.

On April 24, 1996, Consortium for Integrated Intelligent Manufacturing, Planning and Execution ("CIIMPLEX") filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on May 15, 1996 (61 FR 24514).

The last notification was filed with the Department on February 3, 1998. A notice was published in the **Federal**

**Register** pursuant to Section 6(b) of the Act on July 30, 1998 (63 40741).

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99-6683 Filed 3-18-99; 8:45 am]

BILLING CODE 4410-11-M

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Digital Imaging Group

Notice is hereby given that, on December 16, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Digital Imaging Group has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Arriba Soft Corp., Emeryville, CA; G&A Imaging, Hull, PQ, CANADA; and Informix Software, Oakland, CA have been added as parties to this venture. Also, Adobe Systems Incorporated, San Jose, CA; GaiaTech, Inc., Millbrae, CA; and IBM, Armonk, NY have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Digital Imaging Group intends to file additional written notification disclosing all changes in membership.

On September 25, 1997, Digital Imaging Group filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 10, 1997 (62 FR 60530).

The last notification was filed with the Department on September 16, 1998. A notice has not yet been published in the **Federal Register**.

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99-6689 Filed 3-18-99; 8:45 am]

BILLING CODE 4410-11-M

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Financial Services Technology Consortium, Inc.

Notice is hereby given that, on December 31, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Financial Services Technology Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Fidelity Investments, Irving, TX; and RACAL Security, Sunrise, FL have joined the Consortium as associate members. Federal Reserve Bank of Boston, Boston, MA; and Federal Reserve Bank of Chicago, Chicago, IL have joined the Consortium as advisory members. Also, @Work Technologies, New York, NY; Concept Five Technologies, Inc., Burlington, MA; Federal Home Loan Bank of Dallas, Irving, TX; Norwest, Minneapolis, MN; and American Express, New York, NY have been dropped as parties to this venture.

No other changes have been made in the membership of this venture. Membership in this venture remains open, and Financial Services Technology Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On October 21, 1993, Financial Services Technology Consortium, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 14, 1993 (58 FR 65399).

The last notification was filed with the Department on September 30, 1998. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 31, 1998 (63 FR 72330).

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99-6687 Filed 3-18-99; 8:45 am]

BILLING CODE 4410-11-M

## DEPARTMENT OF JUSTICE

## Antitrust Division

**Notice Pursuant to the National Cooperative Research and Production Act of 1993—Key Recovery Alliance**

Notice is hereby given that, on December 9, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Key Recovery Alliance has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Commercial Crypto, Lexington, SC; Digital Link, Sunnyvale, CA; Platinum Technology, Vienna, VA; and Network Associates, Glenwood, MD have been added as parties to this venture. Also, Apple Computer, Inc., Cupertino, CA has been dropped as a party to this venture. Also, Intel Corporation, Hillsboro, OR and Sun Microsystems, Inc., Mountain View, CA were previously identified as Key Recovery Alliance members; however, this was an identification error.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Key Recovery Alliance intends to file additional written notification disclosing all changes in membership.

On October 20, 1997, Key Recovery Alliance filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 27, 1998 (63 FR 10040).

The last notification was filed with the Department on July 23, 1998. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 2, 1998 (63 FR 58788).

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*  
[FR Doc. 99-6693 Filed 3-18-99; 8:45 am]

BILLING CODE 4410-11-M

## DEPARTMENT OF JUSTICE

## Antitrust Division

**Notice Pursuant to the National Cooperative Research and Production Act of 1993—Micro-Opto-Electro-Mechanical Systems**

Notice is hereby given that, on December 29, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Micro-Opto-Electro-Mechanical Systems (MOEMS) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Maxim Integrated Products, Sunnyvale, CA; Microcosm Technologies, Inc., Raleigh, NC; Microscan Systems, Inc., Renton, WA; Optical Micro-Machines, San Diego, CA; Standard Microsystems Corporation, Hauppauge, NY; and Xerox Corporation, Webster, NY. The nature and objectives of the venture are to develop a manufacturing process and manufacturing infrastructure for MOEMS and to overcome the barriers that limit the applications of low-cost MOEMS devices in commercial applications in telecommunications, data acquisition, and reprographics.

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*  
[FR Doc. 99-6679 Filed 3-18-99; 8:45 am]

BILLING CODE 4410-11-M

## DEPARTMENT OF JUSTICE

## Antitrust Division

**Notice Pursuant to the National Cooperative Research and Production Act of 1993—Microelectronics and Computers Technology Corporation ("MCC")**

Notice is hereby given that, on March 18, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Microelectronics and Computers Technology Corporation ("MCC") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications

were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Texas Instruments, Dallas, TX, has become a MCC shareholder. The Boeing Company, Seattle, WA; Hughes Research Lab (HRL, L.L.C.), Malibu, CA; and Hughes Electronics, El Segundo, CA have become associate members. Raytheon, Lexington, MA, recently acquired the Hughes Aircraft Company portion of GM Hughes and will become the MCC shareholder SAIC, San Diego, CA, recently merged with Bellcore and is in the process of obtaining Bellcore's share and will become the MCC shareholder. Ceridian Corporation has transferred its MCC share to General Dynamics, Falls Church, VA. BBN Corporation, Pacific Sierra Research Corporation, Eastman Chemical Company and Nationsbank have declined to rejoin MCC. Schlumberger, San Jose, CA; and VLSI, San Jose, CA are being listed as 1998 project participants.

Lucent, 3M, Nokia, Nortel, Intel, Motorola and Hewlett-Packard have joined the Low Cost Portables Project. Raytheon and Schlumberger have joined the Infosleuth II Project. Honeywell has joined the Quest Project. Motorola and Nokia have joined the ProReal Visual Prototyping Project. Raytheon has joined the Object Infrastructure Project. VLSI Technology has joined the Server and Network Technology project.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and MCC intends to file additional written notification disclosing all changes in membership.

On December 21, 1984, MCC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on January 17, 1985 (50 FR 2633).

The last notification was filed with the Department on October 8, 1997. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 8, 1998 (63 FR 17214).

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*  
[FR Doc. 99-6682 Filed 3-18-99; 8:45 am]

BILLING CODE 4410-11-M

## DEPARTMENT OF JUSTICE

## Antitrust Division

**Notice Pursuant to the National Cooperative Research and Production Act of 1993—Minnesota Mining and Manufacturing Company**

Notice is hereby given that, on November 5, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Minnesota Mining and Manufacturing Company ("3M") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are 3M, St. Paul, MN; Honeywell Inc., Minneapolis, MN; RSoft, Inc., Ossining, NY; Precitech, Inc., Keene, NH; Coors Ceramics Company, Golden, CO; and CFR Research Corporation, Huntsville, AL. The nature and objectives of the venture are to establish the infrastructure to enable low cost manufacturing of wide parallel data links. This infrastructure encompasses ceramic-based connectors, heterogeneous integration of optoelectronic devices with Si CMOS electronics, built in "smart link" functionality which will ensure link performance while loosening manufacturing tolerances, and a modeling and simulation infrastructure which will allow rapid adaptation to new link configurations. The goal of use of such an approach to produce low cost cabling and standardized receiver/transmitter interconnections is to result in an industry standard system for massively parallel optical interconnects for circuit boards, compatible with existing chip attach techniques (e.g., wave soldering, etc.). Targets for a system include 36 multimode fiber wide links operating at a data rate of between 1–2 Gbps/fiber with costs comparable to copper.

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*  
[FR Doc. 99–6678 Filed 3–18–99; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

## Antitrust Division

**Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Center for Manufacturing Sciences, Inc. ("NCMS")**

Notice is hereby given that, on January 7, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), National Center for Manufacturing Sciences, Inc. ("NCMS") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Corning, Inc., Corning, NY has been added as a party to this venture. Also, Dresser Instrument Division of Dresser Industries, Inc., Milford, CT has been dropped as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and National Center for Manufacturing Sciences, Inc. ("NCMS") intends to file additional written notification disclosing all changes in membership.

On February 20, 1987, National Center for Manufacturing Sciences, Inc. ("NCMS") filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 17, 1987 (52 FR 8375).

The last notification was filed with the Department on May 8, 1998. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on June 8, 1998 (63 FR 33419).

**Constance K. Robinson,**

*Director of Operations Antitrust Division.*  
[FR Doc. 99–6680 Filed 3–18–99; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

## Antitrust Division

**Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Transparent Optical Network Consortium**

Notice is hereby given that, on November 17, 1998, pursuant to Section

6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), National Transparent Optical Network Consortium (NTONC) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties, and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are GST Telecom, Inc., Vancouver, WA; Lawrence Livermore National Laboratory, operated by the Regents of the University of California, Livermore, CA; Northern Telecom, Inc., McLean, VA; and Sprint Communication Companies L.P., Burlingame, CA. The nature and objectives of the venture are to engage in cooperative research in the area of high bandwidth networking technologies to better understand the application of these technologies in the design, deployment and management of the next generation of Terabit per second networks, including without limitation prototype hardware and software deployment for the experimental demonstration of such networks.

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*  
[FR Doc. 99–6681 Filed 3–18–99; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

## Antitrust Division

**Notice Pursuant to the National Cooperative Research and Production Act of 1993—OBI Consortium, Inc.**

Notice is hereby given that, on December 1, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), OBI Consortium, Inc. ("Consortium") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in the membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Xerox Corporation, Webster, NY has been added as a party to this venture. Also, Requisite Technology, Boulder, CO; GE Global Services; Fairfield, CT; Hewlett Packard,

Roseville, CA; Affymax Research Institute, Santa Clara, CA; and Semptra Energy, Los Angeles, CA have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and the Consortium intends to file additional written notification disclosing all changes in membership.

On September 10, 1997, the Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 10, 1997 (62 FR 60531).

The last notification was filed with the Department on August 31, 1998. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 31, 1998 (63 FR 72332).

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99-6692 Filed 3-18-99; 8:45 am]

BILLING CODE 4410-11-M

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### **Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petroleum Environmental Research Forum Project No. 97-07 “Basic Principles and Control of Crude Oil Emulsion Formation—Part 4”**

Notice is hereby given that, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), Petroleum Environmental Research Forum Project No. 97-07 “Basic Principles and Control of Crude Oil Emulsion Formation—Part 4” has filed written notifications with the Attorney General on February 3, 1998 and the Federal Trade Commission on November 17, 1998 disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are ARCO Petroleum Production Company, Anaheim, CA; BP America, Inc., Cleveland, OH; Chevron Petroleum Technology Company, La Habra, CA; Exxon Research & Engineering Company, Florham Park, NJ; Mobile Technology Company,

Paulsboro, NJ; Nalco/Exxon Energy Chemicals, L.P., Sugar Land, TX; Texaco Group, Inc., Houston, TX; and Shell Oil Products Company, for itself and as an agent for Shell Oil Company, Houston, TX. The nature and objectives of the venture are to develop a fundamental understanding of the factors causing formation of stable crude oil/water emulsions, and methods for destabilizing them.

Participation in this project will remain open to interested persons and organizations until issuance of the final Project Report, which is presently anticipated to occur approximately eighteen (18) months after the date of publication of this Notice. The Participants intend to file additional written notification(s) disclosing all changes in membership of the group of participants in this Project. Information regarding participation in the Project may be obtained from Ms. Sheila Dubey, Shell Oil Products Company, Westhollow Technology Center, PO Box 1380, Houston, TX 77251-1380.

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99-6688 Filed 3-18-99; 8:45 am]

BILLING CODE 4410-11-M

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### **Notice Pursuant to the National Cooperative Research and Production Act of 1993—Rotorcraft Technology Association, Inc.**

Notice is hereby given that, on January 7, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), Rotorcraft Technology Association, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, BF Goodrich, Aircraft Integrated Systems, Vergennes, VT; Endevco, San Juan Capistrano, CA; and Simula, Inc., Phoenix, AZ have joined RITA as Supporting Members. Georgia Institute of Technology—School of Aerospace Engineering, Atlanta, GA; Georgia Tech Research Institute, Smyrna, GA; Old Dominion University, Norfolk, VA; The Pennsylvania State University, University Park, PA; and University of Maryland, College Park, MD have been

added as Associate Members to this venture. Also, one original member of RITA, The Boeing Company, acquired another original member, McDonnell Douglas Helicopter Co.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Rotorcraft Technology Association, Inc. intends to file additional written notification disclosing all changes in membership.

On September 28, 1995, Rotorcraft Technology Association, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on April 3, 1996 (61 FR 14817).

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99-6685 Filed 3-18-99; 8:45 am]

BILLING CODE 4410-11-M

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### **Notice Pursuant to the National Cooperative Research and Production Act of 1993—Salutation Consortium, Inc.**

Notice is hereby given that, on November 16, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), Salutation Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Integrated Systems, Inc., Sunnyvale, CA; and Eastman Kodak Corporation, Rochester, NY have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Salutation Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On March 30, 1995, Salutation Consortium, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 27, 1995 (60 FR 33233).

The last notification was filed with the Department on August 21, 1998. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 2, 1998 (63 FR 58789).

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*  
[FR Doc. 99-6694 Filed 3-18-99; 8:45 am]

BILLING CODE 4410-11-M

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Southwest Research Institute: Durability and Life Assessment of GTD-111 Buckets

Notice is hereby given that, on October 21, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Southwest Research Institute: Durability and Life Assessment of GTD-111 Buckets has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ESB Power Generation, Dublin, IRELAND has been added as a party to this venture. Also, ENRON Power Corporation, Laporte, TX has been dropped as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Southwest Research Institute intends to file additional written notification disclosing all changes in membership.

On October 31, 1995, Southwest Research Institute filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 17, 1996 (61 FR 54222).

The last notification was filed with the Department on March 26, 1996. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 4, 1996 (61 FR 64371-64372).

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*  
[FR Doc. 99-6686 Filed 3-18-99; 8:45 am]

BILLING CODE 4410-11-M

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

[INS No. 1967-98]

#### Expansion of the Basic Pilot Program to the State of Nebraska

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Notice.

**SUMMARY:** In March 1999, the Immigration and Naturalization Service (Service) and the Social Security Administration (SSA) will begin offering the Basic Pilot to all employers in the state of Nebraska. The Basic Pilot is a free employment eligibility confirmation system operated by the Service and SSA to test a method of providing effective, nondiscriminatory employment eligibility verification. The Basic Pilot will allow participating employers to confirm the employment eligibility of their newly hired employees and help maintain a stable, legal work force. The Basic Pilot is currently being offered to all employers in the states of California, Florida, Illinois, New York, and Texas. This notice is to advise employers in the state of Nebraska that they may now elect to participate in the Basic Pilot. Nebraska has been chosen because the Service is conducting Operation Vanguard, an initiative for gaining and maintaining a legal work force in Nebraska, beginning with the meat packing/processing industry.

The Service published a notice in the **Federal Register** on September 15, 1997, at 62 FR 48309 describing pilot programs that are required by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). That notice provided requirements and guidance to employers that might be interested in volunteering to participate in one or more of three pilot programs being conducted by the Service and SSA. The pilots include: (1) The Basic Pilot; (2) the Citizen Attestation Pilot; and (3) the Machine-Readable Document Pilot.

**DATES:** There is no deadline for volunteering to participate in the Basic Pilot Program, but interested employers should contact the Service as soon as possible to maximize their opportunity to participate.

**FOR FURTHER INFORMATION CONTACT:** John E. Nahan, Immigration and Naturalization Service, SAVE Program, 425 I Street, NW., ULLICO Building, 4th Floor, Washington, DC 20536, Telephone (202) 514-2317.

## SUPPLEMENTARY INFORMATION:

### What Is the Basic Pilot Program?

The Basic Pilot is a free employment eligibility confirmation system operated by the Service and SSA to test a method of providing effective, nondiscriminatory employment eligibility verification. The Basic Pilot involves electronic verification checks of the SSA and INS databases, using an automated system to verify the employment authorization of all newly hired employees by using Social Security Numbers (SSNs) and alien registration numbers. Equipment needed for participation in this pilot is a personal computer, 486 or higher windows platform PC with a modem. The Basic Pilot started in November 1997, and can be tested for up to 4 years.

### Who May Participate in the Basic Pilot Program?

The Basic Pilot program is being offered to all employers in the states of California, Florida, Illinois, Nebraska, New York, and Texas. Participation in the pilot is voluntary on the part of employers, except with regard to the Executive and Legislative Branches of the Federal Government and certain employers found to be in violation of the Immigration and Nationality Act in states where the pilot is being conducted.

### How Does an Employer Sign up for Participation in the Basic Pilot Program?

All employers must enter into a Memorandum of Understanding (MOU) with SSA and the Service. To obtain the MOU or to request additional information about the Basic Pilot, you may submit your request by writing to the Immigration and Naturalization Service, 425 I Street, NW, ULLICO Building, 4th Floor, Washington, DC 20536, Attention: SAVE Program Branch, or you may fax your request to the SAVE Program at (202) 514-9981, or you may call the SAVE Program toll free at 1-888-464-4218.

### Paperwork Reduction Act

The information collection requirement contained in the MOU will be resubmitted to the Office of Management and Budget (OMB) for reapproval under the provisions of the Paperwork Reduction Act.

Dated: March 12, 1999.

**Doris Meissner,**

*Commissioner, Immigration and Naturalization Service.*

[FR Doc. 99-6664 Filed 3-18-99; 8:45 am]

BILLING CODE 4410-10-M

**DEPARTMENT OF LABOR****Employment Standards Administration  
Wage and Hour Division****Minimum Wages for Federal and  
Federally Assisted Construction:  
General Wage Determination Decisions**

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276(a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29

CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S-3014, Washington, D.C. 20210.

**Modifications to General Wage  
Determination Decisions**

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

*Volume I*

## New Hampshire

NH990001 (Mar. 12, 1999)  
NH990002 (Mar. 12, 1999)  
NH990003 (Mar. 12, 1999)

## New Jersey

NJ990002 (Mar. 12, 1999)  
NJ990003 (Mar. 12, 1999)  
NJ990004 (Mar. 12, 1999)

*Volume II*

## Maryland

MD990058 (Mar. 12, 1999)

## Pennsylvania

PA990004 (Mar. 12, 1999)  
PA990042 (Mar. 12, 1999)

## Virginia

VA990003 (Mar. 12, 1999)  
VA990014 (Mar. 12, 1999)  
VA990015 (Mar. 12, 1999)  
VA990018 (Mar. 12, 1999)  
VA990022 (Mar. 12, 1999)  
VA990023 (Mar. 12, 1999)  
VA990033 (Mar. 12, 1999)  
VA990034 (Mar. 12, 1999)  
VA990039 (Mar. 12, 1999)  
VA990046 (Mar. 12, 1999)

VA990055 (Mar. 12, 1999)  
VA990064 (Mar. 12, 1999)  
VA990069 (Mar. 12, 1999)  
VA990080 (Mar. 12, 1999)  
VA990084 (Mar. 12, 1999)  
VA990085 (Mar. 12, 1999)  
VA990087 (Mar. 12, 1999)  
VA990088 (Mar. 12, 1999)

*Volume III*

None

*Volume IV*

## Illinois

IL990001 (Mar. 12, 1999)  
IL990002 (Mar. 12, 1999)  
IL990003 (Mar. 12, 1999)  
IL990004 (Mar. 12, 1999)  
IL990005 (Mar. 12, 1999)  
IL990006 (Mar. 12, 1999)  
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IL990010 (Mar. 12, 1999)  
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IL990043 (Mar. 12, 1999)  
IL990044 (Mar. 12, 1999)  
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IL990050 (Mar. 12, 1999)  
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IL990060 (Mar. 12, 1999)  
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IL990062 (Mar. 12, 1999)  
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IL990064 (Mar. 12, 1999)  
IL990065 (Mar. 12, 1999)  
IL990066 (Mar. 12, 1999)  
IL990067 (Mar. 12, 1999)  
IL990068 (Mar. 12, 1999)  
IL990069 (Mar. 12, 1999)  
IL990070 (Mar. 12, 1999)

*Volume V*

Arkansas

AR990001 (Mar. 12, 1999)  
AR990008 (Mar. 12, 1999)  
AR990023 (Mar. 12, 1999)

## Iowa

IA990031 (Mar. 12, 1999)  
IA990037 (Mar. 12, 1999)

## Volume VI

## Alaska

AK990001 (Mar. 12, 1999)  
AK990002 (Mar. 12, 1999)  
AK990006 (Mar. 12, 1999)

## Montana

MT990006 (Mar. 12, 1999)

## Oregon

OR990001 (Mar. 12, 1999)  
OR990004 (Mar. 12, 1999)  
OR990017 (Mar. 12, 1999)

## Washington

WA990001 (Mar. 12, 1999)  
WA990005 (Mar. 12, 1999)  
WA990008 (Mar. 12, 1999)

## Volume VII

## Arizona

AZ990002 (Mar. 12, 1999)

## California

CA990030 (Mar. 12, 1999)

### General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts." This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1-800-363-2068.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512-1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, D.C. this 11th day of March 1999.

**Carl J. Poleskey,**

*Chief, Branch of Construction Wage Determinations.*

[FR Doc. 99-6442 Filed 3-18-99; 8:45 am]

BILLING CODE 4510-27-M

## DEPARTMENT OF LABOR

### Bureau of Labor Statistics

#### Proposed Collection; Comment Request

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed extension of the "Current Population Survey (CPS)." A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the addressee section of this notice.

**DATES:** Written comments must be submitted to the office listed in the addressee section below on or before May 19, 1999.

The Bureau of Labor Statistics is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated,

electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

**ADDRESSES:** Send comments to Karin G. Kurz, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, NE., Washington, DC 20212. Ms. Kurz can be reached on 202-606-7628 (this is not a toll free number).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The CPS has been the principal source of the official Government statistics on employment and unemployment for nearly 60 years. The labor force information gathered through the survey is of paramount importance in keeping track of the economic health of the Nation. The survey is the only source of data on total employment and unemployment, with the monthly unemployment rate obtained through this survey being regarded as one of the most important economic indicators. Moreover, the survey also yields data on the basic status and characteristics of persons not in the labor force. The CPS data are used monthly, in conjunction with data from other sources, to analyze the extent to which the various components of the American population are participating in the economic life of the Nation and with what success.

The labor force data gathered through the CPS are provided to users in the greatest detail possible, consistent with the demographic information obtained in the survey. In brief, the labor force data can be broken down by sex, age, race and ethnic origin, marital status, family composition, educational level, and various other characteristics. Through such breakdowns, one can focus on the employment situation of specific population groups as well as on the general trends in employment and unemployment. Information of this type can be obtained only through demographically-oriented surveys such as the CPS.

The basic CPS data also are used as an important platform to base the data derived from the various supplemental questions that are administered in conjunction with the survey. By coupling the basic data from the monthly survey with the special data from the supplements, one can get valuable insights on the behavior of American workers and on the social and economic health of their families.

There is wide interest in the monthly CPS data among Government

policymakers, legislators, outside economists, the media, and the general public. While the data from the CPS are used in conjunction with data from other surveys in assessing the economic health of the Nation, they are unique in various ways. They provide a measurement of total employment, including farm work, self-employment and unpaid family work, while the other surveys are generally restricted to the nonagricultural wage and salary sector. The CPS provides data on all jobseekers, and on all persons outside the labor force, while payroll-based surveys cannot, by definition, cover these sectors of the population. Finally, the CPS data on employment, unemployment, and on persons not in the labor force can be linked to the demographic characteristics of the many groups which make up the Nation's population, while the data from other surveys are usually devoid of demographic information.

## II. Current Actions

There have been no changes since the last submission.

*Type of Review:* Extension of a currently approved collection.

*Agency:* Bureau of Labor Statistics.

*Title:* Current Population Survey (CPS).

*OMB Number:* 1220-0100.

*Affected Public:* Individuals or households.

*Total Respondents:* 48,000 per month.

*Frequency:* Monthly.

*Total Responses:* 576,000.

*Average Time Per Response:* 7 minutes.

*Estimated Total Burden Hours:* 67,200 hours.

*Total Burden Cost (capital/startup):* \$0.

*Total Burden Cost (operating/maintenance):* \$0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, D.C., this 16th day of March 1999.

**Karen A. Krein,**

*Acting Chief, Division of Management Systems, Bureau of Labor Statistics.*

[FR Doc. 99-6790 Filed 3-18-99; 8:45 am]

BILLING CODE 4510-24-M

## NATIONAL INSTITUTE FOR LITERACY

### Proposed Agency Information Collection Activities; Comment Request

**AGENCY:** National Institute for Literacy.

**ACTION:** Notice of information collection.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces an Information Collection Request (ICR) by the NIFL. The ICR describes the nature of the information collection and its expected cost and burden.

**DATES:** Comments must be submitted on or before April 19, 1999.

**ADDRESSES:** Submit written comments to: National Institute for Literacy, 800 Connecticut Avenue, NW., Suite 200, Washington, DC 20006, Attention: Sondra Stein. Copies of the complete ICR and accompanying appendixes may be obtained from the above address or by contacting Sondra Stein at (202) 632-1508. Comments may also be submitted electronically by sending electronic mail (e-mail) to: [sstein@nifl.gov](mailto:sstein@nifl.gov).

All written comments will be available for public inspection from 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

#### SUPPLEMENTARY INFORMATION:

#### Title

EFF Field-based Center(s) for Training, Technical Assistance and Materials Development

#### Abstract

The National Institute For Literacy (NIFL) was created by the National Literacy Act of 1991 to provide a national focal point for literacy activities and to facilitate the pooling of ideas and expertise across a fragmented field. NIFL is authorized to carry out a wide range of activities that will improve and expand the system for delivery of adult literacy services nationwide.

