

Journal of Neuroscience



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Federal Register

Vol. 64, No. 107

Friday, June 4, 1999

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

Rural Utilities Service

7 CFR Part 1780

RIN 0572-AB44

Water and Waste Program Regulations

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Utilities Service (RUS) amends the rules used to administer the water and waste loan and grant programs. This action implements provisions of the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, 1999 (Act). The Act reduces the amount of funds that a rural or native Alaskan village applicant must contribute from 50 percent to 25 percent of the project development costs. Additionally, it removes the population eligibility requirement that expired September 30, 1998, for certain timber-dependent communities in the Pacific Northwest. This action also includes an increase in the administrative fee that the Appalachian Regional Commission pays to USDA to administer grants for projects in which USDA has provided no funds and makes other technical corrections. The intended effect is to make 7 CFR part 1780 current with statutory authority.

EFFECTIVE DATE: June 4, 1999.

FOR FURTHER INFORMATION CONTACT: Cheryl Francis, Loan Specialist, Water and Waste Division, Rural Utilities Service, USDA, South Agriculture Building, Room 2239, STOP 1570, Washington, DC 20250, telephone: (202) 720-9589.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be not significant under Executive Order 12866, Regulatory Planning and Review.

Therefore, the Office of Management and Budget (OMB) has not been reviewed by OMB.

National Environmental Policy Act Certification

This action has been reviewed under 7 CFR Part 1940, Subpart G, Environmental Program. It has been determined that the action does not constitute a major Federal action significantly affecting the quality of the human environment. An Environmental Impact Statement is not required under the National Environmental Policy Act of 1969.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this rule meets the applicable standards provided in section 3 of the Executive Order.

In accordance with the Executive Order and the rule: (1) all state and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to the rule; and (3) administrative appeal procedures, if any, must be exhausted before litigation against the Department or its agencies may be initiated in accordance with section 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912).

Information Collection and Recordkeeping Requirements

The Office of Management and Budget (OMB) has approved the reporting and recordkeeping requirements contained in the rule under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). OMB has assigned clearance number 0575-0115.

Unfunded Mandates

This rule contains no Federal mandates (under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995) 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 the Unfunded Mandates Reform Act.

Regulatory Flexibility Act Certification

Under section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), RUS certifies that this rule will

not have a significant economic impact on a substantial number of small entities. The amendments reflect only statutory changes that Congress has mandated and over which the Agency has no discretion. They also involve minimal procedural matters on other agreements already negotiated.

Executive Order 12372

The water and waste loan and grant program is listed in the Catalog of Federal Domestic Assistance under number 10.760, Water and Waste Disposal Systems For Rural Communities. The program is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. Consultation will be completed at the time of the action performed.

Background

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment although 5 U.S.C. 553 exempts such rules from publication. Good cause is found for not requiring notice and comment before making this rule effective.

These amendments are not published for proposed rulemaking because they merely reflect changes in statutory authority enacted by the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, 1999 (Act). They also make only minor technical corrections to the regulations, which do not involve matters of agency discretion. The Act leaves no discretion to the agency as to the local share of project costs the rural and native Alaskan village applicants must contribute. Notice and public comment, therefore, are impractical, unnecessary, and contrary to the public interest.

The Act amends section 306D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926d) by inserting "25 percent" instead of "equal" in subsection (b). Section 306D authorizes the Secretary of Agriculture to make grants for the benefit of rural or native villages in the State of Alaska. This amendment reduces the percentage of matching funds that must be provided from non-Federal sources to 25 percent.

This final rule deletes the temporary expansion of eligibility of certain

timber-dependent communities in the Pacific Northwest. Public Law 103-427 expanded the maximum population eligibility for RUS water and waste loans and grants from 10,000 to 25,000 inhabitants if the cities or towns met certain criteria. This change in eligibility expired on September 30, 1998, and is being removed from the regulations.

On August 24, 1998, USDA and the Appalachian Regional Commission (ARC) updated the Memorandum of Agreement (MOA) that establishes a working partnership to serve the needs of Appalachian communities. This MOA increases the fee that ARC pays USDA for administering grants to Appalachian communities on behalf of ARC. The fee increase will better reflect the present cost in administering the grants.

The fee had been calculated as 5 percent of the first \$50,000 of an ARC grant and 1 percent of any amount over \$50,000. The MOA increases the ARC grant amount on which the percentages are based from \$50,000 to \$100,000. The fees will increase to 5 percent of the first \$100,000 of an ARC grant plus 1 percent of any amount over \$100,000.

The final rule also makes some minor technical corrections to the regulations to correct deficiencies that have surfaced since the regulation was published June 19, 1997 (62 FR 33462). The changes are mostly grammatical and eliminate obsolete form references.

List of Subjects in 7 CFR Part 1780

Business and industry, Community development, Community facilities, Grant programs-housing and community development, Reporting and recordkeeping requirements, Rural areas, Waste treatment and disposal, Water supply, Watersheds.

Therefore, the Rural Utilities Service amends 7 CFR chapter XVII as follows:

PART 1780—WATER AND WASTE LOANS AND GRANTS

1. The authority citation for part 1780 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 16 U.S.C. 1005.

Subpart A—General Policies and Requirements

- 2. Remove § 1780.7(h).
- 3. Revise § 1780.10(b)(2) to read as follows:

§ 1780.10 Limitations.

* * * * *

(b) * * *

(2) Pay any costs of a project when the median household income of the service

area is more than 100 percent of the nonmetropolitan median household income of the State;

* * * * *

Subpart B—Loan and Grant Application Processing

4. Revise § 1780.35(c) to read as follows:

§ 1780.35 Processing office review.

* * * * *

(c) *User charges.* The user charges should be reasonable and produce enough revenue to provide for all costs of the facility after the project is complete. The planned revenue should be sufficient to provide for all debt service, debt reserve, operation and maintenance, and, if appropriate, additional revenue for facility replacement of short-lived assets without building a substantial surplus. Ordinarily, the total debt service reserve will be equal to one average annual loan installment which will accumulate at the rate of one-tenth of the total each year.