For the past four years, the NIFL has been working with a range of partners in states across the country to develop a customer-driven, standards-based, collaborative approach to adult literacy system reform. The Equipped for the Future (EFF) standards that have been developed through this effort define the critical skills and knowledge that enable adults to effectively carry out their responsibilities as workers, parents and family members, and citizens and community members. The standards have been developed and refined with the assistance of a broad cross section of literacy and basic skills programs, as well as with the advice and guidance of key stakeholders in the workforce development, family literacy, and civic participation movements in this country. By September of 1999 NIFL will have completed the major development work on the standards and will release a Users Guide designed to

introduce key constituencies to the Standards and how they can be used for teaching and learning, program improvement, accountability, and system reform.

The EFF Field-based Center(s) for Training, Technical Assistance and Materials Development will work collaboratively and with National Institute for Literacy (NIFL) to assure the effective integration of EFF into ongoing adult education, family literacy, welfare-to-work, skill standards voluntary partnerships, and other workforce development systems.

*Burden Statement:* The burden for this collection of information is estimated at 80 hours per response for the first year. This estimate includes the time needed to review instructions, complete the form, and review the collection of information. No more than three applicants will be awarded a three-year cooperative agreement grant. Each awardee will have an annual update of the application requiring an average of 40 hours per response for each continuation year.

*Respondents:* State, regional and national organizations, or consortia of such organizations.

*Estimated Number of Respondents:* 10.

*Estimated Number of Responses Per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 80 hours.

*Frequency of Collection:* One time. Send comments regarding the burden estimate or any other aspect of the information collection, including suggestions for reducing the burden to: Sondra Stein, National Institute for Literacy, 800 Connecticut Ave., NW., Suite 200, Washington, DC 20006.

*Request for Comments:* NIFL solicits comments to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility. (ii) Evaluate the accuracy of the agency's estimates of the burden of the proposed collection of information. (iii) Enhance the quality, utility, and clarity of the information to be collected. (iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies of other forms of information technology, e.g., permitting electronic submission of responses.

Dated: March 15, 1999.

**Andrew J. Hartman,**

*Director, NIFL.*

[FR Doc. 99-6724 Filed 3-18-99; 8:45 am]

BILLING CODE 6055-01-M

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## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-361 and 50-362]

### **Southern California Edison Company; Notice of Withdrawal of Application for Amendments to Facility Operating Licenses**

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Southern California Edison Company, et al. (the licensee) to withdraw its May 29, 1996, application for proposed amendments to Facility Operating License Nos. NPF-10 and NPF-15 for the San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, located in San Diego County, California.

The May 29, 1996, proposed change would have modified the technical specifications to revise the acceptance criteria for the Agastat time delays used in the engineered safety features load sequences.

The Commission had previously issued a Notice of Consideration of Issuance of Amendments published in the **Federal Register** on September 11, 1996 (61 FR 47981). However, by letter dated December 22, 1998, the licensee withdrew the amendments request.

For further details with respect to this action, see the application for amendments dated May 29, 1996, and the licensee's letter dated December 22, 1998, which withdrew the application for license amendments. The above documents 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 room located at the Main Library, University of California, P.O. Box 19557, Irvine, California 92713.

Dated at Rockville, Maryland, this 15th day of March 1999.

For the Nuclear Regulatory Commission.

**James W. Clifford,**

*Senior Project Manager, Project Directorate IV-2, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 99-6765 Filed 3-18-99; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-361 and 50-362]

### **Southern California Edison Company; Notice of Withdrawal of Application for Amendments to Facility Operating Licenses**

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Southern California Edison Company, et al. (the licensee) to withdraw its December 30, 1992, application for proposed amendments to Facility Operating License Nos. NPF-10 and NPF-15 for the San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, located in San Diego County, California.

The December 30, 1992, proposed change would have modified Technical Specification 3.3.3.1 to increase the required number of plant vent stack wide range noble gas radiation monitors from 1 to 2.

The Commission had previously issued a Notice of Consideration of Issuance of Amendments published in the **Federal Register** on March 3, 1993 (58 FR 12268). However, by letter dated April 27, 1995, the licensee withdrew the amendments request indicating that it had been superseded by the technical specification improvement program application dated December 30, 1993.

For further details with respect to this action, see the application for amendments dated December 30, 1992, and the licensee's letter dated April 27, 1995, which withdrew the application for license amendments. The above documents 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 room located at the Main Library, University of California, P.O. Box 19557, Irvine, California 92713.

Dated at Rockville, Maryland, this 15th day of March 1999.

For the Nuclear Regulatory Commission.

**James W. Clifford,**

*Senior Project Manager, Project Directorate IV-2, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 99-6766 Filed 3-18-99; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-361 and 50-362]

### **Southern California Edison Company; Notice of Withdrawal of Application for Amendments to Facility Operating Licenses**

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Southern California Edison Company, et al. (the licensee) to withdraw its March 1, 1993, application for proposed amendments to Facility Operating License Nos. NPF-10 and NPF-15 for the San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, located in San Diego County, California.

The March 1, 1993, proposed change would have modified Technical Specification 3.3.3.2 to redefine an operable incore detector string.

The Commission had previously issued a Notice of Consideration of Issuance of Amendments published in the **Federal Register** on July 7, 1993 (58 FR 36446). However, by letter dated April 27, 1995, the licensee withdrew the amendments request indicating that it had been superseded by the technical specification improvement program application dated December 30, 1993.

For further details with respect to this action, see the application for amendments dated March 1, 1993, and the licensee's letter dated April 27, 1995, which withdrew the application for license amendments. The above documents 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 room located at the Main Library, University of California, P.O. Box 19557, Irvine, California 92713.

Dated at Rockville, Maryland, this 15th day of March 1999.

For the Nuclear Regulatory Commission.

**James W. Clifford,**

*Senior Project Manager, Project Directorate IV-2, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 99-6768 Filed 3-18-99; 8:45 am]

BILLING CODE 7590-01-P

**NUCLEAR REGULATORY COMMISSION**

[Docket No. 72-9]

**U.S. Department of Energy; Fort St. Vrain Independent Spent Fuel Storage Installation; Exemption****I**

Pursuant to 10 CFR 72.50, the U.S. Department of Energy (DOE) has applied for the transfer of Materials License SNM-2504 which authorizes receipt and storage of spent nuclear fuel at an independent spent fuel storage installation (ISFSI) located at the site of the former Fort St. Vrain (FSV) nuclear generating station. The facility is located in Weld County, Colorado.

**II**

Pursuant to 10 CFR 20.2301, the Nuclear Regulatory Commission (NRC) may grant exemptions from the requirements of the regulations in 10 CFR Part 20 as it determines are authorized by law and will not result in undue hazard to life or property.

Section 20.1501(c) states in part that "All personnel dosimeters (except for direct and indirect reading pocket dosimeters used to measure the dose to the extremities) that require processing to determine the radiation dose....must be processed and evaluated by a dosimetry processor...(1) holding current personnel dosimetry accreditation from the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Institute of Standards and Technology; and (2) approved in this accreditation process for the type of radiation or radiations included in the NVLAP that most closely approximates the type of radiation or radiations for which the individual wearing the dosimetry is monitored."

**III**

By letter dated December 17, 1996, DOE submitted a request to transfer Materials License SNM-2504 for the FSV ISFSI from Public Service Company of Colorado, the current licensee, to DOE. DOE's request is currently under NRC staff review. The completion of this review and transfer of the license is anticipated in early 1999. As part of its license transfer application, DOE described how it planned to demonstrate compliance with applicable NRC regulations, including regulations in 10 CFR Part 20. In a December 10, 1997, supplement to its application, DOE requested an exemption, pursuant to 10 CFR 20.2301, from the requirements of 10 CFR

20.1501(c) described above. In its request for exemption, DOE requested that use of a DOE laboratory accreditation program (DOELAP) be authorized as an alternative to the requirement to use the NVLAP.

The NRC staff has examined both the NVLAP and DOELAP processes and standards. The two laboratory accreditation programs are based on similar criteria and standards. Both programs have incorporated similar test categories (types of radiation and energy levels), tolerance levels, bias, and performance criteria. The staff concluded that the DOELAP process is at least as stringent as the NVLAP process and concludes that, for the FSV ISFSI, the DOELAP is an acceptable alternative to the NVLAP process required by 10 CFR 20.1501(c).

**IV**

Accordingly, NRC has determined, in accordance with 10 CFR 20.2301, that this exemption is authorized by law and will not result in undue hazard to life or property. Therefore, NRC hereby grants DOE an exemption from the dosimetry processing accreditation requirements of 10 CFR 20.1501(c) as requested by DOE in its letters dated December 10, 1997, and December 9, 1998. The exemption granted herein applies only to the FSV ISFSI.

The documents related to this proposed action are available for public inspection and for copying at the NRC Public Document Room, 2120 L Street, NW, Washington, DC 20555. Pursuant to 10 CFR 51.32, NRC has determined that granting this exemption will have no significant impact on the quality of the human environment (64 FR 10330).

This exemption is effective upon transfer of Materials License SNM-2504 to the DOE.

Dated at Rockville, Maryland, this 12th day of March 1999.

For the Nuclear Regulatory Commission.

**E. William Brach,**

*Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 99-6764 Filed 3-18-99; 8:45 am]

BILLING CODE 7590-01-P

**NUCLEAR REGULATORY COMMISSION**

[Docket 72-13]

**Entergy Operations, Inc., Arkansas Nuclear One Power Plant; Issuance of Environmental Assessment and Finding of No Significant Impact Regarding the Proposed Exemption From Certain Requirements of 10 CFR Part 72**

The U.S. Nuclear Regulatory Commission (NRC or Commission) is considering issuance of an exemption, pursuant to 10 CFR 72.7, from the provisions of 10 CFR 72.212(a)(2) and 72.214 to Entergy Operations, Inc. (Entergy). The requested exemption would allow Entergy to store burnable poison rod assemblies (BPRAs) in Ventilated Storage Cask-24 (VSC-24) systems at the Arkansas Nuclear One (ANO) Independent Spent Fuel Storage Installation (ISFSI).

**Environmental Assessment (EA)**

*Identification of Proposed Action:* By letter dated January 18, 1999, Entergy requested an exemption from the requirements of 10 CFR 72.214 to store BPRAs in VSC-24s at the ANO ISFSI. ANO is a general licensee, authorized by NRC to use spent fuel storage casks approved under 10 CFR Part 72, Subpart K. Furthermore, ANO is using the VSC-24 design approved by NRC under COC No. 1007 to store spent fuel at the ISFSI.

For the NRC to permit ANO to store BPRAs in the VSC-24s, the NRC, on its own initiative, must also grant ANO an exemption from the general license conditions of 10 CFR 72.212(a)(2). Section 72.212(a)(2) states that the general license for storage of spent fuel at power reactor sites is limited to storage of spent fuel in casks approved under the provisions in 10 CFR Part 72. By exempting ANO from both 10 CFR 72.214 and 72.212(a)(2), ANO will be authorized to use its general license to store spent fuel in casks approved under Part 72, as exempted, to allow storage of BPRAs. The proposed action before the Commission is whether to grant these exemptions under 10 CFR 72.7.

The ISFSI is located 6 miles west-northwest of Russellville, Arkansas, on the ANO Power Plant site. The ANO ISFSI is an existing facility constructed for interim dry storage of spent ANO nuclear fuel.

On December 30, 1998, the cask designer, Sierra Nuclear Corporation (SNC) (also known as Pacific Sierra Nuclear Associates), submitted a COC amendment request to NRC to address the storage of Babcock and Wilcox (B&W) 15x15 fuel with BPRAs. The NRC

staff has reviewed the application and determined that storing B&W 15x15 fuel with BPRAs in the VSC-24 would have minimal impact on the design basis and would not be inimical to public health and safety.

*Need for the Proposed Action:* ANO has lost full core offload reserves in the Unit 1 spent fuel pool. ANO Unit 1 is scheduled for a refueling outage in September 1999. Because the 10 CFR Part 72 rulemaking to amend the COC will not be completed prior to the date that ANO needs to begin loading the VSC-24s with fuel containing BPRAs, the staff requested Commission approval to grant this exemption based on the staff's technical review of information submitted by ANO and SNC.

*Environmental Impacts of the Proposed Action:* The potential environmental impact of using the VSC-24 system was initially presented in the EA for the Final Rule to add the VSC-24 to the list of approved spent fuel storage casks in 10 CFR 72.214 (58 FR 17948 (1993)). Furthermore, each general licensee must assess the environmental impacts of the specific ISFSI in accordance with the requirements of 10 CFR 72.212(b)(2)(iii). This section requires the general licensee to perform written evaluations to demonstrate compliance with the environmental requirements of 10 CFR 72.104, "Criteria for radioactive materials in effluents and direct radiation from an ISFSI or MRS [Monitored Retrievable Storage Installation]."

VSC-24s are designed to mitigate the effects of design basis accidents that could occur during storage. Design basis accidents account for human-induced events and the most severe natural phenomena reported for the site and surrounding area. Postulated accidents analyzed for an ISFSI include tornado winds and tornado generated missiles, design basis earthquake, design basis flood, accidental cask drop, lightning effects, fire, explosions, and other incidents.

Special cask design features include a double-closure welded steel multi-assembly sealed basket (MSB) made from SA-516 Gr 70 pressure vessel steel to contain the spent fuel. This MSB is up to 181-inches long, 62.5 inches in diameter, with 1.0-inch thick walls. The MSB is placed inside of a Ventilated Concrete Cask (VCC) and positioned for storage on the concrete ISFSI pad. The VCC is up to 213-inches long, 132 inches in diameter, and 31.75-inches thick. The VCC wall consists of a 1.75-inch thick steel inner liner surrounded

by reinforced concrete and steel ducts for a passive ventilation system.

Considering the specific design requirements for each accident condition, the design of the cask would prevent loss of containment, shielding, and criticality control. Without the loss of either containment, shielding, or criticality control, the risk to public health and safety is not compromised.

Storage of B&W 15x15 fuel containing BPRAs would increase the maximum potential cask dose rates by no more than 13 percent at any location on a loaded VSC-24 system. For a VSC-24 loaded with fuel containing BPRAs, the highest dose would be found at the top center of the cask. This dose was calculated to increase from 30 mrem/hr without BPRAs to 32.2 mrem/hr with BPRAs. The occupational exposure is not significantly increased and off-site dose rates remain well within the 10 CFR Part 20 limits. Therefore, the proposed action now under consideration would not change the potential environmental effects assessed in the initial rulemaking (58 FR 17948).

Therefore, the staff has determined that there is no reduction in the safety margin nor significant environmental impacts as a result of storing B&W 15x15 fuel with BPRAs in the VSC-24 system.

*Alternative to the Proposed Action:* The staff evaluated other alternatives involving removal of the BPRAs from the fuel assemblies and found that these alternatives produced a greater occupational exposure and an increased environmental impact as a result of handling the BPRAs separately as low-level waste. The alternative to the proposed action would be to deny approval of the exemption and, therefore, require ANO to disassemble and store the BPRAs as low-level waste in separate containers.

*Agencies and Persons Consulted:* On February 17, 1999, Bernard Beville from the Division of Radiation Control and Emergency Management, Arkansas Department of Health, was contacted about the EA for the proposed action and had no concerns.

#### **Finding of No Significant Impact**

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR Part 51. Based upon the foregoing EA, the Commission finds that the proposed action of granting an exemption from 10 CFR 72.212(a)(2) and 72.214 so that ANO may store B&W 15x15 fuel containing BPRAs in VSC-24s will not significantly impact the quality of the human environment. Accordingly, the Commission has

determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this exemption request, see the Entergy exemption request dated January 18, 1999, which is docketed under 10 CFR Part 72, Docket No 72-13. The exemption request is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC, 20555 and the Local Public Document Room located at Tomlinson Library, Arkansas Tech University, Russellville, AR, 72801.

Dated at Rockville, Maryland, this 12th day of March 1999.

For the Nuclear Regulatory Commission.

#### **E. William Brach,**

*Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 99-6769 Filed 3-18-99; 8:45 am]

BILLING CODE 7590-01-P

## **NUCLEAR REGULATORY COMMISSION**

[NUREG-1701]

### **Standard Review Plan for the Review of License Applications for the Advanced Vapor Laser Isotope System (AVLIS) Facility; Notice of Availability**

**AGENCY:** Nuclear Regulatory Commission

**ACTION:** Notice of availability.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) has issued draft NUREG-1701 entitled "Standard Review Plan for the Review of a License Application for the Advanced Vapor Laser Isotope System (AVLIS) Facility" for review and comment.

**DATES:** Submit comments by June 17, 1999. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

**ADDRESSES:** Mail written comments to: Chief, Rules and Directives Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Hand deliver comments to 11545 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. during Federal workdays.

Draft NUREG-1701 is available for inspection and copying for a fee at the NRC Public Document Room (PDR), 2120 L Street, NW, Washington, DC 20555-0001.

A free single copy of draft NUREG-1701, to the extent of supply, may be requested by writing to U. S. Nuclear Regulatory Commission, Distribution

Services, Washington, DC 20555-0001. Draft NUREG-1701 is available on the World Wide Web at <http://www.nrc.gov/NRC/NUREGS/indexnum.html>. Comments may be submitted by selecting the "comments" link on the main page for the draft NUREG.

**FOR FURTHER INFORMATION CONTACT:** For information regarding draft NUREG-1701 contact Amy Bryce, Office of Nuclear Material Safety and Safeguards, U. S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415-5848.

**SUPPLEMENTARY INFORMATION:** The NRC anticipates reviewing a license application for an AVLIS facility under 10 CFR Part 70, Domestic Licensing of Special Nuclear Material. The NRC is currently considering revisions to 10 CFR Part 70 and the associated standard review plan (SRP), draft NUREG-1520, "Standard Review Plan for the Review of a License Application for a Fuel Cycle Facility," (see <http://techconf.llnl.gov/cgi-bin/topics>). To provide facility specific guidance for the review of a license application for an AVLIS facility, the NRC simultaneously developed NUREG-1701, "Standard Review Plan for the Review of a License Application for the Advanced Vapor Laser Isotope System (AVLIS) Facility." To the extent appropriate, draft NUREG-1701 will be revised to reflect NRC program changes to 10 CFR Part 70 and the accompanying SRP.

Dated at Rockville, Maryland, this 5th day of March 1999.

For the Nuclear Regulatory Commission.

**Josephine Piccone,**

*Acting Deputy Director Division of Fuel Cycle Safety and Safeguards, NMSS.*

[FR Doc. 99-6767 Filed 3-18-99; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[NUREG-1702]

### Standard Review Plan for the Review of a License Application for the Tank Waste Remediation System Privatization Project; Notice of Availability

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of availability.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) has issued a draft NUREG-1702 entitled "Standard Review Plan for the Review of a License Application for the Tank Waste Remediation System Privatization

(TWRS-P) Project" for review and comment.

**DATES:** Submit comments by June 17, 1999. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

**ADDRESSES:** Mail written comments to: Chief, Rules and Directives Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Hand deliver comments to 11545 Rockville Pike, Rockville, Maryland 20852, between 7:30 am and 4:15 pm during Federal workdays.

Draft NUREG-1702 is available for inspection and copying for a fee at the NRC Public Document Room (PDR), 2120 L Street, NW, Washington, DC 20555-0001.

A free single copy of draft NUREG-1702, to the extent of supply, may be requested by writing to the U. S. Nuclear Regulatory Commission, Distribution Services, Washington, DC 20555-0001. Draft NUREG-1702 is available on the World Wide Web at <http://www.nrc.gov/NRC/NUREGS/indexnum.html>. Comments may be submitted by selecting the "comments" link on the main page for the draft NUREG.

**FOR FURTHER INFORMATION CONTACT:** For further information regarding draft NUREG-1702 contact Michael Tokar, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415-7251.

**SUPPLEMENTARY INFORMATION:** The NRC anticipates reviewing a license application for a TWRS-P facility under 10 CFR Part 70, Domestic Licensing of Special Nuclear Material. The NRC is currently considering revisions to 10 CFR Part 70 and the associated standard review plan (SRP), draft NUREG-1520, "Standard Review Plan for the Review of a License Application for a Fuel Cycle Facility," (see <http://techconf.llnl.gov/cgi-bin/topics>). To provide facility specific guidance for the review of a license application for a TWRS-P facility, the NRC simultaneously developed NUREG-1702, "Standard Review Plan for the Review of a License Application for the Tank Waste Remediation System Privatization (TWRS-P) Project." To the extent appropriate, draft NUREG-1702 will be revised to reflect NRC program changes to 10 CFR Part 70 and the accompanying SRP.

Dated at Rockville, Maryland, this 4th day of March 1999.

For the Nuclear Regulatory Commission.

**Josephine Piccone,**

*Acting Deputy Director, Division of Fuel Cycle Safety and Safeguards, NMSS.*

[FR Doc. 99-6770 Filed 3-18-99; 8:45 am]

BILLING CODE 7590-01-U

## POSTAL RATE COMMISSION

[Docket Nos. MC99-1 and MC99-2; Order No. 1233]

### Mail Classification Proceedings; (Authority: 39 U.S.C. 3623)

**AGENCY:** Postal Rate Commission.

**ACTION:** Notice of new cases affecting nonletter-sized business reply mail.

**DATES:** See **SUPPLEMENTARY INFORMATION** section for dates.

**ADDRESSES:** Send communications concerning this notice to the attention of Margaret P. Crenshaw, Secretary of the Commission, 1333 H Street NW., Suite 300, Washington, DC 20268-0001.

**FOR MORE INFORMATION CONTACT:** Stephen L. Sharfman, General Counsel, 1333 H Street NW., Washington, DC 20268-0001, 202-789-6820.

**SUPPLEMENTARY INFORMATION:** On March 10, 1999, the Postal Service filed concurrent requests with the Commission for recommended decisions on proposed changes in the Domestic Mail Classification Schedule (DMCS). Both requests were filed pursuant to § 3623 of the Postal Reorganization Act, 39 U.S.C. 101 *et seq.*

The proposed changes affect certain nonletter-sized Business Reply Mail (BRM). They grow out of an ongoing, two-year experiment authorizing two alternatives to the traditional manual method of accounting for this type of mail. These alternatives are referred to as the "weight averaging" method and the "reverse manifest" method. The experiment was authorized as a result of Docket No. MC97-1. It began June 8, 1997 and expires June 7, 1999. See Order No. 1148 (December 18, 1996); 61 FR 67860-62 (December 24, 1996); PRC Op. MC97-1 (April 2, 1997); and Decision of the Governors of the United States Postal Service on the Commission's Recommended Decision (May 6, 1997).

The Service represents, in its two requests and related filings, that developments warrant making the experimental classification and fees permanent for the weight averaging accounting method, but not for the reverse manifest method. At the same time, the Service finds that certain technical and administrative issues

related to weight averaging have emerged, and it believes resolution is not possible prior to the experiment's scheduled expiration.

To avoid the disruption in operations and the increase in the per-piece service fee that would occur if the experimental authority expires before a permanent classification for weight averaged nonletter-size BRM can be approved, the Service suggests proceeding on dual procedural tracks. One track—Docket No. MC99-1—would allow expedited consideration of a temporary extension of the current classification and fees for qualifying weight-averaged BRM under the Commission's experimental rules. The Service asks that this proceeding be

conducted pursuant to a Commission order authorizing settlement negotiations and incorporating certain procedures (and related deadlines) entailing action by the Commission or others. *See generally* Request of the United States Postal Service for a Recommended Decision on Renewal of Experimental Classification and Fees for Weight-Averaged Nonletter-Size Business Reply Mail (March 10, 1999). (Also cited here as Docket No. MC99-1.)

The other track—Docket No. MC99-2—would allow full exploration of costing and pricing issues associated with a permanent classification. These issues include the Service's proposal to

eliminate the setup fee, which is an element of the current experiment, and to reduce the per-piece service fee and the monthly sampling/accounting fee. As in the current experiment, the proposed fees under the permanent classification would be assessed in addition to applicable First-Class or Priority Mail postage. *See generally* Request of the United States Postal Service for a Recommended Decision on Classification and Fees for Weight-Averaged Nonletter-size Business Reply Mail (March 10, 1999). (Also cited here as Docket No. MC99-2). A summary comparison of fees under various options follows.

CURRENT AND PROPOSED FEES AVAILABLE TO NONLETTER-SIZE BRM

[Assuming Use of an Advance Deposit Account]

Classification	Per-piece fee (cents)	Monthly fee	Setup fee
Current Non-QBRM Mail .....	8	None	None
Current (and Docket No. MC99-1) Experimental Weight Averaged BRM .....	3	\$3000	\$3000
Proposed Permanent (Docket No. MC99-2) Weight Averaged BRM .....	1	\$600	None

Source: Adapted from Docket No. MC99-2, USPS-T-4 at 14 (Table 1).

*Effect of the instant requests on the experimental classification involving the reverse manifest accounting method.* The Service is not requesting to continue or to make permanent the current experimental classification and fees for the reverse manifest accounting method. Factors contributing to this decision include the participation of only one mailer in the reverse manifesting test; this mailer's subsequent switch to the weight averaging method; the inability to confirm the viability of reverse manifesting (given that the mailer did not achieve the target level of accuracy for postage due estimates during the course of participation); and the inability of subsequent market research to locate any potential customers interested in a permanent classification for this method. *See generally* USPS-T-4 (in Docket No. MC99-2) at 6-8, referencing USPS-T-2 (in the same docket) and USPS-T-1 in Docket No. MC97-1. In the absence of a separate filing, the experimental BRM classification and fees for reverse manifesting will expire June 7, 1999.