5. In § 1780.39, paragraphs (e)(2) and (f) introductory text are revised to read as follows:

§ 1780.39 Application processing.

* * * * *

(e) * * *

(2) *Other than general obligation or special assessment bonds.* Each borrower will be required to establish and maintain reserves sufficient to assure that loan installments will be paid on time, for emergency maintenance, for extensions to facilities, and for replacement of short-lived assets which have a useful life significantly less than the repayment period of the loan. Borrowers issuing bonds or other evidences of debt pledging facility revenues as security will plan their debt reserve to provide for at least one average annual loan installment. The debt reserve will accumulate at the rate of one-tenth of an average annual loan installment each year unless prohibited by state law.

(f) *Membership authorization.* For organizations other than public bodies, the membership will authorize the project and its financing. Form RD 1942-8, "Resolution of Members or Stockholders," may be used for this authorization. The approval official may accept RUS Bulletin 1780-28, "Loan Resolution Security Agreement," without such membership authorization when State statutes and the organization's charter and bylaws do not require such authorization; and

* * * * *

6. Revise § 1780.45(a)(2) to read as follows:

§ 1780.45 Loan and grant closing and delivery of funds.

(a) * * *

(2) RUS Bulletins 1780-27, "Loan Resolution (Public Bodies)," or 1780-28, "Loan Resolution Security Agreement," will be adopted by public and other-than-public bodies. These resolutions supplement other provisions in this part.

* * * * *

7. Revise § 1780.48(b) introductory text to read as follows:

§ 1780.48 Regional commission grants.

* * * * *

(b) When RUS has no loan or grant funds in the project, an administrative charge will be made pursuant to the Economy Act of 1932 (31 U.C.S. 1535). A fee of 5 percent of the first \$100,000 of a regional commission grant and 1 percent of any amount over \$100,000 will be paid to RUS by the commission.

* * * * *

8. In § 1780.49, paragraphs (c)(4) and (d) are revised to read as follows:

§ 1780.49 Rural or Native Alaskan villages.

* * * * *

(c) * * *

(4) The applicant must obtain 25 percent of project development costs from State or local contributions. The local contribution can be from loan funds authorized under this part.

(d) *Grant amount.* Grants will be made for up to 75 percent of the project development costs.

* * * * *

Subpart C—Planning, Designing, Bidding, Contracting, Constructing and Inspections

9. Revise § 1780.55 to read as follows:

§ 1780.55 Preliminary engineering reports and Environmental Reports.

Preliminary engineering reports (PERs) must conform to customary professional standards. PER guidelines for water, sanitary sewer, solid waste, and storm sewer are available from the Agency. Environmental Reports must meet the policies and intent of the National Environmental Policy Act and RUS procedures. Guidelines for preparing Environmental Reports are available in RUS Bulletin 1794A-602.

10. In § 1780.57, add paragraph (o) to read as follows:

§ 1780.57 Design policies.

* * * * *

(o) *Seismic safety.* All new structures, fully or partially enclosed, used or

intended for sheltering persons or property will be designed with appropriate seismic safety provisions in compliance with the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 *et seq.*), and Executive Order 12699, Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction (3 CFR, 1990 Comp., p. 269). Designs of components essential for system operation and substantial rehabilitation of structures that are used for sheltering persons or property should incorporate seismic safety provisions to the extent practicable. RUS implementing regulations for seismic safety are in 7 CFR part 1972, subpart C.

Subpart D—Information Pertaining to Preparation of Notes or Bonds and Bond Transcript Documents for Public Body Applicants

11. Revise § 1780.94(j)(3) to read as follows:

§ 1780.94 Minimum bond specifications.

* * * * *

(j) * * *

(3) Provisions that amend covenants contained in RUS Bulletins 1780-27 or 1780-28.

* * * * *

Dated: May 18, 1999.

Jill Long Thompson,

Under Secretary for Rural Development.

[FR Doc. 99-13931 Filed 6-3-99; 8:45 am]

BILLING CODE 3410-15-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 91

[Docket No. 98-078-1]

Ports Designated for Exportation of Horses; New Jersey and New York

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Direct final rule.

SUMMARY: We are amending the "Inspection and Handling of Livestock for Exportation" regulations by changing the lists of approved ports of embarkation and export inspection facilities for horses in New Jersey and New York. In New Jersey, we are removing Deep Hollow Farm in Woodstown, NJ, as the export inspection facility for horses exported from the ocean port of Salem, NJ, and adding Mannington Meadows Farm in Woodstown, NJ, in its place. We are adding Elizabeth and Newark

International Airport, NJ, as ports of embarkation, and Tolleshunt Horse Farm in Whitehouse, NJ, and the U.S. Equestrian Team's headquarters in Gladstone, NJ, as export inspection facilities for horses for those ports. We are also adding Tolleshunt Horse Farm and the U.S. Equestrian Team's headquarters as export inspection facilities for horses for the currently approved port of New York, NY. These actions will update the regulations by adding two ports of embarkation and three export inspection facilities through which horses may be processed for export.

DATES: This rule will be effective on August 3, 1999 unless we receive written adverse comments or written notice of intent to submit adverse comments on or before July 6, 1999.

ADDRESSES: Please send your comment and three copies to: Docket No. 98-078-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 98-078-1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS rules, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

FOR FURTHER INFORMATION CONTACT: Dr. Michael David, Senior Staff Veterinarian, Animals Program, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231; (301) 734-8354; or e-mail: michael.j.david@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 91, "Inspection and Handling of Livestock for Exportation" (referred to below as the regulations), prescribe conditions for exporting animals from the United States. The regulations state, among other things, that all animals, except animals being exported by land to Canada or Mexico, must be exported

through designated ports of embarkation, unless the exporter could show that the animals would suffer undue hardship.

Section 91.14(a) contains a list of designated ports of embarkation and export inspection facilities. To receive designation as a port of embarkation, a port must have export inspection facilities available for inspecting, holding, feeding, and watering animals prior to exportation to ensure that the animals meet certain requirements specified in the regulations. To receive approval as an export inspection facility, the regulations provide that a facility must meet specified standards in § 91.14(c) concerning materials, size, inspection implements, cleaning and disinfection, feed and water, access and approval of arrangements, testing and treatment, location, disposal of animal wastes, lighting, office and restroom facilities, and walkways.

Deep Hollow Farm, an export inspection facility for horses listed in § 91.14(a) for the ocean port of Salem, NJ, is no longer being used as an export inspection facility. However, we believe that Mannington Meadows Farm, 60 Oechsle Road, Woodstown, NJ 08098, (609) 769-2009, meets the requirements of § 91.14(c) as an export inspection facility for horses. Mannington Meadows Farm is located 6 miles from the ocean port of Salem, NJ. Exporters using Mannington Meadows Farm will be able to transport their horses to the ocean port of Salem, NJ, in approximately 15 minutes. This rule will amend § 91.14(a) in accordance with the procedures explained below under "Dates." The amendments will remove Deep Hollow Farm as an export inspection facility for horses for the port of Salem, NJ, and add Mannington Meadows Farm in its place.

The amendments will also add two new ports, Elizabeth and Newark International Airport, NJ, to the list of designated ports of embarkation in § 91.14(a). Elizabeth, NJ, will be added as an ocean port. Newark International Airport, NJ, will be added as an airport. We believe that Tolleshunt Horse Farm, 10 Island Road, Box 469, Whitehouse, NJ 08888-0469, (908) 534-7738, and the U.S. Equestrian Team's headquarters, Pottersville Road, Gladstone, NJ 07934, (908) 234-1251, meet the requirements of § 91.14(c) as export inspection facilities for horses. Exporters using the Tolleshunt Horse Farm and the U.S. Equestrian Team's headquarters will be able to transport their horses to a port of embarkation in approximately 1 hour. Therefore, we will add Tolleshunt Horse Farm and the U.S. Equestrian Team's

headquarters as export inspection facilities for horses for the ports of Elizabeth and Newark International Airport, NJ.

We will also add Tolleshunt Horse Farm and the U.S. Equestrian Team's headquarters as export inspection facilities for horses for the port of New York, NY, which is already listed in § 91.14(a) as a designated airport and ocean port of embarkation. Tolleshunt Horse Farm is located 1½ hours from the airport of New York, NY, and the U.S. Equestrian Team's headquarters is located 1½ to 2 hours from the airport of New York, NY. Tolleshunt Horse Farm and the U.S. Equestrian Team's headquarters may also be used as export inspection facilities for horses for the ocean port of New York, NY, but we do not expect this to happen frequently because travel by airplane is much faster than by ship. Importers of horses usually like the travel to take less than a day, which can be done by air.

When this rule becomes effective, veterinarians of the Animal and Plant Health Inspection Service will conduct export inspections of horses at the newly approved export inspection facilities by appointment.

Dates

We are publishing this rule without a prior proposal because we view this action as noncontroversial and anticipate no adverse public comment. This rule will be effective, as published in this document, 60 days after the date of publication in the **Federal Register** unless we receive written adverse comments or written notice of intent to submit adverse comments within 30 days of the date of publication of this rule in the **Federal Register**.

Adverse comments are comments that suggest the rule should not be adopted or that suggest the rule should be changed.

If we receive written adverse comments or written notice of intent to submit adverse comments, we will publish a notice in the **Federal Register** withdrawing this rule before the effective date. We will then publish a proposed rule for public comment. Following the close of that comment period, the comments will be considered, and a final rule addressing the comments will be published.

As discussed above, if we receive no written adverse comments nor written notice of intent to submit adverse comments within 30 days of publication of this direct final rule, this direct final rule will become effective 60 days following its publication. We will publish a notice to this effect in the **Federal Register**, before the effective

date of this direct final rule, confirming that it is effective on the date indicated in this document.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

In this rule, we are removing Deep Hollow Farm as an export inspection facility for horses for the ocean port of Salem, NJ, because it is no longer being used as an animal export inspection facility. In its place, we are adding Mannington Meadows Farm in Woodstown, NJ. Mannington Meadows Farm is located in southwest New Jersey and is within 6 miles of the ocean port of Salem, NJ, from which many horses are exported to Bermuda. We anticipate that Mannington Meadows Farm will be used as an export inspection facility for approximately 112 horses annually. We do not expect that removing Deep Hollow Farm and adding Mannington Meadows Farm in its place will have any effect on the number of horses that are exported annually through the port of Salem, NJ.

We are also designating Elizabeth and Newark International Airport, NJ, as ports of embarkation and are adding two export inspection facilities for horses for these ports: Tolleshunt Horse Farm in Whitehouse, NJ, and the U.S. Equestrian Team's headquarters in Gladstone, NJ. We are also adding these same export inspection facilities for horses for the already listed port of New York, NY. We project that approximately 36 horses will be exported annually through the port of Elizabeth, and approximately 120 horses will be exported annually through the port of Newark. Adding the U.S. Equestrian Team's headquarters as an export inspection facility will allow the Team to use its own facilities for horse inspections. We estimate that 120 horses will be inspected each year at the U.S. Equestrian Team's headquarters. The addition of Tolleshunt Horse Farm as an export inspection facility will make it logistically easier for other exporters in New Jersey to export their horses from the United States because they will be able to transport their horses from Tolleshunt Horse Farm to a port of embarkation in approximately 1 hour. We estimate that 12 horses will be inspected for export each year at Tolleshunt Horse Farm.