*Part I. Nature and Scope of Docket No. MC99-1*

In Docket No. MC99-1, the Service effectively seeks, for eligible nonletter-size BRM using the weight averaging accounting method, an extension of the current experimental classification and

fees (in DMCS § 931) until implementation of the permanent classification and fees requested in the companion docket, or February 29, 2000, whichever occurs first. According to the Service, inclusion of a date certain as one of the terms of the proposed DMCS language reflects both the "extremely unlikely" prospect that resolution of Docket No. MC99-2 could take the full 10 months permitted and its interest in a smooth transition. March 10, 1999 Motion of the United States Postal Service for Waiver of Rule 67c(a)(1) at 3 ("Rule 67c motion").

The Service's Docket No. MC99-1 request includes five attachments. These consist of proposed changes to the DMCS; the certification required by Commission rule 54(p); audited financial statements; an index of testimony identifying witness Kiefer (USPS-T-1) as the sole witness in this proceeding; and a statement regarding compliance with (or requests for waiver of) provisions in Commission rules 54 and 64. Accompanying motions seek waiver of certain data requirements, the waiver of rule 67c(a)(1) referred to above, and authorization of settlement negotiations.

*Experimental status.* The Service says designation of its Docket No. MC99-1 request as an experimental change shows its interest in application of the Commission's expedited rules of practice and procedure (39 CFR

§§ 3001.67-67d). Request I at 2. In support of the validity of invoking these rules, the Service notes that material issues in the original experiment were the subject of a full presentation by the Service in Docket No. MC97-1, and characterizes the proposal for renewal of the weight-averaging aspect of the experiment as modest. It also says the proposed treatment will ensure that renewal occurs in a manner that provides continuity for participating post office sites and BRM recipients. Id. at 4. The Service further notes that in the absence of the requested extension, the otherwise applicable BRM per-piece fee of 8 cents would have to be assessed during any interim between the expiration of the current experiment and the implementation of permanent fees. Id. at 4-5.

*Motion for waiver of certain filing requirements.* The Service requests waiver of 64(b)(3), 64(d) and 64(h), as well as provisions of rule 54 deemed applicable, either independently or through incorporation by reference in rules 64(d) and (h). Affected subsections include rule 54(b)(3), 54(d), 54(f)-(h), 54(i), 54(j), 54(k) and 54(l)(ii). March 10, 1999 Motion of the United States Postal Service for Waiver of Certain Filing Requirements Incorporated in the Commission's Rules of Practice and Procedure (as revised March 12, 1999). (Also referred to here as "Filing Requirements Motion.") In support of

waiver, the Service cites the limited nature and applicability of the proposed DMCS change. In particular, it notes that the extension request does not entail a fundamental change in any classification or fee or establish a new special service. Moreover, the Service asserts that to the extent total cost-revenue relationships might be implicated by the requested extension, its proposal will not result in significant changes. Id. 2-5.

*Motion for waiver of rule 67c(a)(1).* Commission rule 67c(a)(1) requires that the Service file a plan describing plans to collect data related to the steps it will take during the requested temporary renewal phase of the experiment to achieve a level of readiness sufficient to implement a permanent classification and fees. Rule 67c Motion at 4. The Service contends that the limited purpose of its Docket No. MC99-1 request and the availability of detailed cost data in Docket No. MC99-2 concerning estimated costs associated with the proposed permanent classification and fees render this requirement unnecessary. Moreover, it notes that some of this work is already underway, and that efforts are being made to complete it expeditiously. Id. The Service also invokes the flexibility envisioned by the experimental rules as a reason for the Commission to grant the requested waiver.

*Motion regarding settlement proceedings.* The Service asks that the Commission establish procedural mechanisms designed to encourage settlement of Docket No. MC99-1, based upon a proposed Stipulation and Agreement. In support of this approach, the Service notes that the "very limited purpose and scope" of its Docket No. MC99-1 request is to extend the duration of the experimental classification and fees for weight-averaged nonletter-size BRM, and that the companion docket—MC99-2—provides an opportunity to fully explore costing and pricing issues related to a permanent classification and fees. March 10, 1999 Motion of the United States Postal Service to Establish Procedural Mechanisms Concerning Settlement at 1 (as revised March 12, 1999) ("Procedural Mechanisms Motion").

The Service notes that the purpose of the underlying request is to obtain authority to continue the experiment for a period long enough to ensure resolution of administrative and technical issues before implementation of any classification and fees resulting from Docket No. MC99-2. Procedural Mechanisms Motion at 2. Moreover, the Service says that it anticipates that any

discovery in Docket No. MC99-1 related to the requested renewal might be relatively limited in duration and scope. It suggests that participants could initiate discovery, formally or otherwise, immediately upon intervention in the instant proceeding, and notes that this could allow them to decide what course to take in response to the proposed Stipulation and Agreement. Id. at 3. The Service states that in the interest of enhancing expedition, it intends to respond to any discovery and information requests related to its extension request within 7 calendar days of service. Id. at 3 (fn. 1).

Based on these representations, the Service moves that the Commission include eleven enumerated procedures in its formal public notice of this proceeding or, in the alternative, give notice that they have been proposed. The procedures (set out in Attachment A) relate to various rights and obligations of participants and the Commission, including summary adjudication. They address not only the prospect that the Stipulation and Agreement will be accepted without opposition, but also the possibility that it will be contested by some intervenors or otherwise not garner the Commission's approval through summary adjudication. The referenced provisions also effectively outline a proposed procedural schedule and many of the obligations of the Commission and participants.

*The proposed stipulation and agreement.* The stipulation and agreement the Service has submitted consists of two parts, an attachment, and signature pages. Part I reviews background details; part II contains 10 terms and conditions. Attachment A consists of proposed DMCS changes.

## *II. Nature and Scope of Docket No. MC99-2*

The Service states that the Docket No. MC99-2 request seeks to make permanent the experimental classification currently authorized for weight-averaged nonletter-size BRM. It also says it seeks to establish applicable BRM accounting fees that more closely correspond to the costs of using this method and to improve service for participating BRM recipients. The filing includes six attachments, consisting of proposed changes to DMCS § 932; proposed changes to DMCS Fee Schedule 931; the certification required by Commission rule 54(p); audited financial statements; an index of testimony and exhibits for four witnesses; and a compliance statement (including references to requests for waiver) regarding submission of

information called for in rules 54 and 64.

The direct testimony includes that of witnesses Shields (USPS-T-1), Ellard (USPS-T-2), Schenk (USPS-T-3), and Kiefer (USPS-T-4). Witness Shields addresses the field application of the weight-averaging accounting method for qualifying nonletter-size BRM. Witness Ellard sponsors and addresses the Service's market research. Witness Schenk addresses the costs of counting, rating and billing nonletter-size BRM using the weight averaging method, including a discussion of supporting software, a data collection effort, and a special cost study. Witness Kiefer discusses the underlying experiment and other matters related to establishment of a permanent classification for weight-averaged nonletter-size BRM.

A contemporaneous motion seeks protective conditions for one of witness Schenk's workpapers, which the Service filed *in camera* at the time it submitted its request. See March 10, 1999 Motion of the United States Postal Service Requesting Protective Conditions for Workpaper 1 of Witness Leslie Schenk. In support of its motion, the Service states that witness Schenk's cost estimates are based upon data that include the incoming BRM piece volumes received by three through-the-mail film processors who compete among themselves and against other firms in the film processing industry. It notes that witness Schenk's access to the data has been granted with the explicit understanding that such data would not be publicly disclosed and would not be disclosed to any competitor of BRM recipients. The Service asserts that without conditional access, it would not have been able to present the cost study supporting the permanent classification and fees. Id. at 2. Accordingly, the Service proposes that the same protective conditions applied in identical circumstances in Docket No. MC97-1 (or others approved by the Commission) apply here, and invites the attention of the Commission and others to P.O. Ruling MC97-1/1, Appendix C (January 24, 1997). The Service sets out the proposed conditions (consisting of 10 itemized provisions) and offers Postal Service counsel's assistance with arrangements for obtaining copies of the workpaper, upon the Commission's approval of the protective conditions. Id. at 2-5.

## *III. Commission Response to Matters Requiring Action at This Time*

The Commission believes that the Service's proposed procedural approach to reconciling the impending expiration

of the Docket No. MC97-1 experiment with its interest in pursuing permanent status for eligible weight-averaged BRM has considerable merit. Substantive aspects of the requests and the accompanying motions warrant further evaluation, but the submissions as a whole provide a comprehensive assessment of the state of the current experiment, the procedural steps the Service believes should be taken, and the impact of the proposed changes. The Commission strongly encourages interested persons to promptly review the related filings in their entirety.

The Commission agrees to authorize settlement negotiations, as requested by the Service. However, it declines to make a blanket adoption of the actions the Service sets out in its Procedural Mechanisms motion at this time. These actions appear to adequately address potential procedural developments, but the Commission is interested in participants' observations on the advisability of certain deadlines that have been proposed. Therefore, the Commission grants the alternative relief the Service suggests by providing notice that these procedural steps and related dates have been proposed. Any objections to entry into the record of this proceeding all of the Service's pertinent Docket No. MC99-1 filings to date should be submitted by April 5, 1999, which is also the deadline for intervention. The relatively short period for intervention is justified by the limited number of mailers or others likely to be affected and the likelihood that potential intervenors (in both cases) are already participating in the ongoing experiment and have been made aware, on an informal basis, of the Service's intentions to file these requests.

*Action on other Docket No. MC99-1 motions.* In addition to seeking consideration of its request under the Commission's experimental rules, the Service moves for waiver of certain filing requirements (in rules 54 and 64) identified earlier in this order and of rule 67c(a)(1). Before ruling on the appropriateness of these requests, the Commission will consider participants' views. Comments (on any or all of these matters) are to be filed no later than April 5, 1999.

*Actions in Docket No. MC99-2.* The protective conditions the Service proposes for one of witness Schenk's workpapers were used successfully in Docket No. MC97-1. It therefore seems that there should be no objection to adopting the same approach in this case; however, the Commission will consider comments in opposition to the conditions the Service proposed if filed by April 5, 1999.

The Service has not proposed any procedural dates or alternative procedural mechanisms in Docket No. MC99-2. The Commission believes it might be useful to learn whether participants are interested in establishing any preliminary dates or discussing whether the request for permanent authority may also be a candidate for settlement. Comments addressing these topics shall be filed no later than April 5, 1999, and participants should be prepared to address these matters at the prehearing conference.

The Commission directs interested parties to file notices of intervention in this proceeding no later than April 5, 1999 which is also the deadline for filing such notices in Docket No. MC99-1.

*Intervention in these proceedings.* Anyone wishing to be heard in either or both cases is directed to file a written notice of intervention with Margaret P. Crenshaw, Secretary of the Commission, 1333 H Street, NW, Suite 300, Washington, DC 20268-0001 no later than April 5, 1999. Notices should indicate whether an intervenor is seeking full or limited participation status. See 39 CFR §§ 3001.20 and 3001.20a.

*Representation of the general public.* In conformance with § 3624(a) of title 39, U.S. Code, the Commission designates Ted P. Gerarden, Director of the Commission's Office of the Consumer Advocate (OCA), to represent the interests of the general public in both proceedings. Pursuant to this designation, Mr. Gerarden will direct the activities of Commission personnel assigned to assist him and, upon request, supply their names for the record. Neither Mr. Gerarden nor any of the assigned personnel will participate in or provide advice on any Commission decision in this proceeding. The OCA shall be separately served with three copies of all filings, in addition to and contemporaneous with, service on the Commission of the 24 copies required by section 10(c) of the Commission's rules of practice [39 CFR § 3001.10(c)].

*It is ordered:*

1. The Commission will sit en banc in both Docket No. MC99-1 and MC99-2.
2. Notices of intervention in Docket Nos. MC99-1 and MC99-2 shall be filed no later than April 5, 1999.
3. Ted P. Gerarden, director of the Commission's Office of the Consumer Advocate, is designated to represent the interests of the general public in Docket Nos. MC99-1 and MC99-2.
4. The Postal Service and other participants are authorized to pursue settlement of the issues in Docket No.

MC99-1 based on the Stipulation and Agreement the Service has filed.

5. Interested persons are placed on notice that the Service has proposed eleven procedures be taken in connection with settlement, including many that determine rights and obligations of the Commission and participants. (The referenced procedures are presented in Attachment A.)

6. Postal Service counsel may act as settlement coordinator in Docket No. MC99-1 or delegate this responsibility to another participant in the proceeding. The Commission shall be promptly notified if a delegation occurs.

7. The Service's Docket No. MC99-1 request (with associated attachments), the testimony filed with the request, and the Stipulation and Agreement shall be entered into the record of the Docket No. MC99-1 proceeding on April 6, 1999, if no objection to that procedure is filed with the Commission by April 5, 1999.

8. Comments on the appropriateness of considering Docket No. MC99-1 under Commission rules 67-67d relating to experiments shall be filed no later than April 5, 1999.

9. Answers to the Postal Service's March 10, 1999 motions referenced in the body of this order concerning waiver of certain filing requirements and waiver of rule 67c(a)(1) shall be filed no later than April 5, 1999.

10. In connection with Docket No. MC99-2, answers to the Postal Service March 10, 1999 motion requesting protective conditions for witness Schenk's workpaper 1 shall be filed no later than April 5, 1999.

11. Comments on the advisability of setting tentative procedural dates in Docket No. MC99-1 (other than for notices of intervention) shall be filed no later than April 5, 1999.

12. A prehearing conference for the consideration of procedural matters in both Docket No. MC99-1 and Docket No. MC99-2 shall be held in the hearing room of the Commission, 1333 H Street, NW, Washington, DC, on April 6, 1999, at 11:00 am. The hearing room will be open for the use of interested persons to discuss settlement of any and all issues in these cases on April 6, 1999, at 9:30 am.

13. The Secretary of the Commission shall arrange for publication of this order in the **Federal Register** in a manner consistent with applicable requirements.

Dated: March 16, 1999.

**Margaret P. Crenshaw,**  
Secretary.

**Attachment A—List of Procedures and Related Deadlines Proposed by Postal Service (in its March 10, 1999 Motion to Establish Procedural Mechanisms Concerning Settlement in Docket No. MC99-1)**

(1) Enter the Postal Service's Request (with associated attachments), the testimony and exhibits filed with this Request, and the Stipulation and Agreement into the record in this docket;

(2) give parties until March 29, 1999, to intervene;

(3) give notice of a formal pre-hearing conference to be convened on March 30, 1999, at 11:00 a.m.;

(4) make the Commission hearing room available to the Postal Service and the participants on that date at 9:30 a.m. as the venue for an informal off-the-record meeting to discuss the proposed Stipulation and Agreement and related matters in advance of the pre-hearing conference;

(5) provide notice to intervenors that, if they wish to contest re-establishment of the experimental classifications and fees in the Postal Service's Request and the proposed Stipulation and Agreement, they must, by April 2, 1999, file a statement of their intention to do so. Any such statement should identify with specificity the classification and fees and other issues contested, and state whether the intervenor intends to offer evidence on any such classification, fees, and issues.

(6) If no such statements are filed, the record in this case shall be closed and the case submitted to the Commission for summary adjudication;

(7) If one or more such statements are filed, the filing parties shall have until April 9, 1999, to conduct discovery of the Postal Service;

(8) The same parties shall have until April 23, 1999, to submit testimony and/or pleadings seeking to establish either that, owing to the existence of genuine issues of material fact, the proceeding is not suited to summary adjudication or that the Stipulation and Agreement is arbitrary, capricious, or otherwise not in accordance with applicable law. Responsive pleadings by other parties shall be due on April 30, 1999. The record shall then be closed provisionally and the issues adjudicated by the Commission.

(9) If the Commission finds that there are no genuine issues of material fact, it will promptly notify the parties of such and indicate its intention to issue a Recommended Decision accepting the classification and fees proposed in the Request and the Stipulation and Agreement.

(10) If the Commission finds (a) that there are genuine issues of material fact that prevent summary adjudication, or (b) that there are no genuine issues of material fact, but that it declines to recommend renewal of the experimental classification and fees for weight-averaged nonletter-size BRM proposed in the Docket No. MC99-1 Request and the Stipulation and Agreement, then it

shall promptly notify the parties, identifying the genuine issues of material fact or other reasons for declining to adopt the proposed classifications and fees, and immediately set an expedited schedule for such additional discovery and hearings which may be necessary for litigation of those matters. During that litigation period, any party to the Stipulation and Agreement may fully litigate the matters identified as disputed by the Commission, including discovery on the Postal Service with respect solely to those issues and presentations of testimony without withdrawing from the Stipulation and Agreement, provided that such party (a) continues to support a Commission recommendation of the classifications and fees proposed in the Postal Service's Request and (b) agrees to remain bound by the terms of the Stipulation and Agreement.

(11) If none of the actions by the Commission provided for in paragraphs 9 and 10 above have occurred by May 7, 1999,<sup>1</sup> any party to the Stipulation and Agreement may determine not to be bound further by that agreement and must provide written notice to all parties of this fact within three (3) business days of the above date. Any exercise of such right by one or more signatories shall not affect the operation of the Stipulation and Agreement as to other signatories.

[FR Doc. 99-6841 Filed 3-18-99; 8:45 am]

BILLING CODE 7710-12-P

**SECURITIES AND EXCHANGE COMMISSION**

**[Investment Company Act Release NO. 23738; 812-11274]**

**Market Street Funds, Inc. et al.; Notice of Application**

March 12, 1999

**AGENCY:** Securities and Exchange Commission ("Commission").

**ACTION:** Notice of application under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from section 15(a) of the Act and rule 18f-2 under the Act.

**SUMMARY OF THE APPLICATION:** Market Street Funds, Inc. ("MSF"), on behalf of AllPro Large Cap Growth Portfolio, AllPro SmallCap Growth Portfolio, AllPro Large Cap Value Portfolio and AllPro Small Cap Value Portfolio (each a "Fund" and collectively, the "Funds"), and Provident mutual Investment Management Company ("PIMC"), request an order that would permit applicants to enter into and materially amend sub-advisory

<sup>1</sup>The Postal Service desires to allow adequate time for the Commission to take action under either paragraph 9 or 10, but is strongly in favor of expedited resolution of this docket. It is thus hoped that the Commission would be able to act prior to the suggested May 7, 1999, date.

agreements without shareholder approval.

**FILING DATE:** The application was filed on August 26, 1998. Applicants have agreed to file an amendment to the application during the notice period, the substance of which is reflected in this notice.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 6, 1999, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, c/o David S. Goldstein, Esq., Sutherland, Asbill & Brennan, 1275 Pennsylvania Avenue, N.W., Washington, D.C. 20004-2415.

**FOR FURTHER INFORMATION CONTACT:** Emerson S. Davis, Sr., Senior Counsel, at (202) 942-0714, or George J. Zornada, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee from the Commission's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (telephone (202) 942-8090).

**Applicants' Representations**

1. MSF, a Maryland corporation, is registered under the Act as an open-end management investment company. MSF is currently comprised of eleven series, including the Funds, each of which has its own investment objectives, policies and restrictions.<sup>1</sup> The shares of the Funds serve or will serve as funding

<sup>1</sup> Applicants also request relief with respect to future series of MSF and all future registered open-end management investment companies that are (a) advised by PIMC or any entity controlling, controlled by, or under common control with PIMC, and (b) which operate in substantially the same manner as the Funds and comply with the terms and conditions contained in the application ("Future Funds"). MSF is the only existing investment company that currently intends to rely on the order.

vehicles for variable annuity contracts offered through separate accounts of the Provident Mutual Life Insurance Company ("PMLIC") or a subsidiary of PMLIC.

2. PIMC, a Pennsylvania corporation, serves as the investment adviser to the Funds, and is registered under the Investment Advisers Act of 1940 ("Advisers Act"). PIMC is an indirect wholly-owned subsidiary of PMLIC.

3. PIMC serves as investment adviser to the Funds pursuant to an investment advisory agreement between MSF and PIMC that was approved by the board of directors of MSF ("the "Board"), including a majority of the directors who are not "interested persons," as defined in section 2(a)(19) of the Act ("Independent Directors"), and the shareholders of the Funds ("Management Agreement"). Under the Management Agreement, PIMC has overall general supervisory responsibility for the investment program of the Funds and recommends to the Board the selection of one or more subadvisers (each a "Subadviser" and collectively, "subadvisers") to provide one or more Funds with day-to-day portfolio management services ("Manager of Subadvisers Strategy"). Each Subadviser is (or will be) an investment adviser registered under the Advisers Act and performs (or will perform) services pursuant to a written agreement with PIMC (the "Sub-Advisory Agreement"). Subadvisers' fees are (or will be) paid by PIMC out of its fees from the Funds at rates negotiated with the Subadvisers by PIMC.

4. PIMC has supervised subadvisers since 1991 and uses a Manager of Subadvisers Strategy for each of the Funds. PIMC makes qualitative evaluations of each subadviser's skills and demonstrated performance in managing assets under particular investment styles. PIMC recommends to the Board for selection those Subadvisers that have consistently distinguished themselves and demonstrated a high level of service and responsibility to investors. PIMC reviews, monitors and reports to the Board regarding the performance and procedures of the Subadvisers. PIMC may recommend to the Board reallocation of assets of a Fund among Subadvisers, if necessary, and PIMC also may recommend hiring additional Subadvisers or the termination of Subadvisers in appropriate circumstances.

5. Applicants request relief to permit PIMC to enter into and materially amend Sub-Advisory Agreements

without shareholder approval.<sup>2</sup> The requested relief will not extend to a Subadviser that is an affiliated person, as defined in section 2(a)(3) of the Act, of MSF or PIMC, other than by reason of serving as a Subadviser to one or more of the Funds (an "Affiliated Subadviser").

#### Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by the vote of the company's outstanding voting securities. Rule 18f-2 under the Act provides that each series or class of stock in a series company affected by a matter must approved such matter if the Act requires shareholder approval.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provision of the Act, or from any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an exemption under section 6(c) of the Act from section 15(a) of the Act and rule 18f-2 under the Act to permit them to enter into and materially amend Sub-Advisory Agreements without shareholder approval.

3. Applicants assert that under the Manager of Subadvisers Strategy, the Fund's investors will rely on PIMC to select and monitor one or more Subadvisers best suited to achieve a Fund's investment objectives. Therefore, applicants believe that, from the perspective of the investor, the role of the Subadvisers is comparable to that of individual portfolio managers employed by other investment advisory firms. Applicants contend that requiring shareholder approval of Sub-Advisory Agreements would impose expenses and unnecessary delays on the Funds, and may preclude PIMC from promptly acting in a manner considered advisable by the Board. Applicants note that the Management Agreement between all Funds and PIMC will remain subject to section 15(a) of the Act and rule 18f-2 under the Act, including the requirements for shareholder approval.

<sup>2</sup>The term "shareholder" includes variable life insurance policy and variable annuity contract owners that are unit holders of any separate account for which the Funds serve as a funding medium.

#### Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. PIMC will provide management services to the Funds, including overall supervisory responsibility for the general management and investment of each Fund, and, subject to review and approval by the Fund's Board will (a) set each Fund's overall investment strategies; (b) evaluate, select and recommend Subadvisers to manage all or a part of a Fund's assets; (c) when appropriate, allocate and reallocate a Fund's assets among multiple Subadvisers; (d) monitor and evaluate the investment performance of Subadvisers; and (e) implement procedures reasonably designed to ensure that the Subadvisers comply with the relevant Fund's investment objectives, policies, and restrictions.

2. Before a Fund may rely on the order, the operation of the Fund in the manner described in the application will be approved by a majority of the Fund's outstanding voting securities (or, if the Fund serves as a funding medium for any sub-account of a registered separate account, pursuant to voting instructions provided by the unitholders of the sub-account), as defined in the Act, or in the case of a new Fund whose public shareholders (or variable contract owners through a separate account) purchase shares on the basis of a prospectus(es) containing the disclosure contemplated by Condition 4 below, by the sole initial shareholder(s) before the shares of such Fund are offered to the public (or the variable contract owners through a separate account).

3. Within 90 days of the hiring of any new Subadviser, PIMC will furnish shareholders (or, if the Fund serves as a funding medium for any sub-account of a registered separate account, PMLIC or a subsidiary of PMLIC will furnish the unit holders of the sub-account) with respect to the appropriate Fund with an information statement about the new Subadviser or Subadvisory Agreement that would be included in a proxy statement. Such information will include any changes caused by the addition of a new Subadviser. To meet this condition, PIMC will provide shareholders (or, if the Fund serves as a funding medium for any sub-account of a registered separate account, then by providing unitholders of the sub-account) with an information statement meeting the requirements of Regulation 14C, Schedule 14C, and Item 22 of Schedule 14A under the Securities Exchange Act of 1934.

4. Any Fund relying on the requested relief will disclose in its prospectus the existence, substance and effect of any order granted pursuant to this application. In addition, any such Fund will hold itself out as employing the Manager of Subadvisers Strategy described in the application. The prospectus will prominently disclose that PIMC has ultimate responsibility to oversee the Subadvisers and recommend their hiring, termination, and replacement.

5. No director or officer of MSF or PIMC will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by such director or officer) any interest in a Subadviser except for (a) ownership of interests in PIMC or any entity that controls, is controlled by, or is under common control with PIMC; or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt securities of a publicly-traded company that is either a Subadviser or controls, is controlled by, or is under common control with a Subadviser.

6. No Fund will enter into a Subadvisory Agreement with an Affiliated Subadviser without such agreement, including the compensation to be paid thereunder, being approved by the shareholders of the Fund (or, if the Fund serves as a funding medium for any sub-account of a registered separate account, then pursuant to voting instructions by the unitholders of the sub-account).

7. At all times, a majority of each Fund's Board will be persons who are Independent Directors, and the nomination of new or additional Independent Director will be at the discretion of the then-existing Independent Directors.