Until now the only designated port of embarkation in New Jersey has been the ocean port of Salem in southwest New Jersey. Once this rule becomes effective, individuals exporting horses from New

Jersey will have a choice of using either the northeast (Elizabeth and Newark) or the southwest (Salem) ports and either an airport or an ocean port. Exporters will also have two additional export inspection facilities for horses for the port of New York, NY, in addition to the already approved facility at J. F. Kennedy International Airport.

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), APHIS is required to consider the effects of the rule on small entities. APHIS expects a positive economic impact on small businesses, due to the increase in transportation alternatives and the decrease in transportation costs.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 91

Animal diseases, Animal welfare, Exports, Livestock, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 9 CFR part 91 as follows:

PART 91—INSPECTION AND HANDLING OF LIVESTOCK FOR EXPORTATION

1. The authority citation for part 91 continues to read as follows:

Authority: 21 U.S.C. 105, 112, 113, 114a, 120, 121, 134b, 134f, 136, 136a, 612, 613, 614, and 618; 46 U.S.C. 466a and 466b; 49 U.S.C. 1509(d); 7 CFR 2.22, 2.80, and 371.2(d).

2. In § 91.14, paragraphs (a)(11) and (a)(12) are revised to read as follows:

§ 91.14 Ports of embarkation and export inspection facilities.

(a) * * *

(11) *New Jersey.*

(i) Elizabeth—ocean port.

(A) Tolleshunt Horse Farm (horses only), 10 Island Road, Box 469, Whitehouse, NJ 08888-0469, (908) 534-7738.

(B) The U.S. Equestrian Team's headquarters (horses only), Pottersville Road, Gladstone, NJ 07934, (908) 234-1251.

(ii) Newark International Airport.

(A) Tolleshunt Horse Farm (horses only), 10 Island Road, Box 469, Whitehouse, NJ 08888-0469, (908) 534-7738.

(B) The U.S. Equestrian Team's headquarters (horses only), Pottersville Road, Gladstone, NJ 07934, (908) 234-1251.

(iii) Salem—ocean port.

(A) Mannington Meadows Farm (horses only), 60 Oechsle Road, Woodstown, NJ 08098, (609) 769-2009.

(12) *New York.*

(i) New York—airport and ocean port.

(A) Tolleshunt Horse Farm (horses only), 10 Island Road, Box 469, Whitehouse, NJ 08888-0469, (908) 534-7738.

(B) The U.S. Equestrian Team's headquarters (horses only), Pottersville Road, Gladstone, NJ 07934, (908) 234-1251.

(C) Vetport, Inc., Bldg. 189, J.F. Kennedy International Airport (Cargo Area), Jamaica, NY 11430, (212) 656-6042.

* * * * *

Done in Washington, DC, this 28th day of May 1999.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99-14186 Filed 6-3-99; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. 91F-0228]

Food Additives Permitted for Direct Addition to Food for Human Consumption; Sucrose Acetate Isobutyrate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of sucrose acetate isobutyrate (SAIB) as a stabilizer of emulsions of flavoring oils used in nonalcoholic beverages. This action is in response to a petition filed by Eastman Chemical Co.

DATES: Effective June 4, 1999; written objections and requests for a hearing by July 6, 1999. The Director of the Office of the Federal Register approves the incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 of certain publications in § 172.833(b) (21 CFR 172.833(b)), effective June 4, 1999.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Blondell Anderson, Center for Food Safety and Applied Nutrition (HFS-206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-418-3106.

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I. Introduction

In a notice published in the **Federal Register** of September 5, 1991 (56 FR 43927), FDA announced that a food additive petition (FAP 1A4266) had been filed by Eastman Chemical Co. (Eastman), P.O. Box 511, Kingsport, TN 37662, proposing that the food additive regulations be amended in part 172 (21 CFR part 172) to provide for the safe use of SAIB as a stabilizer of emulsions of flavoring oils used in nonalcoholic carbonated and noncarbonated beverages.

SAIB is the chemical *alpha*-D-glucopyranoside, O-acetyl-tris-O-(2-methyl-1-oxopropyl)-*beta*-D-fructofuranosyl, acetate tris(2-methyl propanoate). It is also referred to as sucrose diacetate hexaisobutyrate, sugar esters of fatty acids, and sucrose esters of fatty acids.

SAIB is a slightly yellow, clear, viscous liquid, practically odorless, with a bitter taste (not apparent at the levels used in the regulated application). The compound is produced by reaction of food grade sucrose with acetic anhydride and isobutyric anhydride in the presence of a catalyst. The product is purified by molecular distillation.

In support of safety for the proposed use of SAIB, Eastman submitted toxicity studies performed in a variety of species. Those studies included: Absorption, metabolism, and elimination studies (rats, dogs, rabbits, monkeys, and humans); short-term (7 to 56 days) studies (rats, dogs, and monkeys); a palatability study (mice); subchronic (90 days) studies (rats and dogs); chronic studies (rats and monkeys); carcinogenicity studies (rats and mice); reproduction studies (rats); teratology studies (rats and rabbits); genotoxicity tests; liver function studies (rats, dogs, monkeys, and humans); and clinical studies (humans).

The one concern raised by FDA's evaluation of the SAIB data base was some liver effects, which were observed in the short-term and subchronic studies. These effects were observed primarily in SAIB-treated dogs; for example, decreased clearance rates for bromosulphophthalein (BSP) and indocyanine green (ICG) from the blood, and increased serum alkaline phosphatase. To further evaluate these liver effects, the petitioner performed special liver function tests (BSP and ICG clearance tests) in rats, dogs, monkeys, and humans. The BSP clearance test was also performed in monkeys and rats after exposure to SAIB for 1 year in order to demonstrate that the liver effects were not observed in these SAIB-

treated animals after long-term repeated exposure. The results from these studies and results from other studies that were pivotal to the safety decision for the proposed use of SAIB in beverages are discussed in section II.B of this document.

II. Evaluation of Safety

In order to establish, with reasonable certainty, that a new food additive is not harmful under its intended conditions of use, FDA considers the projected human dietary exposure to the additive, the additive's toxicological data base, and other relevant information (such as published literature) available to the agency.

A. Estimated Daily Intake for SAIB

In determining whether the proposed use of an additive is safe, FDA typically compares an individual's estimated daily intake (EDI) of the additive to the acceptable daily intake (ADI) established by the toxicological database. The EDI is determined by projections based on the amount of the additive proposed for use in particular foods and on data regarding the consumption levels of these particular foods.

The proposed levels of use for SAIB in beverages (up to 300 parts per million (ppm)) are supported by functionality and stability data presented in the petition. The agency commonly uses the EDI for the 90th percentile consumer of a food additive as a measure of high chronic exposure. For the requested food use of SAIB, the agency has estimated the lifetime exposure for 90th percentile consumers, 2 years old and older (all ages), to be 0.17 gram per person per day (g/p/d). The corresponding mean intake is 0.082 g/p/d (Ref. 1).

B. Evaluation of Safety Studies on SAIB

The principal studies relevant to the safety evaluation of the petitioned use of SAIB were performed in several animal species as mentioned in section I of this document. The individual studies are identified by an Appendix number in this document, as designated by Eastman in the SAIB petition.

1. Pharmacokinetics and Metabolism Studies (Appendices 16, 17, 18, 19, 22, 23, 24, 25, 26, 27, 29, and 31)

The pharmacokinetics and metabolism studies on SAIB were performed with rats, dogs, and humans in order to compare the absorption, metabolism, and excretion of the food additive in animal models to that seen in humans. Results from these studies showed the following similarities and

differences in the pharmacokinetics and metabolism of SAIB in the test subjects:

(1) There were quantitative differences in the amounts of administered SAIB that were absorbed by rats, dogs, and humans. Rats and humans absorbed greater amounts of SAIB from the gastrointestinal tract compared to dogs. In rats and humans, the majority of the orally administered SAIB was eliminated in expired air, whereas in dogs, the majority of SAIB was eliminated in the feces;

(2) Dogs excreted a greater proportion of the absorbed SAIB in the bile compared to rats. The excreted materials in the bile of the dog were identified as either unchanged SAIB or higher acylated sucrose molecules. Lower acylated sucroses were identified in the bile of rats; and

(3) The urinary metabolites of SAIB in rats and humans were more similar qualitatively than those between dogs and humans. Higher acylated sucroses were identified as the primary metabolite in the urine of dogs. In the urine of rats and humans, only lower acylated sucroses and free sucrose were identified. Free sucrose was not found in the urine from dogs. These data show that more deacylation of SAIB occurs in rats and humans than in dogs.

The patterns of absorption, metabolism, and elimination are more similar for rats and humans than for dogs and humans. Therefore, the agency concludes that the rat is more appropriate than the dog to model the metabolic disposition and fate of SAIB in humans (Refs. 2, 3, 4, and 5).

2. Genotoxicity Studies (Appendices 88, 89, 90, 91, 92, 93, and 94)

SAIB was subjected to the following battery of studies to evaluate its genotoxic potential in prokaryotic and mammalian species: Ames Test, Chinese Hamster Ovary Cells/HGPRT Forward Mutation Assay, In Vitro Cytogenetic Chromosomal Aberration Assay, Unscheduled DNA Assay, and Dominant Lethal Assay. In the absence of bioassay data, these tests are often used to predict the carcinogenic potential of the test compound. However, in the case of SAIB, carcinogenicity bioassays are also available.

SAIB was shown to be nonmutagenic in the Ames test, with or without metabolic activation (Appendices 88, 89, and 90) (Refs. 6 and 7). The compound did not induce changes in mutation frequency in the Chinese Hamster Ovary Cells/HGPRT Forward Mutation Assay (Appendix 91) (Ref. 8). Chromosomal aberrations were not induced in Chinese hamster ovary cells

(Appendix 92), thereby demonstrating that SAIB is not clastogenic (Ref. 9).

Results from the Unscheduled DNA Assay (Appendix 93) were negative regarding any significant increases in nuclear labeling or unscheduled DNA synthesis in rat primary hepatocytes treated/incubated with SAIB (Refs. 9, 10, 11, and 12). The Dominant Lethal Assay (Appendix 94) did not show any significant effects on early fetal deaths per pregnancy in rats.

Based upon the negative mutagenic and clastogenic findings in the genotoxicity studies, the agency concludes that SAIB is not genotoxic under the test conditions of these studies (Refs. 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14).

3. Reproduction and Developmental Toxicity Studies (Appendices 86 and 87)

The objectives of the reproduction and developmental toxicity studies were to evaluate the toxic potential of SAIB on the reproductive system of mature rats (males and females) as well as postnatal maturation of reproductive functions of offspring through three successive generations. Assessment of the potential effects of the food additive on the developing fetus was the objective of the teratology studies.

a. *Three-generation reproduction with teratology phase in rats (Appendix 86).* In this study, groups of Fischer F344 rats (three generations: F₀, F₁, and F₂ males and females) were administered SAIB in the diet at dose levels of 0, 0.5, 1.0, or 2.0 g per kilogram body weight per d (g/kg bw/d). Parental (F₀) males were fed SAIB for 10 weeks prior to mating; F₀ females were fed SAIB for 2 weeks prior to mating, and throughout mating, gestation, and lactation until the time of necropsy. F₁ and F₂ males and females were exposed to SAIB in utero; during their lactation and weaning periods as well as throughout their mating, gestation, and lactation periods for respective F₂ and F₃ litters. The F₁ males and females were bred twice in succession to produce F_{2a} and F_{2b} pups. For each generation, the following reproductive parameters were examined: Mating indices, fertility indices, gestation indices, gestation length, number of corpora lutea, implantation efficiency, and number of early or late resorptions. Litters from the F₁ and F₂ generations were examined for the number of dead pups (day 0), number of live offspring per litter, sex ratios, pup survival percentages, pup weights, and physical abnormalities. Macroscopic examinations of the corpora lutea and implantations were performed on the F₂ dams that were

sacrificed on day 14 of gestation period of the F₃ generation. For the teratology phase of this study, macroscopic examination of the number and distribution of fetuses in the uterine horn and the number of resorptions and corpora lutea were performed on F₁ dams that were sacrificed on day 20 (during gestation) of the F_{2b} generation. The pups from these dams were examined for any soft-tissue or skeletal malformations.