8. When a change of Subadviser is proposed for a Fund with an Affiliated Subadviser, the Fund's Board, including a majority of the Independent Directors, will make a separate finding, reflected in the Fund's Board minutes, that such change of Subadviser is in the best interests of the Fund and its shareholders (or, if the Fund serves as a funding medium for any sub-account of a registered separate account, in the best interests of the Fund and the unitholders of any sub-account) and that the change does not involve a conflict of interest from which PIMC or the Affiliated Subadviser derives an inappropriate advantage.

For the Commission, by the Division of Investment Management, under delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 99-6786 Filed 3-18-99; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-26990]

### Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

March 12, 1999.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by April 5, 1999, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After April 5, 1999, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

#### Eastern Edison Company (70-9453)

Eastern Edison Company ("EEC"), 110 Mulberry Street, Brockton, Massachusetts 02403, an electric utility subsidiary company of Eastern Utilities Associates, a registered holding company, has filed a declaration under section 12(b) of the Act and rules 45 and 54 under the Act.

EEC's electric utility subsidiary company, Montaup Electric Company ("MEC"), has entered into settlement agreements ("Agreements") with, among others, its state retail rate regulators,

Massachusetts and Rhode Island.<sup>1</sup> Under the Agreements, MEC is divesting its generating assets and existing power purchase agreements ("Existing Power Contracts").

In conjunction with this divestiture, MEC has agreed to sell to Constellation Power Source, Inc. ("CPS"), a nonassociate company, under a Power Purchase and Sale Agreement ("Sale Agreement"), the economic benefits and performance obligations associated with certain Existing Power Contracts, subject to MEC's continuing obligation to make certain payments under those Existing Power Contracts. In accordance with the Sale Agreement, EEC proposes to guarantee MEC's performance, and to pay CPS' expenses for enforcing its rights, under the Sale Agreement ("Guaranty").

EEC may be relieved of its obligations under the Guaranty if MEC either provides CPS with certain collateral or demonstrates that it meets certain creditworthiness criteria.

The Guaranty could be reinstated if MEC has not provided the collateral and fails to continue to meet the prescribed criteria.

For the Commission, by the Division of Investment Management, under delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 99-6787 Filed 3-18-99; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

### Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Titan Pharmaceuticals, Inc., Units (consisting of 1 share of Common Stock, \$.001 par value, and 1 Redeemable Class A Warrant)) File No. 1-13341

March 15, 1999.

Titan Pharmaceuticals, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security (the "Units") from listing and registration on the Pacific Exchange, Inc. ("PCX" or "Exchange").

The reasons cited in the application for withdrawing the Units from listing and registration include the following:

<sup>1</sup> The Agreements were approved by the Federal Energy Regulatory Commission by orders dated August 8, 1997 in Docket Nos. ER97-2800-000, ER97-3127-000 and ER97-2338-000.

The Company's shares of Common Stock, \$.001 par value ("Common Stock"); Redeemable Class A Warrants ("Warrants"); and Units are currently listed for trading on the PCX. In addition, the Company's Common Stock and Warrants are listed for trading on the American Stock Exchange LLC. The Units were originally issued in the Company's initial public offering. Immediately upon the effectiveness of the initial public offering, the components of the Units, *i.e.*, the Common Stock and Warrants, began trading separately. Currently, the Units may be assembled or disassembled without restriction. An investor may create a Unit by combining one share of Common Stock and one Warrant; conversely, a Unit may be split into one share of Common Stock and one Warrant. The Company believes that the Units do not now serve a significant market function, but instead lead to additional compliance costs, investor confusion, and create arbitrage opportunities that negatively impact the value of the Common Stock.

The Company has complied with the rules of the PCX by filing with the Exchange a certified copy of resolutions adopted by the Company's Board of Directors authorizing withdrawal of its Units from listing on the Exchange and by setting forth in detail to the Exchange the reasons for such proposed withdrawal, and the facts in support thereof.

The Exchange has informed the Company that it has no objection to the withdrawal of the Company's Units from listing on the Exchange.

Any interested person may, on or before April 5, 1999, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors.

The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

**Margaret H. McFarland,**  
*Deputy Secretary.*

[FR Doc. 99-6789 Filed 3-18-99; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41168; File No. SR-NYSE-99-03]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to NYSE Rule 431, "Margin Requirements"

March 12, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on January 27, 1999, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NYSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to amend NYSE Rule 431, "Margin Requirements," to: (1) expand the types of short options positions that will be considered "covered" and eligible for the cash account to include short positions that are components of certain limited risk spread strategies (box spreads, butterfly spreads, and debt and credit spreads); (2) allow an escrow agreement that conforms with NYSE standards to be utilized in lieu of the cash or cash equivalents required to carry short butterfly, box, and debit and credit spreads in the cash account; (3) reduce the required margin for butterfly and box spreads by recognizing butterfly and box spreads as strategies (rather than separate transactions) for purposes of margin treatment; (4) recognize various strategies involving stocks (or other underlying instruments) paired with long options, and reduce the required margin on such hedged stock positions; (5) permit the extension of credit on listed and over-the-counter ("OTC") options with over nine months until expiration; and (6) permit the extension of credit on certain long box spreads.

Copies of the proposed rule change are available at the NYSE and at the Commission.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### (1) Purpose

The Exchange is proposing amendments to NYSE Rule 431 relating to margin treatment of options.

###### (2) Background

In April 1996, the Exchange established an NYSE Rule 431 Committee (the "Committee") to review the Exchange's margin requirements. The Committee consists of individuals representing different types of member organizations with divergent areas of expertise. The Committee has been reviewing all aspects of NYSE Rule 431 and making recommendations to the Exchange in view of the recent changes in federal margin regulations and changing industry conditions. The Committee created various subcommittees, including an Options Subcommittee ("Options Subcommittee"), to review specific areas of NYSE Rule 431, utilizing additional industry representatives that are knowledgeable in each area. The Options Subcommittee has reviewed and recommended changes to NYSE Rule 431 relating to margin treatment of options.

Some of the changes recommended by the Options Subcommittee reflect changes to Regulation T<sup>2</sup> of the Board of Governors of the Federal Reserve System ("FRB"). Regulation T governs the extension of credit by and to broker-dealers. Recent amendments to Regulation T that became effective on June 1, 1997, modified or deleted certain margin requirements regarding options transactions in favor of rules to be adopted by the options self-

<sup>2</sup> 12 CFR 220 *et seq.* The Board of Governors of the Federal Reserve System issued Regulation T pursuant to the Act.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

regulatory organizations ("SROs"), subject to approval by the Commission.<sup>3</sup>

(3) Proposed Amendments to NYSE Rule 431

As described more fully below, the proposal amends NYSE Rule 431 to: (1) expand the types of positions that would be considered "covered" in a cash account, specifically, certain short positions that are components of limited risk spread strategies; (2) permit butterfly and box spreads to be recognized as strategies for purposes of margin treatment; (3) recognize various strategies involving stocks (or other underlying instruments) paired with long options and provide for lower maintenance margin requirements on such hedged stock positions; and (4) permit the extension of credit on certain long-term options and certain long box spreads.

(a) *Cash Account Transactions.* The NYSE notes that, pursuant to the recent amendments to Regulation T, certain limited risk spread strategies are eligible for the cash account. Accordingly, the NYSE proposes to amend NYSE Rule 431 to expand the types of limited risk options strategies that may be transacted in cash accounts, provided the risk is paid for in full. As described more fully below, NYSE Rule 431, as amended, will permit the following limited risk spread strategies in the cash account: (1) long and short box spreads; (2) long and short butterfly spreads; and (3) debit and credit spreads.

Under the proposal, only butterfly and box spreads comprised of cash-settled, European-style options will be eligible for the cash account. In addition, the butterfly and box spreads must meet the specifications contained in the definition section of the proposal (proposed NYSE Rule 431(f)(2)(C)).<sup>4</sup> For long butterfly spreads and long box spreads, the proposal will require full cash payment of any debt incurred when the long butterfly spread or long box spread strategy is established. According to the NYSE, full payment of

the debt incurred to establish a long butterfly spread or a long box spread will cover any potential risk to the carrying broker-dealer.

The NYSE notes that short butterfly spreads generate a credit balance when established. However, if all of the options were exercised, a debit (loss) greater than the initial credit balance would accrue to the account. According to the NYSE, this debit or loss is quantifiable. Specifically, the NYSE states that the total risk potential in a short butterfly spread comprised of call options is the aggregate difference between the two lowest exercise prices. For a short butterfly spread comprised of put options, the total risk potential is the aggregate difference between the two highest exercise prices. Accordingly, to cover the risk to the carrying broker-dealer, the NYSE proposes to require a deposit in cash or cash equivalents equal to (1) the amount of the aggregate difference between the two lowest exercise prices for a short butterfly spread comprised of call options; and (2) the amount of the aggregate difference between the two highest exercise prices for a short butterfly spread comprised of put options. The net proceeds from the sale of the short option components may be applied to the required deposit. According to the NYSE, when the initial credit balance plus an amount equal to the difference between the initial credit and the total risk is held in the account in the form of cash or cash equivalents, the risk to the broker-dealer is covered.

The NYSE states that short box spreads<sup>5</sup> also generate a credit balance when they are established, but, unlike the butterfly spread, the credit is sufficient to cover the total debit (loss) that, in the case of the box spread, will accrue to the account if held to expiration. The credit must be retained in the account; therefore, the proposal would require that cash or cash equivalents covering the maximum risk, which is equal to the aggregate difference in the two exercise prices involved, be held or deposited.

The proposal also will replace the current provisions of NYSE Rule 431(f)(2)(M) that permit debit put

spreads in a cash account with a provision allowing short European-style cash-settled stock index options or warrants in the cash account when the account holds a long position in an option or warrant with the same underlying index or component that is based on the same aggregate current underlying value, and provided that the long and short position expire concurrently, the long position is paid in full, and the account holds cash or cash equivalents of not less than the amount by which the aggregate exercise price of the long call or call warrant (or the short put or put warrant) exceeds the aggregate exercise price of the short call or call warrant (or the long put or put warrant). The net proceeds from the sale of the short position may be applied to this requirement.

Under the proposal, an escrow agreement that conforms with Exchange standards may be utilized in lieu of the cash or cash equivalents required to carry butterfly, box, and debit and credit spreads in the cash account.

(b) *Margin Accounts.* (i) *Butterfly and Box Spreads.* The Exchange's current rules do not provide consideration for the components of butterfly and box spreads in prescribing margin requirements.<sup>6</sup> The proposal will permit combination spread transactions in margin accounts where the risk associated with the transactions is identifiable. The NYSE states that under its current rules, a butterfly spread—a pairing of two standard spreads, one bullish and one bearish—requires the separate margining of each transaction. According to the NYSE, the current margin requirement does not recognize that the spreads offset each other with respect to risk. Under the proposal, the NYSE believes that investors will receive the benefit of lower margin requirements on bullish and bearish spreads because the individual spreads will be treated as a combined position with lower risk. The proposed initial and maintenance margin requirements for butterfly spreads are the same as the cash account requirements for butterfly spreads described above.<sup>7</sup>

<sup>3</sup> See FRB Docket No. R-0772 (April 26, 1996), 61 FR 20386 (May 6, 1996).

<sup>4</sup> Proposed NYSE Rule 431(f)(2)(C) defines a *butterfly spread* as an aggregation of positions in three series of either puts or calls all having the same underlying component or index, and time of expiration, and based on the same aggregate current underlying value, where the interval between the exercise price of each series is equal, which positions are structured as either: (A) a "long butterfly spread" in which two short options in the same series are offset by one long option with a higher exercise price and one long option with a lower exercise price, or (B) a "short butterfly spread" in which two long options in the same series offset one short option with a higher exercise price and one short option with a lower exercise price.

<sup>5</sup> Proposed NYSE Rule 431(f)(2)(C) defines a "box spread" as an aggregation of positions in a long call and short put with the same exercise price ("buy side") coupled with a long put and short call with the same exercise price ("sell side"), all of which have the same underlying component or index and time of expiration, and are based on the same aggregate current underlying value, and are structured as: (A) a "long box spread," in which the sell side exercise price exceeds the buy side exercise price or, (B) a "short box spread," in which the buy side exercise price exceeds the sell side exercise price.

<sup>6</sup> The proposed margin requirements for box spreads and butterfly spreads apply to options positions issued by a registered clearing agency or guaranteed by the carrying broker-dealer.

<sup>7</sup> Specifically, for a long butterfly spread, proposed NYSE Rule 431(f)(2)(G)(v) will require payment in full of the net debit. For a short butterfly spread, the proposal will require the deposit and maintenance of margin equal to at least the aggregate difference between the two lowest exercise prices for a short butterfly spread comprised of calls, or the aggregate difference between the two highest exercise prices for a short butterfly spread comprised of puts. The net

For a long box spread, the proposal requires margin equal to full payment of the net debit. For a short box spread, the proposed minimum initial and maintenance margin requirement is the aggregate difference between the exercise prices. The net proceeds from the sale of short option components may be applied to the margin requirement.

(ii) *Hedged Strategies.* Currently, the maintenance margin requirement for all securities "long" in a customer's account is 25% of the current market value of the securities.<sup>8</sup> For stocks trading at \$5.00 per share or more, the current maintenance margin requirement for each stock "short" in a customer's account is 30% of the current market value of the stock.<sup>9</sup> The NYSE proposes to reduce the maintenance margin requirement for the components underlying options and stock index warrants when the components are held in conjunction with certain positions in the overlying option or warrant. Specifically, the proposal will reduce the maintenance margin requirement for component securities held in conjunction with the following hedged strategies: (1) Hedged puts (long stock/long put); (2) hedged calls (long call/short stock); (3) conversions; (4) reverse conversions; and (5) collars. The proposed maintenance margin requirements for these five hedged strategies are as follows:

(1) Long Stock/Long Put (Hedged Put)

*Proposed margin requirement:* 10% of the exercise price plus 100% of any amount by which the put is out-of-the-money, but no more than 25% of the long stock market value.

(2) Long Call/Short Stock (Hedged Call)

*Proposed margin requirement:* 10% of the call exercise price, plus 100% of any amount by which the call is out-of-the-money, but no more than 30% of the current market value of the short stock.

(3) Conversion (Long Stock/Long Put/Short Call)

*Proposed margin requirement:* 10% of the exercise price.

A conversion is a long stock position held in conjunction with a long put and a short call. The put and call must have the same expiration and exercise price. According to the NYSE, the long put/short call is essentially a synthetic short stock position which offsets the long stock, and the exercise price of the

options acts as a predetermined sale price. The short call is covered by the long stock and the long put is a right to sell the stock at a predetermined price—the put exercise price. The NYSE states that, regardless of any decline in market value, the stock is, in effect, worth no less than the exercise price of the put.

(4) Reverse Conversion (Short Stock/Short Put/Long Call)

*Proposed margin requirement:* 10% of the exercise price plus any in-the-money-amount for the put option.

The put and the call must have the same expiration and exercise price. According to the NYSE, the long call/short put is essentially a synthetic long stock position which offsets the short stock position. The exercise price of the options acts as a predetermined purchase (buy-in) price. The short put is covered by the short stock and the long call is a right to buy the stock (in this case closing the short position) at a predetermined price—the call exercise price. The NYSE states that, regardless of any rise in market value, the stock can be acquired for the call exercise price; in effect, the short position is valued at no more than the call exercise price.

(5) Collar (Long Stock/Long Put/Short Call)

*Proposed margin requirement:* The lesser of (1) 10% of the put exercise price plus 100% of any amount by which the put is out-of-the-money, or (2) 25% of the call exercise price.

A collar is a long stock position held in conjunction with a long put and short call. The put and the call must have the same expiration date. According to the NYSE, the difference between a collar and a conversion is that the exercise price of the put is lower than the exercise price of the call in the collar strategy. Therefore, the options do not constitute a pure synthetic short stock position.

(c) *Loan Value for Long Term Options.* According to NYSE, recent amendments to Regulation T permit loan value on options. However, the NYSE notes that the FRB deferred to the SROs to determine whether such loan value is appropriate as well as to identify specific options, prescribe criteria and actual requirements.

The Committee and the Options Subcommittee recommended that loan value be allowed only on long term options and warrants with time remaining to expiration exceeding nine months. Where the time remaining to expiration is nine months or less, there would be no loan value. The proposal applies different criteria to credit

extensions for long term listed and OTC options and warrants.<sup>10</sup>

Specifically, for long listed equity options, stock index options, and stock index warrants with time remaining to expiration exceeding nine months, the proposed margin requirement will be 75% of the current market value of the option or warrant. Because the proposal requires initial and maintenance margin of not less than 75% of the current market value of a listed option or warrant, a broker-dealer would be able to lend up to 25% of the current market value of a listed option or warrant.

For long OTC equity options, index options, and stock index warrants with time remaining to expiration exceeding nine months, the proposed initial and maintenance margin requirement will be 75% of the in-the-money amount (or intrinsic value) plus 100% of the amount, if any, by which the current market value exceeds the in-the-money amount. In addition to having more than nine months to expiration, the OTC option or stock index warrant must be (1) in-the-money; (2) guaranteed by the carrying broker-dealer; and (3) American-style (*i.e.*, the option or stock index warrant may be exercised at any time up to the day before expiration).

(d) *Extensions of Credit for Long Box Spreads Comprised of European-Style Options.* The proposal also provides for the extension of credit on a long box spread comprised entirely of European-style options that are issued by a registered clearing agency or guaranteed by the carrying broker-dealer. For a long box spread comprised of options that satisfy these requirements, the proposed initial and maintenance margin requirement is 50% of the aggregate difference in the two exercise prices (buy and sell). According to the NYSE, this will produce a requirement slightly higher than 50% of the debit typically incurred. The proceeds from the sale of the short option components may be applied to this requirement. For margin equity purposes, the long box spread may be valued at an amount not to exceed 100% for the aggregate difference in the exercise prices.

(4) Statutory Basis

The NYSE believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act, which provides that the rules of the Exchange must be designed to promote just and equitable principles of trade

proceeds from the sale of the short option components may be applied to the margin requirement.

<sup>8</sup> See NYSE Rule 431(c)(2).

<sup>9</sup> See NYSE Rule 431(c)(3).

<sup>10</sup> Listed options are issued by the Options Clearing Corporation ("OCC"). OTC options are not issued by OCC. OTC options and warrants are not listed or traded on a registered national securities exchange or through the automated quotation system of a registered securities association.

and to protect the investing public. The NYSE believes that the proposed rule change also is consistent with the rules and regulations of the FRB because it is designed to prevent the excessive use of credit for the purchase or carrying of securities, pursuant to Section 7(a) of the Act.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others*

No written comments were solicited or received.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will by order approve such proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved.

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to file number

SR-NYSE-99-03 and should be submitted by April 9, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 99-6788 Filed 3-18-99; 8:45 am]

BILLING CODE 8010-01-M

## **OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE**

### **United States-Israel Free Trade Area Implementation Act; Designation of Qualifying Industrial Zones**

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice.

**SUMMARY:** Under the United States-Israel Free Trade Area Implementation Act (the "FTA Act"), products of qualifying industrial zones encompassing portions of Israel and Jordan or Israel and Egypt are eligible to receive duty-free treatment. Effective upon publication of this notice, the United States Trade Representative, pursuant to authority delegated by the President, is designating the Israeli-Jordanian Gateway Projects Industrial Zone and an expanded Israeli-Jordanian Irbid Qualifying Industrial Zone as qualifying industrial zones under the FTA Act.

**FOR FURTHER INFORMATION CONTACT:** Madelyn Spirnak, Director for the Middle East and Mediterranean, (202) 395-3320, Office of USTR, 600 17th St., NW, Washington, DC 20508.

**SUPPLEMENTARY INFORMATION:** Pursuant to authority granted under Section 9 of the United States-Israel Free Trade Area Implementation Act of 1985, as amended (19 U.S.C. 2112 note), the President proclaimed certain tariff treatment for the West Bank, the Gaza Strip, and qualifying industrial zones (Proclamation 6955 of November 13, 1996 (61 FR 58761)). In particular, the President proclaimed modifications to general notes 3 and 8 of the Harmonized Tariff Schedule of the United States: (a) to provide duty-free treatment to qualifying articles that are the product of the West Bank or Gaza Strip or a qualifying industrial zone and are entered in accordance with the provisions of section 9 of the FTA Act; (b) to provide that articles of Israel may be treated as though they were articles directly shipped from Israel for the purposes of the United States-Israel Free Trade Area Agreement (the "Agreement") even if shipped to the

United States from the West Bank, the Gaza Strip, or a qualifying industrial zone, if the articles otherwise meet the requirements of the Agreement; and (c) to provide that the cost or value of materials produced in the West Bank, the Gaza Strip, or a qualifying industrial zone may be included in the cost or value of materials produced in Israel under section 1(c)(i) of Annex 3 of the Agreement, and that the direct costs of processing operations performed in the West Bank, the Gaza Strip, or a qualifying industrial zone may be included in the direct costs of processing operations performed in Israel under section 1(c)(ii) of Annex 3 of the Agreement.

Section 9(e) of the FTA Act defines a "qualifying industrial zone" as an area that "(1) encompasses portions of the territory of Israel and Jordan or Israel and Egypt; (2) has been designated by local authorities as an enclave where merchandise may enter without payment of duty or excise taxes; and (3) has been specified by the President as a qualifying industrial zone." In Proclamation 6955, the President delegated to the United States Trade Representative the authority to designate qualifying industrial zones.

In an agreement dated November 23, 1998, the Government of Israel and the Government of Jordan agreed to the creation of the Gateway Projects Industrial Zone, encompassing areas under the customs control of the respective Governments. The Government of Israel and the Government of Jordan further agreed that merchandise may enter the Gateway Industrial Zone without payment of duty or excise taxes. The Gateway Projects Industrial Zone accordingly meets the criteria under paragraphs 9(e) (1) and (2) of the FTA Act.

In an agreement dated November 16, 1997, the Government of Israel and the Government of Jordan agreed to the creation of the Irbid Qualifying Industrial Zone, encompassing areas under the customs control of the respective Governments. The Government of Israel and the Government of Jordan further agreed that merchandise may enter the Irbid Qualifying Industrial Zone without payment of duty or excise taxes. In a notice published on March 13, 1998 (63 FR 12572), the United States Trade Representative designated the Irbid Qualifying Industrial Zone as a qualifying industrial zone under section 9 of the FTA Act.

In an agreement dated November 23, 1998, the Government of Israel and the Government of Jordan agreed to an

<sup>11</sup> 17 CFR 200.30-3(a)(12).

expansion of the Irbid Qualifying Industrial Zone, as specified in maps accompanying that agreement. The expanded Irbid Qualifying Industrial Zone, like the original Irbid Qualifying Industrial Zone, encompasses areas under the customs control of the respective Governments. In addition, the Government of Israel and the Government of Jordan agreed that merchandise may enter the expanded Irbid Qualifying Industrial Zone without payment of duty or excise taxes. The expanded Irbid Qualifying Industrial Zone accordingly meets the criteria under paragraphs 9(e) (1) and (2) of the FTA Act.

Pursuant to the authority delegated by the President in Proclamation 6955, the United States Trade Representative hereby designates the Gateway Projects Industrial Zone and the expanded Irbid Qualifying Industrial Zone as qualifying industrial zones under section 9 of the FTA Act, effective upon the date of publication of this notice.

Dated: March 15, 1999.

**Charlene Barshefsky,**

*United States Trade Representative.*

[FR Doc. 99-6793 Filed 3-18-99; 8:45 am]

BILLING CODE 3190-01-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 and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on December 7, 1998, (63 FR 67504).

**DATES:** Comments must be submitted on or before April 19, 1999.

**FOR FURTHER INFORMATION CONTACT:** Judith Street, ABC-100; Federal Aviation Administration; 800 Independence Avenue, SW.; Washington, DC 20591; Telephone number (202) 267-9895.

#### SUPPLEMENTARY INFORMATION:

##### Federal Aviation Administration (FAA)

*Title:* Simulator Rule/14 CFR part 142, Certificated Training Centers.

*OMB Control Number:* 2120-0570.

*Type of Request:* Extension of currently approved collection.

*Affected Public:* Approximately 50 Businesses.

*Abstract:* To determine compliance, there is a need for airmen to maintain records of certain training and regency of experience. There is a need for training centers to maintain records of students trained, employee qualification and training, and training program approvals. Information is used to determine compliance with airmen certification and testing to ensure safety.

*Annual Estimated Burden Hours:* 6,000.

*Addressee:* Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725-17th Street, NW., Washington, DC 20503, Attention FAA 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 most effective if OMB receives it within 30 days of publication.

Issued in Washington, DC on March 15, 1999.

**Vanester M. Williams,**

*Clearance Officer, Department of Transportation.*

[FR Doc. 99-6760 Filed 3-18-99; 8:45 am]

BILLING CODE 4910-13-P

## 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 and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (44

U.S.C. 3501 *et seq.*), this notice announces that the Information Collection (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 4, 1999, [64 FR 203].

**DATES:** Comments must be submitted on or before April 19, 1999.

**FOR FURTHER INFORMATION CONTACT:** Rebecca M. Boyd, Office of Financial Approvals, Maritime Administration, MAR-580, Room 8114, 400 Seventh Street, SW., Washington, D.C. 20590. Telephone 202-366-5870 or FAX 202-366-7901. Copies of this collection can also be obtained from that office.

#### SUPPLEMENTARY INFORMATION:

##### Maritime Administration (MARAD)

*Title:* Uniform Financial Reporting Requirements.

*OMB Control Number:* 2133-0005.

*Type of Request:* Extension of currently approved collection.

*Affected Public:* Vessel owners acquiring ships from MARAD on credit, companies chartering ships from MARAD, and companies having Title XI guarantee obligations.

*Form(s):* MA-172.

*Abstract:* The Uniform Financial Reporting Requirements are used as a basis for preparing and filing semiannual and annual financial statements with the Maritime Administration. Regulations requiring financial reports to the Maritime Administration are authorized by section 21, Shipping Act, 1916, as amended, and section 801, Merchant Marine Act, 1936, as amended. The collected information is necessary for MARAD to determine compliance with regulatory and contractual requirements.

*Annual Estimated Burden Hours:* 2,090

*Addressee:* Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725-17th Street, NW., Washington, DC 20503, Attention MARAD 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 15, 1999.

**Vanester M. Williams,**

*Clearance Officer, Department of Transportation.*

[FR Doc. 99-6761 Filed 3-18-99; 8:45 am]

BILLING CODE 4910-81-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Approval of Noise Compatibility Program Revision; Naples Municipal Airport, Naples, FL

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

**ACTION:** Notice.

**SUMMARY:** The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program revision submitted by the City of Naples under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96-52 (1980). On September 3, 1998, the FAA determined that the noise exposure maps submitted by the City of Naples under part 150 were in compliance with applicable requirements. On March 2, 1999, the Administrator approved a revision to the Naples Municipal Airport noise compatibility program. The program measure in this revision was fully approved.

**EFFECTIVE DATE:** The effective date of the FAA's approval of the Naples Municipal Airport noise compatibility program revision is March 2, 1999.

**FOR FURTHER INFORMATION CONTACT:** Mr. Tommy J. Pickering, P.E., Federal Aviation Administration, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, Florida 32822, (407) 812-6331, Extension 29. Documents reflecting this AFF action may be reviewed at this same location.

**SUPPLEMENTARY INFORMATION:** This notice announces that the FAA has given its overall approval to the noise compatibility program revision for

Naples Municipal Airport, effective March 2, 1999.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a noise exposure may submit to as the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) part 150 is a local program, not a Federal program. The AFF does not substitute its judgment for that of the airport proprietor with respect to which measure should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in part 150 and the Act, and is limited to the following determinations:

- a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR part 150;
- b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;
- c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical users, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal government; and
- d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR part 150, § 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by

itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an AFF decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office in Orlando, Florida.

The City of Naples submitted to the FAA on March 6, 1998, revised noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study update conducted from October 23, 1997 through February 27, 1998. The Naples Municipal Airport revised noise exposure maps were determined by FAA to be in compliance with applicable requirements on September 3, 1998. Notice of this determination was published in the **Federal Register**.

The Naples Municipal Airport study contains a proposed noise compatibility program revision comprised of an action designed for implementation by airport management between the date of approval and the year 2003. It was requested that FAA evaluate and approve this material as a noise compatibility program revision as described in section 104(b) of the Act. The FAA began its review of the program revision on September 3, 1998, and we required by a provision of the Act to approve or disapprove the program within 180-days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program revision contained one (1) proposed action for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR part 150 have been satisfied. The overall program revision, therefore, was approved by the Administrator effective March 2, 1999.

Out right approval was granted for the one (1) specific program measure. The approval action was for the following program control:

## Background

In February 1997, the Naples Airport Authority (NAA) submitted to the FAA an Update to the Part 150 Noise Compatibility Program (NCP) for Naples Municipal Airport (APF). The Update consisted of 15 measures, one of which would allow operations by Stage I aircraft (weighing less than 75,000) only between the hours of 7 a.m. to 10 p.m. The FAA approved the nighttime curfew and most of the other measures submitted by the airport sponsor. In March of 1998, the NAA submitted a second Update to its part 150 NCP. In that Update, the NAA proposed extending the current Stage I curfew to a full, 24-hour ban, thereby prohibiting the operation of any Stage I aircraft weighing less than 75,000 pounds at APF.

On September 18, 1998, the FAA published a notice in the **Federal Register** announcing that it would be reviewing the NCP submitted by Naples and requesting comments. 63 FR 49942. The FAA received one letter, from the National Business Aviation Association (NBAA), dated March 27, 1998. That letter indicated that it supplemented its earlier May 28, 1997, comments on the 1997 NCP for Naples, objecting to restrictions on Stage I aircraft operations. The March 27 letter summarized NBAA's earlier comments, objecting to the Stage I ban. As grounds for its objection, the NBAA argues that: (1) The terms of the 24-hour ban deprives public access on unfair and unreasonable terms, (2) the terms of the ban are unjustly discriminatory, and (3) the ban is preempted by federal law. In July of 1998, the NAA provided additional clarification through its consultant, Harris Miller Miller and Hanson, Inc. (HMMH), in response to issues raised during FAA's preliminary review. The analysis and July supplement include evidence of the noise benefit that will accrue to neighboring communities as a result of the ban, statistics on the number of Stage I aircraft operating nationally as well as the number operating at Naples, and information about the existence of other nearby airports available for use by Stage I operators.

## Operational Measures

### 1. Extend Existing Nighttime Stage I Use Restrictions to 24 Hours

The Naples Airport Authority (NAA) requests that the FAA approve extension of the existing nighttime curfew on operations by Stage I aircraft (10 p.m. to 7 a.m.) to a 24 hour ban. "Emergency, medical, or government flights or other flights which are for the

benefit of public health, safety, and welfare would be exempt from the ban." (NCP Update, February 1998; Amendment to NEM and NCP prepared by HMMH, Report 295500, July 24, 1998).

*Approved.* The NCP demonstrates that the recommended Stage I ban provides a noise benefit both in the short term and in the five year planning timeframes. In 1998, the Stage I ban is predicted to reduce the number of residential dwelling units within the 65 dB DNL from 184 to 77 dwelling units, and to remove 120 individuals from the 65 dB DNL contour. In 2003, the number of residences significantly impacted by noise would be reduced from 185 to 146, and the number of individuals impacted would be reduced by 156. In addition, the ban is reasonable because there are no Stage I aircraft based at the Airport and less than two operations per day are affected by the ban. There are seven companies operating Stage I aircraft at APF; two companies use the aircraft primarily for ambulance services, two other companies have alternate non Stage I aircraft they can utilize, two companies operating only Stage I aircraft offered no objection to the ban, and only one company indicated that the ban would impose an inconvenience but not a financial hardship. For those who do not own alternative aircraft, the impact will be minimal because there are two other airports located within 30 miles of the city of Naples that can accommodate the affected aircraft.

As a matter of policy, FAA does not consider the use of aircraft stage designations to be unjustly discriminatory per se. Moreover, the ban is not unjustly discriminatory because Stage I aircraft are the loudest type of aircraft operating at Naples.

The exemptions to further public health, safety, and welfare, which were applied in 1997 to the Stage I nighttime curfew, are being extended to this 24-hour ban. The FAA commented in September 1997 that the exception of emergency medical flights is a justifiable exception.

The ban on operations by Stage I aircraft weighing less than 75,000 pounds is not federally preempted because the scheme of federal regulation of Stage I aircraft is not so pervasive as to make reasonable the inference that FAA left no room for airport proprietors to supplement it. The FAA's interest in Stage I aircraft is not so dominant that the federal system should be assumed to preclude enforcement of local rules on the same subject, and because the goals of FAA regulation and obligations imposed by FAA do not reveal any

purpose to preclude the exercise of State authority. See *Rice versus Santa Fe Elevator Corp.*, 331 U.S. 218, 230 (1947). See *Pacific Gas & Electric Co. versus State Energy Resources Conservation and Development Comm'n*, 461 U.S. 190, 203-204 (1983).

By stating its intent to conduct further study and actions as may be appropriate when it required the gradual elimination of operations by Stage I aircraft weighing more than 75,000 pounds, FAA did not intend or ordain complete preemption of regulations of operations by all Stage I aircraft. In the preamble of the final rule that phased out operations by Stage I aircraft weighing more than 75,000 pounds, FAA stated ". . . operating noise limits for turbojet airplanes weighing 75,000 pounds or less cannot be adopted in a manner consistent with the constraints in . . . the Act. However, the FAA is expanding its comprehensive analysis of the public impact of aircraft noise. As the results of this study become available over the next two years, FAA will undertake such actions as may be appropriate." 41 FR 56055 (December 23, 1976). Since 1976, the FAA has not conducted the contemplated study and has not undertaken further action, with the result that the use of such aircraft is being gradually eliminated through attrition. Although FAA Advisory Circular 150-5020-1, Airport Noise Compatibility Planning, dated August 5, 1983, and the 1976 Department of Transportation Aviation Noise Abatement Policy warn about conflicts between local airport rules and the federal scheme concerning deadlines for retrofit or replacement of Stage I aircraft, when these statements are read in context it is clear that the FAA is speaking only about Stage I aircraft weighing more than 75,000 pounds. These guidance documents are silent about Stage I aircraft weighing less than 75,000 pounds. Neither document clearly manifests FAA intent to supersede the exercise of proprietary power.

Given FAA's exercise of a detailed and supervisory role over Stage I aircraft weighing more than 75,000 pounds, FAA's silence in these circumstances should not be presumed to be or construed as a barrier to action by Naples Airport Authority to establish requirements as to the permissible level of noise created by Stage I aircraft weighing less than 75,000 pounds using its airport. Based upon the small number of such aircraft left in the total U.S. fleet, estimated by NAA's reported research as less than 50, FAA has determined that further action is not appropriate because there are no federal

concerns requiring national regulation. There do not appear to be any appreciable risks of disruption in traffic to and from airports or economic distress among carriers that require a federal policy to balance the goal of noise reduction with economic and technological difficulties.

Additionally, this is not a case where preemption results from actual conflict between state and federal law. As there is no federal requirement concerning the pace of elimination of operations by Stage I aircraft weighing less than 75,000 pounds, aircraft operators may comply with this local ban on such operations. Based upon the record before us, it does not appear that the Stage I ban at Naples Airport would stand as an obstacle to the accomplishment and execution of purposes and objectives of Congress and the FAA. The small number of such aircraft, the fact that none are based at or used by air carriers at the airport, and the role of Naples Airport indicate that the ban would impose a minimal burden on interstate commerce. Should impacts on air commerce occur which are unforeseeable at the time of this approval, or should the FAA receive significant new information such as that the exemptions are granted in an unjust manner, the FAA will reevaluate this determination upon receipt of new information to ascertain whether it still meets the standards for Part 150 approval.

This determination is set forth in detail in a Record of Approval endorsed by the Administrator on March 2, 1999. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative office of the City of Naples.

Issued in Orlando, Florida on March 4, 1999.

**W. Dean Stringer,**

*Manager, Orlando Airports District Office.*

[FR Doc. 99-6738 Filed 3-18-99; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Summary Notice No. PE-99-5]

#### Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petitions for exemption received and of dispositions of prior petitions.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections.

The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**DATES:** Comments on petitions received must identify the petition docket number involved and must be received on or before April 11, 1999.

**ADDRESSES:** Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC-200), Petition Docket No. \_\_\_\_\_, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: 9-NPRM-cmts@faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267-3132.

**FOR FURTHER INFORMATION CONTACT:** Cherie Jack (202) 267-7271 or Terry Stubblefield (202) 267-7624 Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on March 16, 1999.

**Donald P. Byrne,**

*Assistance Chief Counsel for Regulations.*

#### Petitions For Exemption

*Docket No.:* 29401.

*Petitioner:* Hollingshead International, Inc.

*Section of the FAR Affected:* 14 CFR 25.855(a), 25.857(e), and 25.1447(c)(1).

*Description of Relief Sought:* To allow the installation of a groom station with

palletized seating provisions for up to 16 supernumeraries in the aft portion of the main deck cargo compartment on an A300 series passenger to freighter conversion with a Class E cargo compartment.

*Docket No.:* 29422.

*Petitioner:* Gulfstream Aerospace Corporation.

*Section of the FAR Affected:* 14 CFR 43.9(a) (3) and (4), 145.59(a), and 145.61.

*Description of Relief Sought:* To permit Gulfstream authorized technicians and inspection personnel to permanently use electric signatures in lieu of physical signatures to satisfy the signature and recordkeeping requirements of 43.9(a) (3) and (4), 145.59(a), and 145.61.

*Docket No.:* 29466.

*Petitioner:* Bombardier Inc.

*Section of the FAR Affected:* 14 CFR 25.1435(b)(1).

*Description of Relief Sought:* In lieu of the requirements of 14 CFR § 25.1435(b)(1), for a complete hydraulic system proof pressure test on the airplane, Bombardier proposes to conduct a proof pressure test at the system relief pressure, 3750 psig, and component testing at 1.5 times operating pressure (4500 psig) per § 25.1435(a)(2).

#### Dispositions of Petitions

*Docket No.:* 29270.

*Petitioner:* The Boeing Company.

*Section of the FAR Affected:* 14 CFR 21.325(b)(3).

*Description of Relief Sought/Disposition:* To permit Boeing Company to issue export airworthiness approvals for Class II and Class III products manufactured in Canada by Boeing Toronto, Ltd., as an approved supplier to Boeing under Boeing's production certificate No. 700. *Grant, 2/11/99, Exemption No. 6860*

*Docket No.:* 29409.

*Petitioner:* Bombardier Aerospace.

*Section of the FAR Affected:* 14 CFR 25.1435(b)(1).

*Description of Relief Sought/Disposition:* To permit Bombardier Aerospace type certification of the Model DHC-8 Series 400. The type certification would be accomplished by conducting a proof pressure test of the hydraulic system at 3250 psig (the system relief pressure) per the proposed 25.1435(c)(3) and by component testing at 1.5 times the operating pressure (4500 psig) per the current 25.1435(a)(2). *Grant, 2/22/99, Exemption No. 6864*

[FR Doc. 99-6753 Filed 3-18-99; 8:45 am]

BILLING CODE 4910-13-M

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration**

[Summary Notice No. PE-99-6]

**Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Notice of petitions of exemption received and of disposition of prior petitions.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**DATES:** Comments on petitions received must identify the petition docket number involved and must be received on or before April 11, 1999.

**ADDRESSES:** Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC-200), Petition Docket No. \_\_\_\_\_, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: 9-NPRM-cmts@faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-200), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591.

**FOR FURTHER INFORMATION CONTACT:** Cherie Jack (202) 267-7271 or Terry Stubblefield (202) 267-7624 Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraph (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on March 16, 1999.

**Donald P. Byrne,**  
*Assistant Chief Counsel for Regulations.*

**Petitions for Exemption**

*Docket No.:* 29042.  
*Petitioner:* Schwartz Engineering Company.  
*Section of the FAR Affected:* 14 CFR 25.807(d) & (f), 21.183(f), and 25.2(b).  
*Description of Relief Sought:* Schwartz Engineering Company requests exemption from the requirements of 25.807(d)(7) of the FAR to permit more than 60 feet between exists on a privately operated B-757-200 interior arrangement that does not provide 60 feet or less between passenger emergency exits in the side of the fuselage.

*Docket No.:* 29433.  
*Petitioner:* MSG Flight Operations, LLC and Piedmont Aviation Services d.b.a. Pace Airlines.  
*Sections of the FAR Affected:* 14 CFR 125.11(c).  
*Description of Relief Sought:* To permit MSG to operate and list a Boeing 737 aircraft (Registration No. N37NY, Serial No. 23976) on its part 125 operations specifications that also is listed on the 14 CFR 121 operations specifications of Pace Airlines.

**Dispositions of Petitions**

*Docket No.:* 29202.  
*Petitioner:* The Boeing Commercial Airplane Group.  
*Section of the FAR Affected:* 14 CFR 25.961(a)(5).  
*Description of Relief Sought/Disposition:* To permit Boeing Commercial Airplane Group to be exempt from the fuel system hot weather operation requirements of 25.961(a)(5), for the fuel system of the Boeing Model 757-300 airplane, with the operational limitations incorporated into the Airplane Flight Manual as proposed by the petitioner *Grant, 2/24/99, Exemption No. 6867*

*Docket No.:* 29253.  
*Petitioner:* The Boeing Commercial Airplane Group.  
*Section of the FAR Affected:* 14 CFR 25.807(d)(7), 25.813(e), and 25.853(d).  
*Description of Relief Sought/Disposition:* To permit Boeing Commercial Airplane Group exit to exit distances of greater than sixty feet, to allow installation of interior doors between passenger compartments, and to install interior materials that do not comply with heat release and smoke emissions requirements on the Boeing 737-700 IGW airplane. *Grant, 2/17/99, Exemption No. 6820A*

*Docket No.:* 29373.  
*Petitioner:* Bridger Aviation Service, Inc..  
*Section of the FAR Affected:* 14 CFR 135.143(c)(2).

*Description of Relief Sought/Disposition:* To permit Bridger Aviation Services, Inc. to operate its Maule M-6 235C aircraft (Registration No. N9207N, Serial No. 7513C) under part 135 without TSO-C112 (Mode S) transponder installed in that aircraft. *Grant, 3/5/99, Exemption No. 6871*

[FR Doc. 99-6754 Filed 3-18-99; 8:45 am]

BILLING CODE 4910-13-M

**DEPARTMENT OF TRANSPORTATION****Surface Transportation Board**

[STB Docket No. MC-F-20944]

**K.C. Irving, Limited and S.M.T. (Eastern), Limited—Control—Acadian Lines, Limited, Nova Charter Service Incorporated, S.M.T. (Eastern), Inc., and S.M.T. (Eastern), Limited**

**AGENCY:** Surface Transportation Board.

**ACTION:** Notice Tentatively Approving Finance Transaction.

**SUMMARY:** K.C. Irving, Limited (Irving), a noncarrier holding company that controls several motor passenger carriers, and its subsidiary, S.M.T. (Eastern), Limited (SMT Limited), a motor passenger carrier, filed an application under 49 U.S.C. 14303 for control of Acadian Lines Limited (Acadian), Nova Charter Service Incorporated (Nova), S.M.T. (Eastern), Inc. (SMT Inc.), and SMT Limited, all motor carriers of passengers or, in the case of SMT Inc., an entity that intends to become a motor carrier of passengers. Persons wishing to oppose the application must follow the rules under 49 CFR 1182.5 and 1182.8.<sup>1</sup> The Board has tentatively approved the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

**DATES:** Comments must be filed by April 5, 1999. Applicants may file a reply by April 20, 1999. If no comments are filed by April 5, 1999, this notice is effective on that date.

**ADDRESSES:** Send an original and 10 copies of any comments referring to STB Docket No. MC-F-20944 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K

<sup>1</sup> Revised procedures governing finance applications filed under 49 U.S.C. 14303 were adopted in *Revisions to Regulations Governing Finance Applications Involving Motor Passenger Carriers*, STB Ex Parte No. 559 (STB served Sept. 1, 1998).

Street, N.W., Washington, DC 20423. In addition, send one copy of comments to applicants' representatives: William C. Evans and John R. Mietus, Jr., Verner, Liipfert, Bernhard, McPherson and Hand, Chartered, 901 15th Street, N.W., Washington, DC 20005.

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 565-1600. [TDD for the hearing impaired: (202) 565-1695.]

**SUPPLEMENTARY INFORMATION:** Irving and SMT Limited currently control several motor passenger carriers. In the application, Irving and SMT Limited,<sup>2</sup> in which Irving historically has held an interest and currently holds a controlling interest, state that SMT Limited assumed control of Acadian<sup>3</sup> and Nova<sup>4</sup> through a stock transaction that was consummated in December 1995. Applicants indicate that their failure to obtain approval for this common control was unintentional, and having discovered this unresolved control issue, Irving and SMT Limited now seek Board authority to control these carriers.

Irving and SMT Limited also seek Board authority to control SMT Inc.,<sup>5</sup> which intends to obtain the operating authority currently held by Royal Blue Tours, Inc. (Royal Blue)<sup>6</sup> through a transfer of authority to be requested from the Federal Highway Administration. The parties intend to place the stock of SMT Inc. in a voting trust to permit consummation of the transaction pending Board approval of the application.

Applicants state that granting the application will not result in any

significant changes to carrier operations that are now being conducted and will not reduce competitive options available to the traveling public. They assert that each carrier occupies a distinct market niche, particularly with respect to their limited U.S. operations, and faces substantial competition from other bus companies, private vehicles and other modes of transportation.

Applicants also submit that granting the application will produce, or continue to produce, substantial benefits. In particular, applicants state that closer coordination of motorcoach fleets will permit the companies to deploy buses to meet consumer demands more effectively. Applicants add that the proposed transaction will not impact the employees of any of the carriers adversely.

Applicants certify that: (1) None of the carriers holds an unsatisfactory safety rating from the U.S. Department of Transportation;<sup>7</sup> (2) each carrier has sufficient liability insurance; (3) none of the carriers is domiciled in Mexico or owned or controlled by persons of that country; and (4) approval of the transaction will not significantly affect either the quality of the human environment or the conservation of energy resources. Additional information may be obtained from applicants' representatives.

Under 49 U.S.C. 14303(b), we must approve and authorize a transaction we find consistent with the public interest, taking into consideration at least: (1) The effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees.<sup>8</sup> The prior consummation of the transaction involving Acadian and Nova does not bar approval of the application under section 14303 if the evidence establishes that the transaction would be consistent with the public interest in other respects, and for the future. Approval is granted in such circumstances when the record contains strong affirmative evidence of public benefits to be derived from the resulting control, warranting the view that the public should not be penalized by being deprived of those benefits. Moreover, in this case, the record shows an absence of intent to flout the law or of a deliberate or planned violation.<sup>9</sup> See

<sup>7</sup> Acadian, Nova, and SMT Limited hold satisfactory ratings and Royal Blue is unrated.

<sup>8</sup> The parties expect no change in the fixed charges associated with each of the carriers.

<sup>9</sup> Applicants recognize that they should have sought our approval sooner. Under these circumstances, the Board does not intend to pursue enforcement actions against applicants for the previous unauthorized common control.

*Kenosha Auto Transport Corp.—Control*, 85 M.C.C. 731, 736 (1960).

On the basis of the application, we find that the proposed acquisition of control is consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed vacated and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application.<sup>10</sup> If no opposing comments are filed by the expiration of the comment period, this decision will take effect automatically and will be the final Board action.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

*It is ordered:*

1. The proposed acquisition of control is approved and authorized, subject to the filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this decision will be deemed as having been vacated.

3. This decision will be effective on April 5, 1999, unless timely opposing comments are filed.

4. A copy of this notice will be served on: (1) The U.S. Department of Transportation, Office of Motor Carriers-HIA 30, 400 Virginia Avenue, S.W., Suite 600, Washington, DC 20024; and (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, N.W., Washington, DC 20530.

Decided: March 16, 1999.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

**Vernon A. Williams,**  
*Secretary.*

[FR Doc. 99-6802 Filed 3-18-99; 8:45 am]

BILLING CODE 4915-00-P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-55 (Sub-No. 571X)]

### CSX Transportation, Inc.— Abandonment Exemption—in Saginaw County, MI

On March 1, 1999, CSX Transportation, Inc. (CSXT), filed with the Surface Transportation Board

<sup>10</sup> Under revised 49 CFR 1182.6(c), a procedural schedule will not be issued if we are able to dispose of opposition to the application on the basis of comments and the reply.

<sup>2</sup> SMT Limited is a New Brunswick corporation. It holds federally issued operating authority in Docket No. MC-107078, allowing it to conduct passenger transportation over a regular route between Calais and Bangor, ME, and to conduct charter and special operations between certain U.S./Canada border crossings and certain points in the United States. SMT Limited operates a fleet of 31 coaches and employs 133.

<sup>3</sup> Acadian is a Nova Scotia corporation. It holds federally issued operating authority in Docket No. MC-204938, allowing it to conduct charter and special operations between points in the U.S. (except HI). Acadian operates a fleet of 15 coaches with approximately 70 employees.

<sup>4</sup> Nova is a Nova Scotia corporation. It holds federally issued operating authority in Docket No. MC-126280, allowing it to conduct charter and special operations between certain U.S./Canada border crossings and points in the U.S. (except AK and HI) and between points in the U.S. Nova operates a fleet of 23 coaches with about 30 employees.

<sup>5</sup> SMT Inc., a Delaware corporation, plans to obtain from Royal Blue interstate operating authority issued in Docket No. MC-220952. That authority allows Royal Blue to conduct charter and special operations between points in the U.S. (except HI). Royal Blue operates a fleet of 6 coaches.

<sup>6</sup> Royal Blue is a Florida corporation providing charter service primarily in Florida.

(Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon an approximately 2.29-mile portion of its Detroit Service Lane, Dean Subdivision, between milepost CBE-7.80 and milepost CBE-10.09, in Paines, Saginaw County, MI. The line traverses U.S. Postal Service Zip Code 48609 and includes the station of Paines.

The line does not contain federally granted rights-of-way. Any documentation in CSXT's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by June 18, 1999.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer must

be accompanied by a \$1,000 filing fee. See 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than April 8, 1999. Each trail use request must be accompanied by a \$150 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB-55 (Sub-No. 571X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001; and (2) Charles M. Rosenberger, 500 Water Street-J150, Jacksonville, FL 32202. Replies to the CSXT petition are due on or before April 8, 1999.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565-1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental

issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565-1545. [TDD for the hearing impaired is available at (202) 565-1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

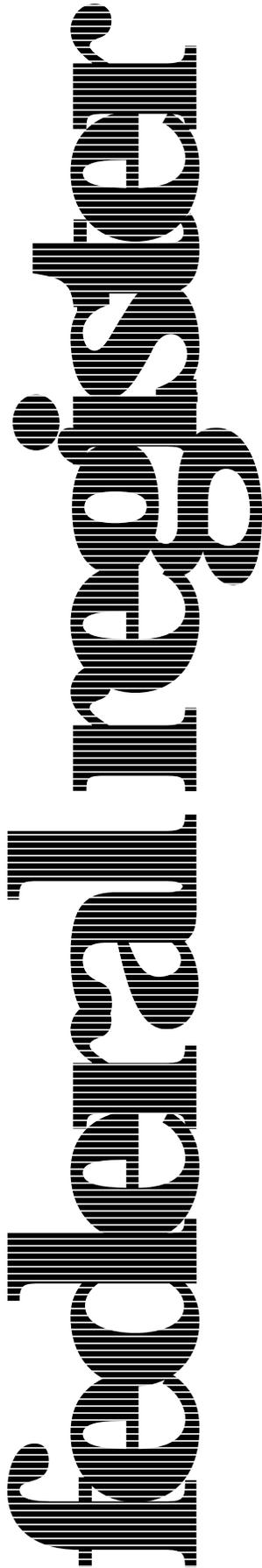
Decided: March 11, 1999.