The agency observed no reproductive or developmental toxicities in three successive generations of rats that were exposed to SAIB at levels up to 2.0 g/kg bw/d. There was a trend towards decreased fertility with increasing dose of SAIB in the females of the F₁ generation during the breeding for the F_{2a} litters. The agency does not consider this trend to be treatment-related because there were no significant decreases in fertility observed in the F₀ females during the breeding for the F₁ litters or the F₁ females during the breeding for the F_{2b} litters. The agency has determined that the no observed effect level (NOEL) for this study is 2.0 g/kg bw/d, which was the highest dose of SAIB tested in this study (Ref. 13).

b. *Teratology study in rabbits* (Appendix 87). New Zealand White SPF female rabbits were divided into a control group (32 rabbits) and 3 SAIB treatment groups (16 rabbits per group). Control and treated female groups were induced to superovulate by receiving injections of human chorionic gonadotropin 3 weeks prior to insemination. SAIB was administered by oral gavage, twice daily, to the treatment groups at dose levels of 0.50, 0.85, or 1.20 g/kg bw/d on days 7 through 19 of gestation. The control group received only the vehicle (corn oil).

The agency concludes that in this study there were no developmental toxicities observed in rabbits that were exposed to SAIB by gavage at levels up to 1.20 g/kg bw/d during gestation (days 7 to 19). The agency has determined that the NOEL for this study is 1.20 g/kg bw/d for this study (Ref. 13).

c. *Agency conclusions regarding reproduction and developmental toxicity studies on SAIB.* Based on the data obtained from these reproduction and developmental toxicity studies on SAIB (Appendices 86 and 87), the agency concludes that the oral administration of SAIB does not induce reproductive or developmental effects in rats when tested in the diet at doses up to 2.0 g/kg bw/d or developmental effects in rabbits when tested by gavage at doses up to 1.20 g/kg bw/d. Therefore, a NOEL of 2.0 g/kg bw/d is

established for SAIB based upon the highest dose tested in the three-generation rat study (Refs. 5 and 13).

4. Two-Year Carcinogenicity Studies (Appendices 95 and 96)

The objective of the carcinogenicity studies was to study the carcinogenic potential of SAIB when administered to rodents for 104 weeks.

a. *Rat study* (Appendix 95). Fischer F344 (CDF/CR1BR) rats were randomly assigned to 5 groups that were fed a dietary mixture of SAIB at dose levels of 0, 0.50, 1.0, or 2.0 g/kg bw/d for 104 weeks. Two groups of rats served as duplicate controls and were fed an NIH07 diet that had been treated with acetone only. BW data for all of the rats were collected on day 1, at weekly intervals during the study, and on the day of necropsy. Food consumption was recorded weekly. Hematology measurements were performed on all rats prior to the initiation of treatment and at the end of the study at week 104. During necropsy, organ weight data were collected for heart, kidneys, liver, testes, ovaries, and brain of the rats in the two control groups and in each of the SAIB-treated groups. Macroscopic and microscopic examinations were performed at sacrifice (week 104) on representative tissue from a comprehensive selection of organs from all groups of rats.

Survival in the treated rats was not significantly affected by the SAIB treatment for the 2-year exposure duration. The antemortem changes seen in the SAIB-treated groups at termination were similar to those seen in the concurrent control rats and represented typical changes seen in aging rats.

Overall, SAIB did not significantly affect the final mean bw's or food consumption of either the male or female rats during the 104 weeks of the study. The organ weight data showed reduced brain (absolute) weight in the 1.0 g/kg bw/d SAIB-treated females when compared to females in group 1 controls and increased kidney-to-brain ratios in the 1.0 g/kg bw SAIB-treated males when compared to males in group 2 controls. FDA did not consider these weight differences to be treatment-related or toxicologically significant because they occurred sporadically among the treated groups, that is, at only one dose level (1.0 g/kg bw/d dose) or in only one sex. There were tumors or nonneoplastic lesions that occurred in the control and SAIB-treated rats of this study that represented histopathological changes commonly seen in aging rats or represented normal variation of spontaneous tumor

incidences (e.g., testicular interstitial cell tumors, mammary gland fibroadenomas, endometrial stromal polyps, and pituitary hyperplasia). Thus, the histopathology data showed no evidence of male or female SAIB-treated rats with increased incidences of tumors or nonneoplastic lesions at any organ site that were related to the feeding of SAIB (Ref. 15).

From this study, the agency concludes that SAIB did not induce any tumors in Fischer 344 rats that were fed diets containing up to 2.0 g/kg bw/d of SAIB for 104 weeks. No SAIB-related histopathological lesions were observed in the SAIB-fed rats. Thus, the NOEL for this study is 2.0 g/kg bw/d (Refs. 5, 14, and 15).

b. *Mouse Study* (Appendix 96). In this study, groups of B6C3F1/CR1BR mice (50 per sex per group) were fed SAIB at concentrations of 1.25, 2.5, or 5.0 g/kg bw/d in an NIH07 diet for 104 weeks. Two groups of mice served as controls and were fed an NIH07 diet that had been treated with acetone only. BW data were collected on day 1, at weekly intervals during the study, and on the day of necropsy. Food consumption was recorded weekly. Hematology measurements were performed on mice in the control and 5.0 g/kg bw group only; 10 mice per sex prior to the initiation of treatment and 15 mice per sex during weeks 28, 53, 79, and 105. During necropsy, organ weight data were collected for the kidneys, liver, gall bladder, and lungs of all mice. Macroscopic and microscopic examinations were performed at sacrifice (week 104) on representative tissue from a comprehensive selection of organs from all groups of mice.