By the Board, David M. Konschnik,  
Director, Office of Proceedings.

**Vernon A. Williams,**  
*Secretary.*

[FR Doc. 99-6625 Filed 3-18-99; 8:45 am]

BILLING CODE 4915-00-P



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Friday  
March 19, 1999

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**Part II**

**Department of  
Education**

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**National Institute on Disability and  
Rehabilitation Research; Final Funding  
Priorities for Fiscal Year 1999-2000 for  
Certain Centers and Projects and Inviting  
Applications for New Awards Fiscal Year  
1999; Notices**

**DEPARTMENT OF EDUCATION****National Institute on Disability and Rehabilitation Research; Final Funding Priorities for Fiscal Year 1999–2000 for Certain Centers and Projects**

**AGENCY:** Department of Education.

**ACTION:** Notice of final funding priorities for Fiscal Years 1999–2000 for certain centers and projects.

**SUMMARY:** The Secretary announces funding priorities for two Rehabilitation Research and Training Centers (RRTCs) and two Disability and Rehabilitation Research Projects (DRRPs) under the National Institute on Disability and Rehabilitation Research (NIDRR) for fiscal years 1999–2000. The Secretary takes this action to focus research attention on areas of national need. These priorities are intended to improve rehabilitation services and outcomes for individuals with disabilities.

**EFFECTIVE DATE:** These priorities take effect on April 19, 1999.

**FOR FURTHER INFORMATION CONTACT:** Donna Nangle. Telephone: (202) 205–5880. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–2742. Internet: Donna\_Nangle@ed.gov

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.

**SUPPLEMENTARY INFORMATION:** This notice contains final priorities under the Disability and Rehabilitation Research Projects and Centers Program for two RRTCs related to: Measuring rehabilitation outcomes; and rehabilitation of persons with disabilities from minority backgrounds. The notice also contains final priorities for two DRRPs related to: Dissemination of disability and rehabilitation research; and the international exchange of information and experts. The final priorities refer to NIDRR's Long-Range Plan (LRP). The LRP can be accessed on the World Wide Web at:

<http://www.ed.gov/legislation/FedRegister/announcements/1998-4/102698a.html>

These final priorities support the National Education Goal that calls for every adult American to possess the skills necessary to compete in a global economy.

The authority for the Secretary to establish research priorities by reserving funds to support particular research activities is contained in sections 202(g)

and 204 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 762(g) and 764).

**Note:** This notice of final priorities does not solicit applications. A notice inviting applications is published elsewhere in this issue of the **Federal Register**.

**Analysis of Comments and Changes**

On January 4, 1999 the Secretary published a notice of proposed priorities in the **Federal Register** (64 FR 342). The Department of Education received 24 letters commenting on the notice of proposed priority by the deadline date. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under statutory authority—are not addressed.

**Rehabilitation Research and Training Centers***Priority: Measuring Rehabilitation Outcomes*

**Comment:** Three commenters indicated that the word “function” in the third required activity should be replaced by “outcomes” in order to broaden the scope of the RRTC’s effort to identify relevant measurement gaps.

**Discussion:** NIDRR agrees that the wording of the third activity should be revised in order to ensure that the RRTC undertakes a broad effort to identify relevant measurement gaps.

**Changes:** The third activity has been revised by substituting “functional outcomes” for “function.”

**Comment:** Health policymakers and analysts should be added to the target population of the fifth required activity.

**Discussion:** The fifth required activity targets payers, providers, and consumers as users of medical rehabilitation outcome data. Having addressed these three groups, an applicant could propose to target health policymakers and analysts. NIDRR has no basis to determine that all applicants should be required to target health policymakers and analysts.

**Changes:** None.

**Comment:** The priority requires the RRTC to address the effectiveness of medical rehabilitation services. One commenter suggested that in addition to addressing effectiveness, the RRTC should address the efficacy of medical rehabilitation services. A second commenter suggested that the RRTC address issues of cost-effectiveness.

**Discussion:** In regard to the first comment, an applicant could draw the distinction between efficacy and effectiveness and propose to pursue both lines of investigation. Similarly, in regard to the second comment, an

applicant could propose to address cost-effectiveness as part of fulfilling the requirements of the priority. The peer review process will evaluate the merits of the proposals. NIDRR has no basis to require all applicants to address efficacy in addition to effectiveness, or to require all applicants to address issues of cost-effectiveness.

**Changes:** None.

**Comment:** The first required activity of the RRTC is to develop and test a theoretical model or models assessing long-term outcomes. The priority or the introduction should elaborate on the specific features that characterize a satisfactory theoretical model.

**Discussion:** NIDRR declines to identify the specific features that characterize a satisfactory theoretical model in order to provide applicants with as much discretion as possible. The peer review process will evaluate the merits of the theoretical model or models that applicants propose.

**Changes:** None.

**Comment:** The priority is silent on the RRTC’s training program content.

**Discussion:** The training requirement for the RRTC is included in the general requirements that precede the priority.

**Changes:** None.

**Comment:** NIDRR should clarify whether the focus of the RRTC is to measure disability and enablement, or to measure rehabilitation effectiveness. If the focus is the latter, then changing the title of the RRTC to Measuring Rehabilitation Outcomes and Treatment Effectiveness would help clarify the issue.

**Discussion:** As stated in the introductory purpose statement, the focus of the RRTC is the effectiveness of medical rehabilitation services. NIDRR does not believe that it is necessary to change the title of the RRTC in order to provide further clarification.

**Changes:** None.

**Comment:** Five commenters asked NIDRR to clarify whether the RRTC should address both short-term and long-term outcomes.

**Discussion:** NIDRR expects the RRTC to evaluate and develop methods for measuring medical rehabilitation effectiveness in the short-term and create theoretical models that examine ways that long-term outcomes from medical rehabilitation can be assessed. NIDRR anticipates that models that examine long-term outcomes will address strategies to link treatment effectiveness and short-term outcomes as well as factors that may make those linkages difficult to achieve.

**Changes:** None.

**Comment:** The RRTC should address allied health services and community

supports in addition to medical rehabilitation services.

*Discussion:* NIDRR considers allied health services and community supports a part of medical rehabilitation services.

*Changes:* None.

*Comment:* The activities to develop a sequel to the Functional Independence Measure and evaluate the effectiveness of medical rehabilitation services should be pursued as separate projects because of the resources that will be required.

*Discussion:* NIDRR declines to separate out any of the priority's activities because all of the priority's activities are inter-related and conducting any of these activities as separate projects will diminish their impact.

*Changes:* None.

*Comment:* Two commenters suggested that the RRTC be required to address the role of assistive technology in the provision of medical rehabilitation services.

*Discussion:* NIDRR recognizes that assistive devices play a large and important role in the provision of medical rehabilitation services and their effectiveness. An applicant could propose to address the role of assistive technology. The peer review process will evaluate the merits of the proposals. NIDRR has no basis to require all applicants to address the role of assistive technology.

*Changes:* None.

*Comment:* In examining outcomes, the RRTC should focus on changes over time, independent of where, or for how long, the person has received services.

*Discussion:* An applicant could propose to carry out research that focuses on changes over time, independent of where or for how long the person has received services. The peer review process will evaluate the merits of the focus. NIDRR has no basis to require all applicants to focus on changes over time, independent of where or for how long the person has received services.

*Changes:* None.

*Comment:* NIDRR should clarify if the focus of the second required activity is the extent to which medical rehabilitation effectiveness is determinable at all, the extent to which it is determinable using functional measures, or the extent to which the impact of specific interventions is determinable.

*Discussion:* The second required activity requires the RRTC to investigate the extent to which the effectiveness of medical rehabilitation services can be determined by applying specific functional outcomes measures to

specific rehabilitation interventions. The second required activity focuses on a combination of the commenter's second and third interpretations.

*Changes:* None.

*Comment:* NIDRR should clarify if a long-term perspective should be incorporated into the third required activity as it is with the first required activity.

*Discussion:* The third required activity does not refer specifically to long-term outcomes and, therefore, applicants have the discretion to propose to address the most appropriate and promising types of outcomes, including long-term outcomes.

*Changes:* None.

*Comment:* One commenter asked if NIDRR expects the RRTC's activities to include less traditional medical rehabilitation service consumers such as persons with mental illness, developmental disabilities, and elderly persons with disabilities. A second commenter asked if the NIDRR expected the target population to include only those persons with physical disabilities. A third commenter suggested that the target population be focused on persons with traumatic brain injuries, spinal cord injuries, multiple sclerosis, and Parkinson's disease.

*Discussion:* NIDRR expects the RRTC to address issues applicable to all consumers of medical rehabilitation services. To the extent that persons with specific disabilities (e.g., mental illness, developmental disabilities, Parkinson's disease) are consumers of medical rehabilitation services, the RRTC should include them in its activities.

Applicants may propose to emphasize certain disabilities, and the peer review process will evaluate the merits of the emphasis.

*Changes:* None.

*Comment:* Does the second required activity apply to existing measures or measures that may be developed by the project?

*Discussion:* Applicants can use existing measures, measures developed by the project, or both, in carrying out the second required activity.

*Changes:* None.

*Comment:* Is the purpose of the second required activity to: (1) Evaluate the use of functional outcome measures exclusively in order to determine if they are a valid way to evaluate services, (2) investigate the limitations of functional outcome measures, or (3) compare different outcome measures? The commenter supported the third purpose.

*Discussion:* NIDRR defers to applicants to propose approaches to carrying out the required activities of a priority. In this particular instance, an

applicant could propose to do one or more of the commenter's approaches to carry out the second activity's requirements. The peer review process will evaluate the merits of the proposals.

*Changes:* None.

*Comment:* The first and fifth required activities seem to suggest that NIDRR is interested in the RRTC engaging in work to develop a standardized set of outcome measures. This may not be possible to complete within five years, but the RRTC could make significant progress toward this goal. NIDRR should clarify its intent.

*Discussion:* The priority does not require the RRTC to undertake standardization activities. However, an applicant could propose to carry out standardization activities as part of fulfilling the requirement of the fourth activity. The peer review process will evaluate the merits of the proposal.

*Changes:* None.

*Comment:* The second required activity should be revised to require the RRTC to investigate the effectiveness of medical rehabilitation services by applying outcome measures to specific rehabilitation interventions.

*Discussion:* The second required activity focuses on the extent to which the effectiveness of medical rehabilitation services can be determined by applying specific functional outcomes measures to specific rehabilitation interventions. It is outside the size and scope of this RRTC to study the effectiveness of services in a field as broad as medical rehabilitation.

*Changes:* None.

*Comment:* Collaboration and cooperation between the RRTC and relevant non-profit national organizations should be emphasized.

*Discussion:* One of the general requirements applicable to the RRTC indicates that the RRTC must coordinate with other entities carrying out related research or training activities. No further requirements are necessary in order for the RRTC to coordinate with relevant non-profit national organizations.

*Changes:* None.

#### *Priority: Rehabilitation of Persons with Disabilities from Minority Backgrounds*

*Comment:* Clarification is needed in regard to whether the RRTC should focus on select disabilities, particularly those that are chronic (or likely to be chronic), and whether the RRTC should address the needs of adults and children.

*Discussion:* The purposes of this priority are to evaluate the rehabilitation

needs and improve rehabilitation outcomes of persons with disabilities from minority backgrounds. In their efforts to achieve these purposes, applicants have the discretion to propose to focus on selected disabilities, or types of disabilities (e.g., chronic). The peer review process will evaluate the merits of their focus.

Unless specified otherwise in the priority, NIDRR expects its projects and centers to address the needs of persons with disabilities from all age groups. Having addressed the needs of all age groups, applicants have the discretion to emphasize one or more age groups.

*Changes:* None.

*Comment:* The priority requires the RRTC to address too many groups of individuals from minority backgrounds, and as a result, the needs of Pacific Islanders may not receive sufficient attention. Two commenters urged NIDRR to establish an RRTC on the rehabilitation for Pacific Islanders in the Pacific Basin.

*Discussion:* In order to concentrate its support for RRTCs around particular broad themes or outcomes having national significance and reflecting large scale concerns and problems, NIDRR is not planning to support RRTCs that are geographically based. Currently, NIDRR supports RRTCs in areas such as employment policy, family policy, demographics, telerehabilitation, rural rehabilitation, and vocational rehabilitation systems that have the capacity to address rehabilitation research issues relevant to the Pacific Basin. NIDRR also supports projects that have a specific focus on the Pacific Basin, including an RRTC funded in FY 98 at the University of Hawaii, several State or territorial Technology Act projects, and the Region IX Disability and Business Technical Assistance Center. Finally, NIDRR's Field Initiated Project competition provides interested parties with an opportunity to carry out research or development activities specific to the Pacific Basin.

*Changes:* None.

### **Disability and Rehabilitation Research Projects**

#### *Priority: International Exchange of Information and Experts*

*Comment:* The activities carried out by this project should be focused on the following areas: employment policy, independent living practice, issues pertaining specifically to women with disabilities, and the appropriate use of technology to assist persons with disabilities.

*Discussion:* An applicant could propose to focus on these four areas.

The peer review process will evaluate the merits of the proposal. However, NIDRR prefers to provide applicants with the discretion to propose to focus on specific areas and has no basis to determine that all applicants should be required to focus on these areas.

*Changes:* None.

*Comment:* Two commenters suggested that participatory action research should be identified as a particularly desirable methodology in the priority. The second commenter also suggested that the project should emphasize increased awareness, interest, and participation in international opportunities by people with disabilities, and identify and evaluate best practices by people with disabilities, particularly in developing countries.

*Discussion:* NIDRR is a proponent of participatory action research. However, consistent with its approach to provide applicants with as much discretion as possible, NIDRR declines to require all applicants to promote participatory action research in this priority.

NIDRR encourages all of its grantees to involve persons with disabilities and, if appropriate their representatives, in all aspects of a grant's activities. The fourth required activity of the priority focuses on information on cultural perspectives, and NIDRR expects developing countries to be included in the project's activities.

*Changes:* None.

*Comment:* The first and second required activities should be revised to include development and technology transfer in the database of international rehabilitation research and as a topic at the research conferences.

*Discussion:* "International rehabilitation research" includes development and technology transfer. NIDRR prefers to provide applicants with the discretion to propose the content of the database and topics at the research conferences. The peer review process will evaluate the merits of the proposals.

*Changes:* None.

*Comment:* NIDRR should clarify the meaning of "improving rehabilitation services." For example, does it include assistive technology services and assistive devices, as well as medical rehabilitation and vocational rehabilitation?

*Discussion:* NIDRR expects that the project will approach and define rehabilitation services broadly, and prefers to provide applicants with the discretion to define the scope of rehabilitation services.

*Changes:* None.

*Comment:* Is the goal of the project to improve research and technical

assistance on rehabilitation primarily with the U.S., outside the U.S., or both?

*Discussion:* The goal, as stated in the Introduction, is essentially to assist U.S. rehabilitation practitioners to improve the effectiveness of the services they provide.

*Changes:* None.

*Comment:* Who is the target audience for this project?

*Discussion:* The target audience is primarily researchers and practitioners.

*Changes:* None.

*Comment:* What criteria should be applied in selecting countries to include in the project's activities?

*Discussion:* The issue of selection for participation in the project relates much more to an individual's potential contribution than their country of origin. NIDRR expects that applicants will propose to include individuals from a number of foreign countries whose research and practical experience will contribute to fulfilling the purpose of the priority.

*Changes:* None.

*Comment:* What is the definition of research? For example, should the project focus on applied research, research and development, or clinical research?

*Discussion:* Research is classified and defined in NIDRR's regulations at § 350.5.

*Changes:* None.

*Comment:* Is the definition of disabilities limited to physical disabilities, sensory disabilities, cognitive disabilities, or psychological disabilities?

*Discussion:* An individual with a disability is defined in NIDRR's regulations at § 350.5.

*Changes:* None.

*Comment:* Does the exchange of experts need to be face-to-face, and if so what is the role of the project staff? Related to this question, if technical assistance experts visit other countries, is the goal to share information or provide technical assistance?

*Discussion:* The exchange of experts does not have to be face-to-face, and project staff will facilitate the exchange of information. In regard to whether the question of whether the technical assistance experts will share information or provide technical assistance, NIDRR does not draw as sharp a distinction between the two activities as the commenter suggests. NIDRR prefers to provide applicants with the discretion to propose the types of information exchange that the project's participants will undertake.

*Changes:* None.

### Rehabilitation Research and Training Centers

Authority for the RRTC program of NIDRR is contained in section 204(b)(2) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 764(b)(2)). Under this program the Secretary makes awards to public and private organizations, including institutions of higher education and Indian tribes or tribal organizations for coordinated research and training activities. These entities must be of sufficient size, scope, and quality to effectively carry out the activities of the Center in an efficient manner consistent with appropriate State and Federal laws. They must demonstrate the ability to carry out the training activities either directly or through another entity that can provide that training.

The Secretary may make awards for up to 60 months through grants or cooperative agreements. The purpose of the awards is for planning and conducting research, training, demonstrations, and related activities leading to the development of methods, procedures, and devices that will benefit individuals with disabilities, especially those with the most severe disabilities.

### Description of Rehabilitation Research and Training Centers

RRTCs are operated in collaboration with institutions of higher education or providers of rehabilitation services or other appropriate services. RRTCs serve as centers of national excellence and national or regional resources for providers and individuals with disabilities and the parents, family members, guardians, advocates or authorized representatives of the individuals.

RRTCs conduct coordinated, integrated, and advanced programs of research in rehabilitation targeted toward the production of new knowledge to improve rehabilitation methodology and service delivery systems, to alleviate or stabilize disabling conditions, and to promote maximum social and economic independence of individuals with disabilities.

RRTCs provide training, including graduate, pre-service, and in-service training, to assist individuals to more effectively provide rehabilitation services. They also provide training including graduate, pre-service, and in-service training, for rehabilitation research personnel and other rehabilitation personnel.

RRTCs serve as informational and technical assistance resources to

providers, individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of these individuals through conferences, workshops, public education programs, in-service training programs and similar activities.

RRTCs disseminate materials in alternate formats to ensure that they are accessible to individuals with a range of disabling conditions.

NIDRR encourages all Centers to involve individuals with disabilities and individuals from minority backgrounds as recipients of research training, as well as clinical training.

The Department is particularly interested in ensuring that the expenditure of public funds is justified by the execution of intended activities and the advancement of knowledge and, thus, has built this accountability into the selection criteria. Not later than three years after the establishment of any RRTC, NIDRR will conduct one or more reviews of the activities and achievements of the Center. In accordance with the provisions of 34 CFR 75.253(a), continued funding depends at all times on satisfactory performance and accomplishment.

### General Requirements

The following requirements apply to these RRTCs pursuant to these absolute priorities unless noted otherwise. An applicant's proposal to fulfill these proposed requirements will be assessed using applicable selection criteria in the peer review process.

Each RRTC must provide: (1) Training on research methodology and applied research experience; and (2) training on knowledge gained from the Center's research activities to persons with disabilities and their families, service providers, and other appropriate parties.

Each RRTC must develop and disseminate informational materials based on knowledge gained from the Center's research activities, and disseminate the materials to persons with disabilities, their representatives, service providers, and other interested parties.

Each RRTC must involve individuals with disabilities and, if appropriate, their representatives, in planning and implementing its research, training, and dissemination activities, and in evaluating the Center.

The RRTC must conduct a state-of-the-science conference and publish a comprehensive report on the final outcomes of the conference. The report must be published in the fourth year of the grant.

The RRTC must coordinate with other entities carrying out related research or training activities.

### Priorities

Under 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to applications that meet the following priorities. The Secretary will fund under this competition only applications that meet one of these absolute priorities.

#### Priority 1: Measuring Rehabilitation Outcomes

##### Introduction

Chapter Four of NIDRR's proposed LRP (63 FR 57204) discusses issues in medical rehabilitation, including research on rehabilitation outcomes. There is a need to develop more effective outcomes measurement tools to determine the effectiveness, including the cost-effectiveness, of medical rehabilitation interventions and products. Chapter Seven of the proposed LRP (63 FR 57211) reviews the importance of documenting outcomes across service settings and programs. The proposed LRP identifies long-term outcomes, such as employment, community integration, and quality of life, as an important component of the new paradigm of disability that expands the focus of research from the individual to society and the environment. NIDRR expects this RRTC to integrate the new paradigm of disability in its research activities. The new paradigm maintains that disability is a product of an interaction between characteristics of the individual and characteristics of the natural, man-made, cultural, social environments.

Medical rehabilitation outcomes research has focused on function. NIDRR supported the development and application of the Functional Independence Measure (FIM), a criterion-referenced scale that has been widely accepted in inpatient rehabilitation settings. NIDRR also supported the development of the Craig Handicap Assessment and Reporting Technique that contains scales for assessing the World Health Organization dimensions of "handicap" (i.e., participation) and is currently being refined to measure cognitive components of disability.

While researchers have been able to demonstrate gain in function, as measured by instruments like the FIM, there is no conclusive evidence regarding the specific impact of therapeutic intervention on functional gain (Heinemann, A. et al., "Relation of Rehabilitation Intervention to Functional Outcome," *Final Technical*

*Report*, Center for Functional Assessment Research, University of Buffalo, pg. 11, 1998). In addition, medical rehabilitation providers are being asked to demonstrate the relationship between short-term functional gain and long-term outcomes for persons with disabilities (Wilkerson, D. and Johnston, M., "Clinical Program Monitoring Systems," in *Assessing Medical Rehabilitation Practices—The Promise of Outcomes Research*, pgs. 275–305, 1997).

In addition to the widespread use of the FIM as a measure of function, there are other commonly used measures. Also, there are multiple measures related to other types of outcomes, including quality of life, community integration, and consumer satisfaction. Providers, consumers, and other stakeholders have difficulty comparing outcomes because use of outcome measures across settings is not standardized (Wilkerson, D. and Johnston, M., *ibid.*).

#### Priority

The Secretary will establish an RRTC for the purpose of developing improved methods that assess the effectiveness of medical rehabilitation services. The RRTC must:

- (1) Develop and test theoretical model or models assessing long-term outcomes as part of a system of evaluating medical rehabilitation effectiveness;
- (2) Investigate the extent to which the effectiveness of medical rehabilitation services can be determined by applying functional outcomes measures to specific rehabilitation interventions;
- (3) Identify gaps in existing measures of medical rehabilitation effectiveness, assessing not only the FIM's, but also other instruments' utility as a measure of the impact of therapeutic interventions on functional outcomes across rehabilitation settings;
- (4) Revise or develop and test measures of medical rehabilitation effectiveness to address gaps identified by paragraph (3) above; and
- (5) Evaluate and describe the uses of medical rehabilitation outcome data by payers, providers, and consumers.

In carrying out these purposes, the RRTC must coordinate with the RRTC on Health Care for Individuals with Disabilities—Issues in Managed Health Care, the National Center on Medical Rehabilitation Research, the Department of Veterans Affairs, and the Health Care Financing Administration.

#### *Priority 2: Rehabilitation of Persons With Disabilities From Minority Backgrounds*

##### Introduction

Chapter Two of NIDRR's proposed LRP (63 FR 57194) discusses and highlights methodological problems in the categorization and definition of disability, including identifying and measuring consequences of disability in minority populations. Disabilities in minority populations may be associated with factors such as health, poverty, family structure, environment, aging, substance abuse, chronic disease, and violence-related trauma in ways that are substantially different from non-minority populations. Chapter 3 of the proposed LRP identifies the need for minority populations research that provides information about employment factors, including identifying rehabilitation strategies that are based on knowledge about the characteristics of racial and ethnic minorities.

For the purpose of this priority, persons from minority backgrounds include one or more of the following minorities: Asian-Americans, Hispanics or Latinos, Black or African-Americans, and Native Hawaiians or other Pacific Islanders. American Indians and Alaskan Natives are not included as a target population for this RRTC because other NIDRR grants address their needs directly.

##### Priority

The Secretary will establish an RRTC on rehabilitation of persons with disabilities from minority backgrounds for the purpose of evaluating their rehabilitation needs and improving their rehabilitation outcomes. The RRTC must:

- (1) Identify methodological problems in determining the rehabilitation needs of persons with disabilities from minority backgrounds, including subpopulations within these groups, and propose strategies to address these methodological problems;
- (2) Based on paragraph (1), identify implications for rehabilitation research, training, policy development, and services;
- (3) Assess the outcomes of rehabilitation for persons with disabilities from minority backgrounds, as measured by two or more variables (e.g., functional abilities, health and wellness, employment, and psychosocial status), and analyze the effects of minority status on rehabilitation outcomes; and
- (4) Identify, develop, and evaluate rehabilitation methodologies, models and interventions for specific minorities

in selected areas drawn from the NIDRR Research Agenda in Section Two of the proposed LRP.

In carrying out the purpose of the priority, the RRTC must:

- Include concepts of health self-assessment and consumer decision-making related to participation in the labor force; and
- Coordinate with the Centers for Disease Control and Prevention's Center on Minority Health.

#### **Disability and Rehabilitation Research Projects**

Authority for Disability and Rehabilitation Research Projects (DRRPs) is contained in section 204(a) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 764(a)). DRRPs carry out one or more of the following types of activities, as specified in 34 CFR 350.13—350.19: research, development, demonstration, training, dissemination, utilization, and technical assistance. Disability and Rehabilitation Research Projects develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities. In addition, DRRPs improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended.

#### *Priority 3: Dissemination of Disability and Rehabilitation Research*

##### Introduction

Chapter Eight of NIDRR's proposed LRP (63 FR 57213) describes the importance of effective knowledge dissemination and utilization (D&U). NIDRR proposes to establish a center that will serve as the cornerstone of NIDRR's D&U efforts by carrying out research on effective dissemination methodologies and providing technical assistance to all of NIDRR's grantees as well as to the wide array of consumers of disability research findings.

##### Priority

The Secretary will establish a DRRP for the purpose of increasing the usefulness of NIDRR-funded research findings. The National Center for the Dissemination of Disability Research must:

- (1) Identify and evaluate effective methodologies for disseminating disability research to persons with disabilities and their families, service providers, policymakers, and other researchers;

(2) Provide technical assistance on D&U methodologies to all NIDRR grantees including, but not limited to, addressing cultural relevance, ensuring physical accessibility of information, and developing effective dissemination plans.

(3) Develop, implement, and evaluate a plan for collaboration among NIDRR projects that primarily disseminate information in order to enhance dissemination and avoid duplication of activities; and (4) Develop, implement, and evaluate methods that diverse public audiences can use to access NIDRR-funded research findings.

*Priority 4: International Exchange of Information and Experts*

**Introduction**

The Rehabilitation Act of 1973, as amended, provides NIDRR with the authority to exchange experts and technical assistance in field of rehabilitation of individuals with disabilities as well as conduct a program for international research and demonstration (Section 204 (b)(6)). Cooperative international research activities can offer new perspectives on solving rehabilitation problems, provide data for the evaluation of domestic programs, and assist U.S. rehabilitation practitioners to improve the effectiveness of the services they provide, especially for minority and immigrant populations.

**Priority**

The Secretary will establish a DRRP for the purpose of improving rehabilitation services by obtaining and disseminating information on international rehabilitation research and practices. The DRRP must:

- (1) Develop and maintain a database of international rehabilitation research and make this database available to grantees supported by NIDRR, the Office of Special Education Programs, and the Rehabilitation Services Administration;
- (2) Conduct rehabilitation research conferences involving participants from the U.S. and other countries;
- (3) Conduct an international exchange of research and technical assistance experts between other countries and the United States; and (4) Disseminate information on cultural perspectives on rehabilitation to entities that provide rehabilitation or conduct rehabilitation research and training activities

involving persons from foreign backgrounds.

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**Note:** The official version of this document is the document published in the **Federal Register**.

**Program Authority:** 29 U.S.C. 760-762. (Catalog of Federal Domestic Assistance Number 84.133A, Disability and Rehabilitation Research Projects, and 84.133B, Rehabilitation Research and Training Centers)

Dated: March 15, 1999.

**Judith E. Heumann,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. 99-6799 Filed 3-18-99; 8:45 am]

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**DEPARTMENT OF EDUCATION**

[CFDA Nos.: 84.133A and 84.133B]

**Office of Special Education and Rehabilitative Services; National Institute on Disability and Rehabilitation Research; Notice Inviting Applications for New Awards Under the Disability and Rehabilitation Research Project and Centers Program for Fiscal Year (FY) 1999**

**Note to applicants**

This notice is a complete application package. Together with the statute

authorizing the programs and applicable regulations governing the programs, including the Education Department General Administrative Regulations (EDGAR), this notice contains information, application forms, and instructions needed to apply for a grant under these competitions.

This program supports the National Education Goal that calls for all Americans to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

The estimated funding levels in this notice do not bind the Department of Education to make awards in any of these categories, or to any specific number of awards or funding levels, unless otherwise specified in statute.

**Applicable Regulations**

The Education Department General Administrative Regulations (EDGAR), 34 CFR parts 74, 75, 77, 80, 81, 82, 85, 86, and the program regulations 34 CFR part 350.

*Program Title:* Disability and Rehabilitation Research Project and Centers Program

*CFDA Numbers:* 84.133A and 84.133B

*Purpose of Program:* The purpose of the Disability and Rehabilitation Research Project and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities, develop methods, procedures, and rehabilitation technology, that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities. In addition, the purpose of the Disability and Rehabilitation Research Project and Centers Program is to improve the effectiveness of services authorized under the Act.

*Eligible Applicants:* Parties eligible to apply for grants under this program are States, public or private agencies, including for-profit agencies, public or private organizations, including for-profit organizations, institutions of higher education, and Indian tribes and tribal organizations.

*Program Authority:* 29 U.S.C. 762.

## APPLICATION NOTICE FOR FISCAL YEAR 1999 DISABILITY AND REHABILITATION RESEARCH PROJECTS, CFDA NO. 84-133A

Funding priority	Deadline for transmittal of applications	Estimated number of awards	Maximum award amount (per year)*	Project period (months)
Dissemination of Disability and Rehabilitation Research .....	May 3, 1999	1	\$750,000	60
International Exchange of Information and Experts .....	May 3, 1999	1	\$400,000	60

\*Note: The Secretary will reject without consideration or evaluation any application that proposes a project funding level that exceeds the stated maximum award amount per year (See 34 CFR 75.104(b)).

### Dissemination of Disability and Rehabilitation Research

*Selection Criteria:* The Secretary uses the following selection criteria to evaluate applications for a project on dissemination of disability and research under the Disability and Rehabilitation Research Project and Centers Program.

(a) Importance of the problem (9 points total).

(1) The Secretary considers the importance of the problem.

(2) In determining the importance of the problem, the Secretary considers the following factors:

(i) The extent to which the applicant clearly describes the need and target population (3 points).

(ii) The extent to which the proposed activities address a significant need of one or more disabled populations (3 points).

(iii) The extent to which the proposed project will have beneficial impact on the target population (3 points).

(b) *Responsiveness to an absolute or competitive priority* (4 points total).

(1) The Secretary considers the responsiveness of the application to the absolute or competitive priority published in the **Federal Register**.

(2) In determining the responsiveness of the application to the absolute or competitive priority, the Secretary considers the following factors:

(i) The extent to which the applicant addresses all requirements of the absolute or competitive priority (2 points).

(ii) The extent to which the applicant's proposed activities are likely to achieve the purposes of the absolute or competitive priority (2 points).

(c) *Design of research activities* (4 points).

(1) The Secretary considers the extent to which the design of research activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the research activities constitute a coherent,

sustained approach to research in the field, including a substantial addition to the state-of-the-art (2 points).

(ii) The extent to which anticipated research results are likely to satisfy the original hypotheses and could be used for planning additional research, including generation of new hypotheses where applicable (2 points).

(d) *Design of demonstration activities* (13 points total).

(1) The Secretary considers the extent to which the design of demonstration activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the proposed demonstration activities build on previous research, testing, or practices (3 points).

(ii) The extent to which the proposed demonstration activities include the use of proper methodological tools and theoretically sound procedures to determine the effectiveness of the strategy or approach (2 points).

(iii) The extent to which the proposed demonstration activities include innovative and effective strategies or approaches (4 points).

(iv) The extent to which the proposed demonstration activities are likely to contribute to current knowledge and practice and be a substantial addition to the state-of-the-art (2 points).

(v) The extent to which the proposed demonstration activities can be applied and replicated in other settings (2 points).

(e) *Design of dissemination activities* (13 points total).

(1) The Secretary considers the extent to which the design of dissemination activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the content of the information to be disseminated—

(A) Covers all of the relevant aspects of the subject matter (2 points); and

(B) If appropriate, is based on new knowledge derived from research activities of the project (2 points).

(ii) The extent to which the materials to be disseminated are likely to be effective and usable, including consideration of their quality, clarity, variety, and format (2 points).

(iii) The extent to which the methods for dissemination are of sufficient quality, intensity, and duration (2 points).

(iv) The extent to which the materials and information to be disseminated and the methods for dissemination are appropriate to the target population, including consideration of the familiarity of the target population with the subject matter, format of the information, and subject matter (3 points).

(v) The extent to which the information to be disseminated will be accessible to individuals with disabilities (2 points).

(f) *Design of utilization activities* (12 points total).

(1) The Secretary considers the extent to which the design of utilization activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the potential new users of the information or technology have a practical use for the information and are likely to adopt the practices or use the information or technology, including new devices (4 points).

(ii) The extent to which the utilization strategies are likely to be effective (4 points).

(iii) The extent to which the information or technology is likely to be of use in other settings (4 points).

(g) *Design of technical assistance activities* (12 points total).

(1) The Secretary considers the extent to which the design of technical assistance activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the methods for providing technical assistance are of sufficient quality, intensity, and duration (3 points).

(ii) The extent to which the information to be provided through technical assistance covers all of the relevant aspects of the subject matter (3 points).

(iii) The extent to which the technical assistance is appropriate to the target population, including consideration of the knowledge level of the target population, needs of the target population, and format for providing information (3 points).

(iv) The extent to which the technical assistance is accessible to individuals with disabilities (3 points).

(h) *Plan of operation* (6 points total).

(1) The Secretary considers the quality of the plan of operation.

(2) In determining the quality of the plan of operation, the Secretary considers the following factors:

(i) The adequacy of the plan of operation to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, and timelines for accomplishing project tasks (3 points).

(ii) The adequacy of the plan of operation to provide for using resources, equipment, and personnel to achieve each objective (3 points).

(i) *Collaboration* (3 points total).

(1) The Secretary considers the quality of collaboration.

In determining the quality of collaboration, the Secretary considers the following factors:

(i) The extent to which the applicant's proposed collaboration with one or more agencies, organizations, or institutions is likely to be effective in achieving the relevant proposed activities of the project (1 point).

(ii) The extent to which agencies, organizations, or institutions demonstrate a commitment to collaborate with the applicant (1 point).

(iii) The extent to which agencies, organizations, or institutions that commit to collaborate with the applicant have the capacity to carry out collaborative activities (1 point).

(j) *Adequacy and reasonableness of the budget* (4 points total).

(1) The Secretary considers the adequacy and the reasonableness of the proposed budget.

(2) In determining the adequacy and the reasonableness of the proposed budget, the Secretary considers the following factors:

(i) The extent to which the costs are reasonable in relation to the proposed project activities (2 points).

(ii) The extent to which the budget for the project, including any subcontracts, is adequately justified to support the proposed project activities (2 points).

(k) *Plan of evaluation* (7 points total).

(1) The Secretary considers the quality of the plan of evaluation.

(2) In determining the quality of the plan of evaluation, the Secretary considers the following factors:

(i) The extent to which the plan of evaluation provides for periodic assessment of progress toward—

(A) Implementing the plan of operation (1 point); and

(B) Achieving the project's intended outcomes and expected impacts (1 point).

(ii) The extent to which the plan of evaluation will be used to improve the performance of the project through the feedback generated by its periodic assessments (1 point).

(iii) The extent to which the plan of evaluation provides for periodic assessment of a project's progress that is based on identified performance measures that—

(A) Are clearly related to the intended outcomes of the project and expected impacts on the target population (2 points); and

(B) Are objective, and quantifiable or qualitative, as appropriate (2 points).

(l) *Project staff* (9 points total).

(1) The Secretary considers the quality of the project staff.

(2) In determining the quality of the project staff, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability (2 points).

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the key personnel and other key staff have appropriate training and experience in disciplines required to conduct all proposed activities (2 points).

(ii) The extent to which the commitment of staff time is adequate to accomplish all the proposed activities of the project (2 points).

(iii) The extent to which the key personnel are knowledgeable about the

methodology and literature of pertinent subject areas (2 points).

(iv) The extent to which key personnel have up-to-date knowledge from research or effective practice in the subject area covered in the priority (1 point).

(m) *Adequacy and accessibility of resources* (4 points total).

(1) The Secretary considers the adequacy and accessibility of the applicant's resources to implement the proposed project.

(2) In determining the adequacy and accessibility of resources, the Secretary considers the following factors:

(i) The extent to which the applicant is committed to provide adequate facilities, equipment, other resources, including administrative support, and laboratories, if appropriate (2 points).

(ii) The extent to which the facilities, equipment, and other resources are appropriately accessible to individuals with disabilities who may use the facilities, equipment, and other resources of the project (2 points total).

#### **International Exchange of Information and Experts Selection Criteria**

The Secretary uses the following selection criteria to evaluate applications for a project on the international exchange of information and experts under the Disability and Rehabilitation Research Project and Centers Program.

(a) *Importance of the problem* (9 points total).

(1) The Secretary considers the importance of the problem.

(2) In determining the importance of the problem, the Secretary considers the following factors:

(i) The extent to which the applicant clearly describes the need and target population (3 points).

(ii) The extent to which the proposed activities address a significant need of one or more disabled populations (3 points).

(iii) The extent to which the proposed project will have beneficial impact on the target population (3 points).

(b) *Responsiveness to an absolute or competitive priority* (12 points total).

(1) The Secretary considers the responsiveness of the application to the absolute or competitive priority published in the **Federal Register**.

(2) In determining the responsiveness of the application to the absolute or competitive priority, the Secretary considers the following factors:

(i) The extent to which the applicant addresses all requirements of the absolute or competitive priority (6 points).

(ii) The extent to which the applicant's proposed activities are likely

to achieve the purposes of the absolute or competitive priority (6 points).

(c) *Design of dissemination activities* (23 points total).

(1) The Secretary considers the extent to which the design of dissemination activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the materials to be disseminated are likely to be effective and usable, including consideration of their quality, clarity, variety, and format (7 points).

(ii) The extent to which the methods for dissemination are of sufficient quality, intensity, and duration (7 points).

(iii) The extent to which the materials and information to be disseminated and the methods for dissemination are appropriate to the target population, including consideration of the familiarity of the target population with the subject matter, format of the information, and subject matter (7 points).

(iv) The extent to which the information to be disseminated will be accessible to individuals with disabilities (2 points).

(d) *Design of utilization activities* (23 points total).

(1) The Secretary considers the extent to which the design of utilization activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the potential new users of the information or technology have a practical use for the information and are likely to adopt the practices or use the information or technology, including new devices (8 points).

(ii) The extent to which the utilization strategies are likely to be effective (8 points).

(iii) The extent to which the information or technology is likely to be of use in other settings (7 points).

(e) *Plan of operation* (6 points total).

(1) The Secretary considers the quality of the plan of operation.

(2) In determining the quality of the plan of operation, the Secretary considers the following factors:

(i) The adequacy of the plan of operation to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, and timelines for accomplishing project tasks (3 points).

(ii) The adequacy of the plan of operation to provide for using resources, equipment, and personnel to achieve each objective (3 points).

(f) *Collaboration* (3 points total).

(1) The Secretary considers the quality of collaboration.

(2) In determining the quality of collaboration, the Secretary considers the following factors:

(i) The extent to which the applicant's proposed collaboration with one or more agencies, organizations, or institutions is likely to be effective in achieving the relevant proposed activities of the project (1 point).

(ii) The extent to which agencies, organizations, or institutions demonstrate a commitment to collaborate with the applicant (1 point).

(iii) The extent to which agencies, organizations, or institutions that commit to collaborate with the applicant have the capacity to carry out collaborative activities (1 point).

(g) *Adequacy and reasonableness of the budget* (4 points total).

(1) The Secretary considers the adequacy and the reasonableness of the proposed budget.

(2) In determining the adequacy and the reasonableness of the proposed budget, the Secretary considers the following factors:

(i) The extent to which the costs are reasonable in relation to the proposed project activities (2 points).

(ii) The extent to which the budget for the project, including any subcontracts, is adequately justified to support the proposed project activities (2 points).

(h) *Plan of evaluation* (7 points total).

(1) The Secretary considers the quality of the plan of evaluation.

(2) In determining the quality of the plan of evaluation, the Secretary considers the following factors:

(i) The extent to which the plan of evaluation provides for periodic assessment of progress toward—

(A) Implementing the plan of operation (1 point); and

(B) Achieving the project's intended outcomes and expected impacts (1 point).

(ii) The extent to which the plan of evaluation will be used to improve the performance of the project through the feedback generated by its periodic assessments (1 point).

(iii) The extent to which the plan of evaluation provides for periodic assessment of a project's progress that is based on identified performance measures that—

(A) Are clearly related to the intended outcomes of the project and expected impacts on the target population (2 points); and

(B) Are objective, and quantifiable or qualitative, as appropriate (2 points).

(i) *Project staff* (9 points total).

(1) The Secretary considers the quality of the project staff.

(2) In determining the quality of the project staff, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability (2 points).

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the key personnel and other key staff have appropriate training and experience in disciplines required to conduct all proposed activities (2 points).

(ii) The extent to which the commitment of staff time is adequate to accomplish all the proposed activities of the project (2 points).

(iii) The extent to which the key personnel are knowledgeable about the methodology and literature of pertinent subject areas (2 points).

(iv) The extent to which key personnel have up-to-date knowledge from research or effective practice in the subject area covered in the priority (1 point).

(j) *Adequacy and accessibility of resources* (4 points total).

(1) The Secretary considers the adequacy and accessibility of the applicant's resources to implement the proposed project.

(2) In determining the adequacy and accessibility of resources, the Secretary considers the following factors:

(i) The extent to which the applicant is committed to provide adequate facilities, equipment, other resources, including administrative support, and laboratories, if appropriate (2 points).

(ii) The extent to which the facilities, equipment, and other resources are appropriately accessible to individuals with disabilities who may use the facilities, equipment, and other resources of the project (2 points).

## APPLICATION NOTICE FOR FISCAL YEAR 1999 REHABILITATION RESEARCH AND TRAINING CENTERS, CFDA NO.84-133B

Funding priority	Deadline for transmittal of applications	Estimated number of awards	Maximum award amount (per year)*	Project period (months)
Measuring Rehabilitation Outcomes .....	May 3, 1999	1	\$700,000	60
Rehabilitation of Persons with Disabilities from Minority Backgrounds .....	May 3, 1999	1	600,000	60

\* Note: The Secretary will reject without consideration or evaluation any application that proposes a project funding level that exceeds the stated maximum award amount per year (See 34 CFR 75.104(b)).

### Rehabilitation Research and Training Centers

**Selection Criteria:** The Secretary uses the following selection criteria to evaluate applications for RRTC's on measuring rehabilitation outcomes and rehabilitation of persons with disabilities from minority backgrounds under the Disability and Rehabilitation Research Project and Centers Program.

(a) *Importance of the problem* (9 points total).

(1) The Secretary considers the importance of the problem.

(2) In determining the importance of the problem, the Secretary considers the following factors:

(i) The extent to which the applicant clearly describes the need and target population (3 points).

(ii) The extent to which the proposed activities address a significant need of those who provide services to individuals with disabilities (3 points).

(iii) The extent to which the proposed project will have beneficial impact on the target population (3 points).

(b) *Responsiveness to an absolute or competitive priority* (4 points total).

(1) The Secretary considers the responsiveness of the application to the absolute or competitive priority published in the **Federal Register**.

(2) In determining the responsiveness of the application to the absolute or competitive priority, the Secretary considers the following factors:

(i) The extent to which the applicant addresses all requirements of the absolute or competitive priority (2 points).

(ii) The extent to which the applicant's proposed activities are likely to achieve the purposes of the absolute or competitive priority (2 points).

(c) *Design of research activities* (35 points total).

(1) The Secretary considers the extent to which the design of research activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the research activities constitute a coherent, sustained approach to research in the field, including a substantial addition to the state-of-the-art (5 points).

(ii) The extent to which the methodology of each proposed research activity is meritorious, including consideration of the extent to which—

(A) The proposed design includes a comprehensive and informed review of the current literature, demonstrating knowledge of the state-of-the-art (5 points);

(B) Each research hypothesis is theoretically sound and based on current knowledge (5 points);

(C) Each sample population is appropriate and of sufficient size (5 points);

(D) The data collection and measurement techniques are appropriate and likely to be effective (5 points); and

(E) The data analysis methods are appropriate (5 points).

(iii) The extent to which anticipated research results are likely to satisfy the original hypotheses and could be used for planning additional research, including generation of new hypotheses where applicable (5 points).

(d) *Design of training activities* (11 points total).

(1) The Secretary considers the extent to which the design of training activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the proposed training materials are likely to be effective, including consideration of their quality, clarity, and variety (2 points).

(ii) The extent to which the proposed training methods are of sufficient quality, intensity, and duration (2 points).

(iii) The extent to which the proposed training content—

(A) Covers all of the relevant aspects of the subject matter (1 point); and

(B) If relevant, is based on new knowledge derived from research

activities of the proposed project (1 point).

(iv) The extent to which the proposed training materials, methods, and content are appropriate to the trainees, including consideration of the skill level of the trainees and the subject matter of the materials (2 points).

(v) The extent to which the proposed training materials and methods are accessible to individuals with disabilities (1 point).

(vi) The extent to which the applicant is able to carry out the training activities, either directly or through another entity (2 points).

(e) *Design of dissemination activities* (8 points total).

(1) The Secretary considers the extent to which the design of dissemination activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the content of the information to be disseminated—

(A) Covers all of the relevant aspects of the subject matter (1 point); and

(B) If appropriate, is based on new knowledge derived from research activities of the project (1 point).

(ii) The extent to which the materials to be disseminated are likely to be effective and usable, including consideration of their quality, clarity, variety, and format (2 points).

(iii) The extent to which the methods for dissemination are of sufficient quality, intensity, and duration (2 points).

(iv) The extent to which the materials and information to be disseminated and the methods for dissemination are appropriate to the target population, including consideration of the familiarity of the target population with the subject matter, format of the information, and subject matter (1 point).

(v) The extent to which the information to be disseminated will be accessible to individuals with disabilities (1 point).

(f) *Design of technical assistance activities* (4 points total).

(1) The Secretary considers the extent to which the design of technical assistance activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the methods for providing technical assistance are of sufficient quality, intensity, and duration (1 point).

(ii) The extent to which the information to be provided through technical assistance covers all of the relevant aspects of the subject matter (1 point).

(iii) The extent to which the technical assistance is appropriate to the target population, including consideration of the knowledge level of the target population, needs of the target population, and format for providing information (1 point).

(iv) The extent to which the technical assistance is accessible to individuals with disabilities (1 point).

(g) *Plan of operation* (4 points total).

(1) The Secretary considers the quality of the plan of operation.

(2) In determining the quality of the plan of operation, the Secretary considers the following factors:

(i) The adequacy of the plan of operation to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, and timelines for accomplishing project tasks (2 points).

(ii) The adequacy of the plan of operation to provide for using resources, equipment, and personnel to achieve each objective (2 points).

(h) *Collaboration* (2 points total).

(1) The Secretary considers the quality of collaboration.

(2) In determining the quality of collaboration, the Secretary considers the following factors:

(i) The extent to which the applicant's proposed collaboration with one or more agencies, organizations, or institutions is likely to be effective in achieving the relevant proposed activities of the project (1 point).

(ii) The extent to which agencies, organizations, or institutions demonstrate a commitment to collaborate with the applicant (1 point).

(i) *Adequacy and reasonableness of the budget* (3 points total).

(1) The Secretary considers the adequacy and the reasonableness of the proposed budget.

(2) In determining the adequacy and the reasonableness of the proposed

budget, the Secretary considers the following factors:

(i) The extent to which the costs are reasonable in relation to the proposed project activities (1 point).

(ii) The extent to which the budget for the project, including any subcontracts, is adequately justified to support the proposed project activities (2 points).

(j) *Plan of evaluation* (7 points total).

(1) The Secretary considers the quality of the plan of evaluation.

(2) In determining the quality of the plan of evaluation, the Secretary considers the following factors:

(i) The extent to which the plan of evaluation provides for periodic assessment of progress toward—

(A) Implementing the plan of operation (1 point); and

(B) Achieving the project's intended outcomes and expected impacts (1 point).

(ii) The extent to which the plan of evaluation will be used to improve the performance of the project through the feedback generated by its periodic assessments (1 point).

(iii) The extent to which the plan of evaluation provides for periodic assessment of a project's progress that is based on identified performance measures that—

(A) Are clearly related to the intended outcomes of the project and expected impacts on the target population (2 points); and

(B) Are objective, and quantifiable or qualitative, as appropriate (2 points).

(k) *Project staff* (9 points total).

(1) The Secretary considers the quality of the project staff.

(2) In determining the quality of the project staff, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability (1 point).

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the key personnel and other key staff have appropriate training and experience in disciplines required to conduct all proposed activities (2 points).

(ii) The extent to which the commitment of staff time is adequate to accomplish all the proposed activities of the project (2 points).

(iii) The extent to which the key personnel are knowledgeable about the methodology and literature of pertinent subject areas (2 points).

(iv) The extent to which the project staff includes outstanding scientists in the field (2 points).

(l) *Adequacy and accessibility of resources* (4 points).

(1) The Secretary considers the adequacy and accessibility of the applicant's resources to implement the proposed project.

(2) In determining the adequacy and accessibility of resources, the Secretary the following factors:

(i) The extent to which the applicant is committed to provide adequate facilities, equipment, other resources, including administrative support, and laboratories, if appropriate (1 point).

(ii) The extent to which the applicant has appropriate access to clinical populations and organizations representing individuals with disabilities to support advanced clinical rehabilitation research (2 points).

(iii) The extent to which the facilities, equipment, and other resources are appropriately accessible to individuals with disabilities who may use the facilities, equipment, and other resources of the project (1 point).