The study results revealed no treatment-related effects on the survival of SAIB-treated mice in this study. All antemortem observations seen in the SAIB-treated mice were comparable to those seen in the concurrent controls.

Organ-to-bw ratios of the liver and lungs of the SAIB-treated mice were not different from the respective weight ratios in the control mice. There were some differences in the relative kidney weights in the SAIB-treated mice compared to controls; however, these differences were not associated with any treatment-related kidney histopathology.

The histopathology data showed an increased incidence of SAIB-treated male mice with bronchiolar/alveolar adenomas and an increased incidence of SAIB-treated male mice with (combined) bronchiolar/alveolar adenomas or carcinomas when compared to control group males (Refs. 14 and 15). The incidences of SAIB-

treated females with bronchiolar/alveolar adenomas or carcinomas were comparable to incidences in control females. According to historical control incidence data from the National Toxicology Program data base, these incidences are within the range commonly seen in aged B6C3F1 mice. Therefore, FDA concludes that the increased incidences of SAIB-treated mice with this tumor represent expected variations in spontaneous incidences and were not related to the SAIB treatment (Refs. 14 and 15). At the other organ sites, there was no evidence of increased incidences of mice with tumors or nonneoplastic lesions that were related to the feeding of SAIB (Refs. 14 and 15). From this study, the agency concludes that SAIB did not induce tumors at any organ site in B6C3F1 mice that were fed diets containing SAIB up to 5.0 g/kg bw /d for 104 weeks. No SAIB-related nonneoplastic lesions were observed in the SAIB-fed mice, nor was there other evidence of adverse effects in the SAIB-fed mice at any of the tested doses. Thus, the NOEL for this study is 5.0 g/kg bw/d (Refs. 5, 14, and 15).

5. Concerns Regarding Altered Liver Function

During the early reviews of the petition, the agency raised a concern regarding liver effects that were observed in the SAIB-treated animals in short-term toxicity studies (rats, dogs, and monkeys) and in subchronic toxicity studies (rats and dogs), especially in the SAIB-treated dogs. However, the agency could not easily determine whether the liver effects observed in these SAIB-treated rats and monkeys were treatment-related because of certain inadequacies in the studies, their limited experimental designs, and the studies' short exposure durations. These studies are discussed in section II.B.5.a of this document. The agency also raised a concern that there were no chronic (1 year or longer) toxicity studies on SAIB in dogs that further examined the liver function effects.

To address these concerns, the petitioner performed BSP and ICG clearance tests, which are specific liver function tests, with rats, dogs, and monkeys. In addition, to address the concern regarding possible altered liver function in chronically-exposed animals, the petitioner performed a 1-year oral toxicity study on SAIB in monkeys; this study included BSP clearance tests and measurements of clinical chemistry parameters relevant to liver toxicity. The petitioner also performed BSP clearance tests in humans that were administered doses of

SAIB up to 0.02 g/kg bw/d for 14 days to evaluate any potential effects of SAIB on liver function in humans. These studies and the agency's conclusions regarding them are discussed in sections II.B.5.b and II.B.5.c of this document.

a. *Liver Effects in the SAIB-treated Animals. i. Short-term Studies* (Appendices 60, 66, 71, 72, 73, 74, and 77). The following short-term studies were designed to provide data on the short-term oral toxicity of SAIB in rats, dogs, and monkeys with regard to potential target organs of SAIB, as well as to determine appropriate doses for the subchronic and chronic studies.

Rat Studies (Appendices 66 and 74). In a short-term study (Appendix 66), SAIB was fed to groups of male and female rats at levels of 1.0, 2.0, or 4.0 percent (equivalent to 1.0, 2.0, or 4.0 g/kg bw/d) in the diet for 28 or 56 days. Levels of serum alkaline phosphatase (SAP), glucose, ornithine carbamyl transferase, triglyceride, cholesterol, and blood urea nitrogen were examined. Organ weight data were collected only on the liver.

The limited clinical chemistry data from this study showed decreases in blood glucose levels in female rats fed SAIB at levels of 2.0 and 4.0 percent in the diet for 56 days. The glucose levels in the treated males were not different from comparable levels in controls for the 56-day duration. SAP levels were not affected in the SAIB-treated rats. There were no effects on bw or bw gain in the SAIB-treated rats. Liver weights in these SAIB-treated rats were similar to control rats. Also, the levels of glucose in the treated groups were not different from controls (Ref. 16).

In another short-term study (Appendix 74), groups of rats (15 per sex per group) were fed diets containing 0, 5,000, or 50,000 ppm (equivalent to 0, 0.50, or 5.0 g/kg bw/d) SAIB for 3 weeks. Organ weight data on livers from the male and female SAIB-treated rats (five per sex per group) revealed no evidence of liver enlargement at either of the doses of SAIB. In addition, SAIB did not affect bw gain or food consumption in this study (Ref. 3).

Dog Study (Appendix 77). In this study (Appendix 77), six male beagle dogs were initially fed a ground chow diet without SAIB (control diet) daily for 3 weeks. For the next 3 to 4 weeks, the six male dogs were fed a ground chow containing 5-percent (equivalent to 1.25 g/kg bw/d) SAIB. ICG clearance tests were performed on four of the six dogs at week 3 of this 5-percent SAIB feeding period. After the 3 or 4 weeks feeding period of SAIB, the dogs were returned to control diet for an additional 8 weeks (91st day). ICG clearance tests

were performed on week 3 and 6 of this 8-week control diet feeding period. On the 88th day, 4 of the 6 dogs were returned to a diet containing 5-percent SAIB for 1 day. After this 1-day SAIB feeding, SAP measurements and ICG clearance tests were performed on the six dogs. This study did not have a group of dogs that served as concurrent controls nor were pretest ICG baseline values determined. Instead, the data from this study were compared to previously reported laboratory data for ICG clearance in normal beagle dogs.