#### **Instructions for Application Narrative**

The Secretary will reject without consideration or evaluation any application that proposes a project funding level that exceeds the stated maximum award amount per year (See 34 CFR 75.104(b)).

The Secretary strongly recommends the following:

(1) a one-page abstract;

(2) an Application Narrative (i.e., Part III that addresses the selection criteria that will be used by reviewers in evaluating individual proposals) of no more than *125 pages for RRTC applications* and *75 pages for Project applications*, double-spaced (no more than 3 lines per vertical inch) 8½ × 11" pages (on one side only) with one inch margins (top, bottom, and sides). The application narrative page limit recommendation does not apply to: Part I—the electronically scannable form; Part II—the budget section (including the narrative budget justification); and Part IV—the assurances and certifications; and

(3) a font no smaller than a 12-point font and an average character density no greater than 14 characters per inch.

#### **Instructions for Transmittal of Applications**

(a) If an applicant wants to apply for a grant, the applicant must—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # [Applicant must insert number and letter]), Washington, DC 20202-4725, or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. [Washington, DC time] on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # [Applicant must insert number and letter]), Room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

**Notes:** (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) An applicant wishing to know that its application has been received by the Department must include with the application a stamped self-addressed postcard containing the CFDA number and title of this program.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and letter, if any—of the competition under which the application is being submitted.

### Application Forms and Instructions

The appendix to this application is divided into four parts. These parts are organized in the same manner that the submitted application should be organized. These parts are as follows:

PART I: Application for Federal Assistance (Standard Form 424 (Rev. 4-88)) and instructions.

PART II: Budget Form—Non-Construction Programs (Standard Form 524A) and instructions.

PART III: Application Narrative.

### Additional Materials

Estimated Public Reporting Burden. Assurances—Non-Construction Programs (Standard Form 424B).

Certification Regarding Lobbying, Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Work-Place Requirements (ED Form 80-0013).

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED Form 80-0014) and instructions. (NOTE: ED Form GCS-014 is intended for the use of primary participants and should not be transmitted to the Department.)

Disclosure of Lobbying Activities (Standard Form LLL (if applicable) and instructions; and Disclosure Lobbying Activities Continuation Sheet (Standard Form LLL-A).

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an *original signature*. No grant may be awarded unless a completed application form has been received.

**For Applications Contact:** The Grants and Contracts Service Team (GCST), Department of Education, 600 Independence Avenue S.W., Switzer Building, 3317, Washington, DC 20202, or call (202) 205-8207. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205-9860. The preferred method for requesting information is to FAX your request to (202) 205-8717.

Individuals with disabilities may obtain a copy of the application package in an alternate format by contacting the GCST. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

**FOR FURTHER INFORMATION CONTACT:** Donna Nangle, U.S. Department of Education, 600 Maryland Avenue, SW, room 3418, Switzer Building, Washington, DC 20202-2645. Telephone: (202) 205-5880. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205-2742. Internet: Donna\_Nangle@ed.gov

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.

### 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 preceding sites. If you have questions about using the pdf, call the U.S. Government Printing Office 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 this document is the document published in the **Federal Register**.

**Program Authority:** 29 U.S.C. 760-762.

Dated: March 15, 1999.

**Judith E. Heumann,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

### APPENDIX

#### Application Forms and Instructions

Applicants are advised to reproduce and complete the application forms in this Section. Applicants are required to submit an original and two copies of each application as provided in this Section. However, applicants are encouraged to submit an original and seven copies of each application in order to facilitate the peer review process and minimize copying errors.

#### Frequent Questions

1. Can I Get an Extension of the Due Date?

No! On rare occasions the Department of Education may extend a closing date for all applicants. If that occurs, a notice of the revised due date is published in the **Federal Register**. However, there are no extensions or exceptions to the due date made for individual applicants.

2. What Should be Included in the Application?

The application should include a project narrative, vitae of key personnel, and a budget, as well as the Assurances forms included in this package. Vitae of staff or consultants should include the individual's title and role in the proposed project, and other information that is specifically pertinent to this proposed project. The budgets for both the first year and all subsequent project years should be included.

If collaboration with another organization is involved in the proposed activity, the application should include assurances of participation by the other parties, including written agreements or assurances of cooperation. It is *not* useful to include general letters of support or endorsement in the application.

If the applicant proposes to use unique tests or other measurement instruments that are not widely known in the field, it would be helpful to include the instrument in the application.

Many applications contain voluminous appendices that are not helpful and in many cases cannot even be mailed to the reviewers.

It is generally not helpful to include such things as brochures, general capability statements of collaborating organizations, maps, copies of publications, or descriptions of other projects completed by the applicant.

3. What Format Should be Used for the Application?

NIDRR generally advises applicants that they may organize the application to follow the selection criteria that will be used. The specific review criteria vary according to the specific program, and are contained in this Consolidated Application Package.

4. May I Submit Applications to More Than One NIDRR Program Competition or More Than One Application to a Program?

Yes, you may submit applications to any program for which they are responsive to the program requirements. You may submit the same application to as many competitions as you believe appropriate. You may also submit more than one application in any given competition.

5. What is the Allowable Indirect Cost Rate?

The limits on indirect costs vary according to the program and the type of application.

An applicant for an RRTC is limited to an indirect rate of 15%.

An applicant for a Disability and Rehabilitation Research Project should limit indirect charges to the organization's approved indirect cost rate. If the organization does not have an approved indirect cost rate, the application should include an estimated actual rate.

6. Can Profitmaking Businesses Apply for Grants?

Yes. However, for-profit organizations will not be able to collect a fee or profit on the grant, and in some programs will be required to share in the costs of the project.

7. Can Individuals Apply for Grants?

No. Only organizations are eligible to apply for grants under NIDRR programs. However, individuals are the only entities eligible to apply for fellowships.

8. Can NIDRR Staff Advise me Whether my Project is of Interest to NIDRR or Likely to be Funded?

No. NIDRR staff can advise you of the requirements of the program in which you propose to submit your application. However, staff cannot advise you of whether your subject area or proposed approach is likely to receive approval.

9. How do I Assure That my Application Will be Referred to the Most Appropriate Panel for Review?

Applicants should be sure that their applications are referred to the correct competition by clearly including the competition title and CFDA number, including alphabetical code, on the Standard Form 424, and including a project title that describes the project.

10. How Soon After Submitting my Application Can I Find Out if it Will be Funded?

The time from closing date to grant award date varies from program to program. Generally speaking, NIDRR endeavors to

have awards made within five to six months of the closing date.

Unsuccessful applicants generally will be notified within that time frame as well. For the purpose of estimating a project start date, the applicant should estimate approximately six months from the closing date, but no later than the following September 30.

11. Can I Call NIDRR TO Find out If My Application is Being Funded?

No. When NIDRR is able to release information on the status of grant applications, it will notify applicants by letter. The results of the peer review cannot be released except through this formal notification.

12. If My Application is Successful, Can I Assume I Will Get The Requested Budget Amount In Subsequent Years?

No. Funding in subsequent years is subject to availability of funds and project performance.

13. Will All Approved Applications Be Funded?

No. It often happens that the peer review panels approve for funding more applications than NIDRR can fund within available resources. Applicants who are approved but not funded are encouraged to consider submitting similar applications in future competitions.

BILLING CODE 4000-01-U



## Instructions for ED 424

1. **Legal Name and Address.** Enter the legal name of applicant and the name of the primary organizational unit which will undertake the assistance activity.
2. **D-U-N-S Number.** Enter the applicant's D-U-N-S Number. If your organization does not have a D-U-N-S Number, you can obtain the number by calling 1-800-333-0505 or by completing a D-U-N-S Number Request Form. The form can be obtained via the Internet at the following URL: <http://www.dnb.com/dbis/aboutdb/intlduns.htm>.
3. **Catalog of Federal Domestic Assistance (CFDA) Number.** Enter the CFDA number and title of the program under which assistance is requested.
4. **Project Director.** Name, address, telephone and fax numbers, and e-mail address of the person to be contacted on matters involving this application.
5. **Federal Debt Delinquency.** Check "Yes" if the applicant's organization is delinquent on any Federal debt. (This question refers to the applicant's organization and not to the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.) Otherwise, check "No."
6. **Type of Applicant.** Enter the appropriate letter in the box provided.
7. **Novice Applicant.** Check "Yes" only if assistance is being requested under a program that gives special consideration to novice applicants and you meet the program requirements for novice applicants. By checking "Yes" the applicant certifies that it meets the novice applicant requirements specified by ED. Otherwise, check "No."
8. **Type of Submission.** Self-explanatory.
9. **Executive Order 12372.** Check "Yes" if the application is subject to review by Executive Order 12372. Also, please enter the month, date, and four (4) digit year (e.g., 12/12/2000). Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. Otherwise, check "No."
10. **Proposed Project Dates.** Please enter the month, date, and four (4) digit year (e.g., 12/12/2000).
11. **Human Subjects.** Check "Yes" or "No". If research activities involving human subjects are **not planned at any time** during the proposed project period, check "No." **The remaining parts of item 11 are then not applicable.**

If research activities involving human subjects, whether or not exempt from Federal regulations for the protection of human subjects, **are planned at any time** during the proposed project period, either at the applicant organization or at any other performance site or collaborating institution, check "Yes." If **all** the research activities are designated to be exempt under the regulations, enter, in item 11a, the exemption number(s) corresponding to one or more of the six exemption categories listed in "Protection of Human Subjects in Research" attached to this form. Provide sufficient information in the application to allow a determination that the designated exemptions in item 11a, are appropriate. **Provide this narrative information in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page. Skip the remaining parts of item 11.**

If **some or all** of the planned research activities involving human subjects are covered (nonexempt), skip item 11a and continue with the remaining parts of item 11, as noted below. In addition, follow the instructions in "Protection of Human Subjects in Research" attached to this form to prepare the six-point narrative about the nonexempt activities. **Provide this six-point narrative in an "Item 11/Protec-**

**tion of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

**If the applicant organization has an approved Multiple Project Assurance of Compliance** on file with the Grants Policy and Oversight Staff (GPOS), U.S. Department of Education, or with the Office for Protection from Research Risks (OPRR), National Institutes of Health, U.S. Department of Health and Human Services, that covers the specific activity, enter the Assurance number in item 11b and the date of approval by the Institutional Review Board (IRB) of the proposed activities in item 11c. This date must be no earlier than one year before the receipt date for which the application is submitted and must include the four (4) digit year (e.g., 2000). Check the type of IRB review in the appropriate box. An IRB may use the expedited review procedure if it complies with the requirements of 34 CFR 97.110. If the IRB review is delayed beyond the submission of the application, enter "Pending" in item 11c. If your application is recommended/selected for funding, a follow-up certification of IRB approval from an official signing for the applicant organization must be sent to and received by the designated ED official within 30 days after a specific formal request from the designated ED official. **If the applicant organization does not have on file with GPOS or OPRR an approved Assurance of Compliance** that covers the proposed research activity, enter "None" in item 11b and skip 11c. In this case, the applicant organization, by the signature on the application, is declaring that it will comply with 34 CFR 97 within 30 days after a specific formal request from the designated ED official for the Assurance(s) and IRB certifications.

12. **Project Title.** Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
13. **Estimated Funding.** Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate **only** the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 13.
14. **Certification.** To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office.

Be sure to enter the telephone and fax number and e-mail address of the authorized representative. Also, in item 14e, please enter the month, date, and four (4) digit year (e.g., 12/12/2000) in the date signed field.

### Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1875-0106**. The time required to complete this information collection is estimated to average between 15 and 45 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, D.C. 20202-4651. **If you have comments or concerns regarding the status of your individual submission of this form write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, S.W. ROB-3, Room 3633, Washington, D.C. 20202-4725.

## PROTECTION OF HUMAN SUBJECTS IN RESEARCH (Attachment to ED 424)

### I. Instructions to Applicants about the Narrative Information that Must be Provided if Research Activities Involving Human Subjects are Planned

If you marked item 11 on the application "Yes" and designated exemptions in 11a, (all research activities are exempt), provide sufficient information in the application to allow a determination that the designated exemptions are appropriate. Research involving human subjects that is exempt from the regulations is discussed under II.B. "Exemptions," below. The Narrative must be succinct. Provide this information in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.

If you marked "Yes" to item 11 on the face page, and designated no exemptions from the regulations (some or all of the research activities are nonexempt), address the following six points for each nonexempt activity. In addition, if research involving human subjects will take place at collaborating site(s) or other performance site(s), provide this information before discussing the six points. Although no specific page limitation applies to this section of the application, be succinct. Provide the six-point narrative and discussion of other performance sites in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.

(1) Provide a detailed description of the proposed involvement of human subjects. Describe the characteristics of the subject population, including their anticipated number, age range, and health status. Identify the criteria for inclusion or exclusion of any subpopulation. Explain the rationale for the involvement of special classes of subjects, such as children, children with disabilities, adults with disabilities, persons with mental disabilities, pregnant women, prisoners, institutionalized individuals, or others who are likely to be vulnerable.

(2) Identify the sources of research material obtained from individually identifiable living human subjects in the form of specimens, records, or data. Indicate whether the material or data will be obtained specifically for research purposes or whether use will be made of existing specimens, records, or data.

(3) Describe plans for the recruitment of subjects and the consent procedures to be followed. Include the cir-

cumstances under which consent will be sought and obtained, who will seek it, the nature of the information to be provided to prospective subjects, and the method of documenting consent. State if the Institutional Review Board (IRB) has authorized a modification or waiver of the elements of consent or the requirement for documentation of consent.

(4) Describe potential risks (physical, psychological, social, legal, or other) and assess their likelihood and seriousness. Where appropriate, describe alternative treatments and procedures that might be advantageous to the subjects.

(5) Describe the procedures for protecting against or minimizing potential risks, including risks to confidentiality, and assess their likely effectiveness. Where appropriate, discuss provisions for ensuring necessary medical or professional intervention in the event of adverse effects to the subjects. Also, where appropriate, describe the provisions for monitoring the data collected to ensure the safety of the subjects.

(6) Discuss why the risks to subjects are reasonable in relation to the anticipated benefits to subjects and in relation to the importance of the knowledge that may reasonably be expected to result.

### II. Information on Research Activities Involving Human Subjects

#### A. Definitions.

A research activity involves human subjects if the activity is research, as defined in the Department's regulations, and the research activity will involve use of human subjects, as defined in the regulations.

#### —Is it a research activity?

The ED Regulations for the Protection of Human Subjects, Title 34, Code of Federal Regulations, Part 97, define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge." *If an activity follows a deliberate plan whose purpose is to develop or contribute to generalizable knowledge, such as an exploratory study or the collection of data to test a hypothesis, it is research.* Activities which meet this definition constitute research whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

**—Is it a human subject?**

The regulations define human subject as “a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information.” (1) *If an activity involves obtaining information about a living person by manipulating that person or that person’s environment, as might occur when a new instructional technique is tested, or by communicating or interacting with the individual, as occurs with surveys and interviews, the definition of human subject is met.* (2) *If an activity involves obtaining private information about a living person in such a way that the information can be linked to that individual (the identity of the subject is or may be readily determined by the investigator or associated with the information), the definition of human subject is met.* [Private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a school health record).]

**B. Exemptions.**

Research activities in which the only involvement of human subjects will be in one or more of the following six categories of *exemptions* are not covered by the regulations:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (a) research on regular and special education instructional strategies, or (b) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (a) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (b) any disclosure of the human subjects’ responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects’ financial standing, employability, or reputation. *If the subjects are children, this exemption applies only to research involving educational tests or observations of pub-*

*lic behavior when the investigator(s) do not participate in the activities being observed.* [Children are defined as persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law or jurisdiction in which the research will be conducted.]

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior that is not exempt under section (2) above, if the human subjects are elected or appointed public officials or candidates for public office; or federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine: (a) public benefit or service programs; (b) procedures for obtaining benefits or services under those programs; (c) possible changes in or alternatives to those programs or procedures; or (d) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (a) if wholesome foods without additives are consumed or (b) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S. Department of Agriculture.

*Copies of the Department of Education’s Regulations for the Protection of Human Subjects, 34 CFR Part 97 and other pertinent materials on the protection of human subjects in research are available from the Grants Policy and Oversight Staff (GPOS) Office of the Chief Financial and Chief Information Officer, U.S. Department of Education, Washington, D.C., telephone: (202) 708-8263, and on the U.S. Department of Education’s Protection of Human Subjects in Research Web Site at <http://ocfo.ed.gov/humansub.htm>.*

**ASSURANCES - NON-CONSTRUCTION PROGRAMS**

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

**Note:** Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with 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 to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §§874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (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. §§1721 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

 <p style="text-align: center;"><b>U.S. DEPARTMENT OF EDUCATION</b> <b>BUDGET INFORMATION</b> <b>NON-CONSTRUCTION PROGRAMS</b></p>		<p>OMB Control No. 1880--0538</p> <p>Expiration Date: 10/31/99</p>				
<p>Name of Institution/Organization</p>		<p>Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.</p>				
<p><b>SECTION A - BUDGET SUMMARY</b> <b>U.S. DEPARTMENT OF EDUCATION FUNDS</b></p>						
Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

Name of Institution/Organization		SECTION B - BUDGET SUMMARY NON-FEDERAL FUNDS					
Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.		Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel							
2. Fringe Benefits							
3. Travel							
4. Equipment							
5. Supplies							
6. Contractual							
7. Construction							
8. Other							
9. Total Direct Costs (lines 1-8)							
10. Indirect Costs							
11. Training Stipends							
12. Total Costs (lines 9-11)							
		SECTION C - OTHER BUDGET INFORMATION (see instructions)					

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours per response, including the time reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington DC 20503.

## INSTRUCTIONS FOR ED FORM 524

### General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

### Section A - Budget Summary U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

### Section B - Budget Summary Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e): For each project year for which matching funds or other contributions are provided, show the total

contribution for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

### Section C - Other Budget Information Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.
2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.
3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.
4. Provide other explanations or comments you deem necessary.

Public reporting burden for these collections of information is estimated to average 30 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.

Send comments regarding this burden estimate or any other aspect of these collections of information, including suggestions for reducing this burden, to: the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and to the Office of Management and Budget, Paperwork Reduction Project 1820-0027, Washington, D.C. 20503.

Disability and Rehabilitation Research Projects (CFDA No.

84.133A) 34 CFR Part 350 Subpart B.

Rehabilitation Research and Training Center (CFDA No. 84.133B) 34

CFR Part 350 Subpart C.

**CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER  
RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS**

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

**1. LOBBYING**

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

**2. DEBARMENT, SUSPENSION, AND OTHER  
RESPONSIBILITY MATTERS**

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110--

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

**3. DRUG-FREE WORKPLACE  
(GRANTEES OTHER THAN INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about-

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will-

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such

conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted-

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Check  if there are workplaces on file that are not identified here.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

**DRUG-FREE WORKPLACE  
(GRANTEES WHO ARE INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

**Certification Regarding Debarment, Suspension, Ineligibility and  
Voluntary Exclusion -- Lower Tier Covered Transactions**

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

**Instructions for Certification**

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Certification**

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE



### Certification of Eligibility for Federal Assistance in Certain Programs

I understand that 34 CFR 75.60, 75.61, and 75.62 require that I make specific certifications of eligibility to the U.S. Department of Education as a condition of applying for Federal funds in certain programs and that these requirements are in addition to any other eligibility requirements that the U.S. Department of Education imposes under program regulations. Under 34 CFR 75.60 – 75.62:

I. I certify that

A. I do not owe a debt, or I am current in repaying a debt, or I am not in default (as that term is used at 34 CFR Part 668) on a debt:

1. To the Federal Government under a nonprocurement transaction (e.g., a previous loan, scholarship, grant, or cooperative agreement); or
2. For a-fellowship, scholarship, stipend, discretionary grant, or loan in any program of the U.S. Department of Education that is subject to 34 CFR 75.60, 75.61, and 75.62, including:

- Federal Pell Grant Program (20 U.S.C. 1070a, et seq.);
- Federal Supplemental Educational Opportunity Grant (SEOG) Program (20 U.S.C. 1070(b), et seq.);
- State Student Incentive Grant Program (SSIG) (20 U.S.C. 1070c, et seq.);
- Federal Perkins Loan Program (20 U.S.C. 1087aa, et seq.);
- Income Contingent Direct Loan Demonstration Project (20 U.S.C. 1087a, note);
- Federal Stafford Loan Program, Federal Supplemental Loans for Students [SLS], Federal PLUS, or Federal Consolidation Loan Program (20 U.S.C. 1071, et seq.);
- Cuban Student Loan Program (20 U.S.C. 2601, et seq.);
- Robert C. Byrd Honors Scholarship Program (20 U.S.C. 1070d-31, et seq.);
- Jacob K. Javits Fellows Program (20 U.S.C. 1134h-1134l);
- Patricia Roberts Harris Fellowship Program (20 U.S.C. 1134d-1134g);
- Christa McAuliffe Fellowship Program (20 U.S.C. 1105-1105i);
- Bilingual Education Fellowship Program (20 U.S.C. 3221-3262);
- Rehabilitation Long-Term Training Program (29 U.S.C. 774(b));
- Paul Douglas Teacher Scholarship Program (20 U.S.C. 1104, et seq.);
- Law Enforcement Education Program (42 U.S.C. 3775);
- Indian Fellowship Program (29 U.S.C. 774(b));

OR

- B. I have made arrangements satisfactory to the U.S. Department of Education to repay a debt as described in A.1. or A.2. (above) on which I had not been current in repaying or on which I was in default (as that term is used in 34 CFR Part 668).

II. I certify also that I have not been declared by a judge, as a condition of sentencing under section 5301 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 862), ineligible to receive Federal assistance for the period of this requested funding.

I understand that providing a false certification to any of the statements above makes me liable for repayment to the U.S. Department of Education for funds received on the basis of this certification, for civil penalties, and for criminal prosecution under 18 U.S.C. 1001.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Typed or Printed Name)

Name or number of the USDE program under which this certification is being made: \_\_\_\_\_

OMB Control No. 1801-0004 (Exp. 8/31/2001)

**NOTICE TO ALL APPLICANTS**

The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is Section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Pub. L. 103-382).

**To Whom Does This Provision Apply?**

Section 427 of GEPA affects applicants for new grant awards under this program. **ALL APPLICANTS FOR NEW AWARDS MUST INCLUDE INFORMATION IN THEIR APPLICATIONS TO ADDRESS THIS NEW PROVISION IN ORDER TO RECEIVE FUNDING UNDER THIS PROGRAM.**

(If this program is a State-formula grant program, a State needs to provide this description only for projects or activities that it carries out with funds reserved for State-level uses. In addition, local school districts or other eligible applicants that apply to the State for funding need to provide this description in their applications to the State for funding. The State would be responsible for ensuring that the school district or other local entity has submitted a sufficient section 427 statement as described below.)

**What Does This Provision Require?**

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its Federally-assisted program for students, teachers, and other program beneficiaries with special needs. This provision allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation: gender, race, national origin, color, disability, or age. Based on local circumstances, you should determine whether these or other barriers may prevent your students, teachers, etc. from such access or participation in, the Federally-funded project or activity. The description in your application of steps to be taken to overcome these barriers need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers

that are applicable to your circumstances. In addition, the information may be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

**What are Examples of How an Applicant Might Satisfy the Requirement of This Provision?**

The following examples may help illustrate how an applicant may comply with Section 427.

- (1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.
- (2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.
- (3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it intends to conduct "outreach" efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

**Estimated Burden Statement for GEPA Requirements**

The time required to complete this information collection is estimated to vary from 1 to 3 hours per response, with an average of 1.5 hours, including the time to review instructions, search existing data resources, gather and maintain the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: U.S. Department of Education, Washington, DC 20202-4651.**

**Disclosure of Lobbying Activities**

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352  
(See reverse for public burden disclosure)

<b>1. Type of Federal Action:</b> a. contract _____ b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	<b>2. Status of Federal Action:</b> a. bid/offer/application _____ b. initial award c. post-award	<b>3. Report Type:</b> a. initial filing _____ b. material change  <b>For material change only:</b> Year _____ quarter _____ Date of last report _____
<b>4. Name and Address of Reporting Entity:</b> _____ Prime _____ Subawardee Tier _____, if Known:  <b>Congressional District, if known:</b>	<b>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</b>  <b>Congressional District, if known:</b>	
<b>6. Federal Department/Agency:</b>	<b>7. Federal Program Name/Description:</b>  CFDA Number, if applicable: _____	
<b>8. Federal Action Number, if known:</b>	<b>9. Award Amount, if known:</b> \$ _____	
<b>10. a. Name and Address of Lobbying Registrant</b> <i>(if individual, last name, first name, MI):</i>	<b>b. Individuals Performing Services</b> <i>(including address if different from No. 10a)</i> <i>(last name, first name, MI):</i>	
<b>11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</b>	<b>Signature:</b> _____ <b>Print Name:</b> _____ <b>Title:</b> _____ <b>Telephone No.:</b> _____ <b>Date:</b> _____	
<b>Federal Use Only</b>	<b>Authorized for Local Reproduction</b> <b>Standard Form - LLL (Rev. 7-97)</b>	

**INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES**

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

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According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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**LIST OF PUBLIC LAWS**

**Note:** No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**

In the **List of Public Laws** printed in the *Federal Register* on March 17, 1999, H.R. 882, Public Law 106-2, was printed incorrectly. It should read as follows:

**H.R. 882/P.L. 106-2**

To nullify any reservation of funds during fiscal year 1999 for guaranteed loans under the Consolidated Farm and Rural Development Act for qualified beginning farmers or ranchers, and for other purposes (Mar. 15, 1999; 113 Stat. 5)

**Last List March 11, 1998**

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