The results of this study showed decreased clearance of serum ICG (half-lives ($t_{1/2}$)¹ of 17.0 to 40.0 minutes) in dogs that were fed 5-percent SAIB for 3 weeks compared to ICG clearance in normal dogs ($t_{1/2}$ of 4.2 to 8.1 minutes). ICG clearance in the SAIB-treated dogs had returned to normal by day 84 after these dogs were returned to control diets without SAIB. Five of six dogs had increased SAP levels at the end of the 4-week SAIB feeding period that were four to seven times greater than pretest values.

Blood glucose levels decreased (25- to 57-percent reductions) in all of the dogs at the end of the 4-week SAIB treatment period compared to pretest average values. However, blood glucose levels monitored at the end of the recovery phase of the study were reversed and were comparable to the pretest values. Ornithine carbamyl transferase and blood cholesterol levels also increased during the SAIB exposure period. Other blood parameters measured in these dogs (hemoglobin, hematocrit, white blood cell counts (five out of six dogs), serum protein, and blood urea nitrogen) were not affected by the 5-percent-SAIB treatment. The 5-percent SAIB treatment had no effect on body weight, food consumption, or organ weights (only liver and kidney were measured) in the dogs for the 4-week period (Ref. 3).

Monkey Studies (Appendices 60, 71, 72, and 73). In a short-term study (Appendix 60), SAIB was administered by oral intubation (in an orange juice concentrate) to four monkeys (two per sex) as a single dose that started at a dose of 1.25 g/kg bw, increased by increments of 2-fold (72-hour intervals between doses), and ended at a dose of 20 g/kg bw over a dosing period of 14 days. All of the SAIB-dosed monkeys survived the study. Slight to moderate watery, yellow stools were observed in some of the monkeys administered SAIB at doses of 1.25 g/kg bw (one male, two females), 2.5 g/kg bw (one male, one female), and 5.0 g/kg bw (one female).

¹ Half-life($t_{1/2}$) is the time required for the serum ICG concentrations to be reduced by one half.

Large amounts of watery yellow stools and emesis were observed in a monkey that received a SAIB dose of 5.0 g/kg bw dose. Gross postmortem examinations of the four monkeys after the last dosing of SAIB revealed no effects that were attributable to the SAIB administration (Refs. 2 and 17).

In a two-part range-finding study (Appendices 71 and 72), SAIB was administered by oral intubation to groups of monkeys (one per sex per group) at dose levels of 0, 0.5, 1.0, 2.0, 5.0 or 10.0 g/kg bw/d for 15 days. Incidences of soft, loose stools were observed in the SAIB-dosed groups (1.0, 2.0, and 10.0 g/kg bw/d doses), as well as in the control male and female groups. At the termination of the study, SAP levels in the males of the 10.0 g/kg bw/d dose group and the females of the 5.0 and 10.0 g/kg bw/d dose groups were increased compared to their respective controls. Pretest alkaline phosphatase levels in the SAIB-dosed groups were also higher than pretest levels of the controls. Decreased BSP clearance was observed in 8 out of the 10 treated monkeys. Electron microscopy was performed only on the livers of the control group and the high-dose group in this study. Results from the ultrastructural analyses of the livers from the SAIB-treated monkeys revealed increased glycogen, large glycogen aggregations surrounded by scant smooth endoplasmic reticulum, and decreases in the amounts of smooth endoplasmic reticulum (Refs. 2, 3, and 17). While these effects in the SAIB-dosed monkeys suggest suppressed liver function, the agency could not determine the toxicological significance of these effects because of the small group sizes (Refs. 2, 3, and 17).

In another exploratory study (Appendix 73), groups of monkeys (one per sex per group) were administered SAIB (in corn oil) orally by gavage at doses of 0.50, 1.45, or 2.40 g/kg bw/d for 4 weeks. Control monkeys received only the vehicle (corn oil) by gavage. BW gains were comparable in all of the groups except for the high-dose female monkey, who lost weight (12-percent loss) over the 4-week study duration. Reduced food consumption was reported for this high dose female monkey. SAP levels were increased 8-to 78-percent in the treated groups for both sexes except for the one male in the high-dose (10 g/kg bw dose) group. Values reported for erythrocyte counts, hemoglobin, and hematocrits were low for all of the females in both the treatment groups and the control group. BSP clearance rates in these monkeys were normal. Clinical biochemistry parameters related to liver and kidney

functions were also normal in the dosed monkeys (Refs. 3 and 17).

Agency conclusions regarding short-term studies on SAIB. The agency's overall review of the data from the preceding short-term studies (see section II.B.5.a.i of this document) established the following: (1) Decreased glucose levels in rats that were fed SAIB at levels of 2.0 and 4.0 g/kg bw/d for 56 days; (2) decreased ICG clearance rates, increased SAP levels, and decreased blood glucose levels in dogs that were fed 1.25 g/kg bw/d SAIB for 4 weeks; and (3) increased BSP retention and increased SAP levels in monkeys that were administered SAIB by gavage at dose levels of 5 and 10 g/kg bw/d for 15 days. Based on these observed effects, the agency concludes that the liver is a target organ for the toxicity of SAIB. However, because of the short exposure durations and limited experimental designs of these studies, the agency concludes that these studies are inadequate to resolve concerns regarding the observed liver effects (Refs. 3 and 5).

ii. *Subchronic oral toxicity studies on SAIB (Appendices 63, 64, 65, 67, 68, 69, and 70).* The following subchronic oral toxicity studies were performed in rats and dogs to examine the general systemic toxicity of SAIB and to investigate further the liver effects of SAIB that were observed in the short-term SAIB studies.

Rat Studies (Appendices 63, 64, and 65). In a 90-day study (Appendix 63), groups of rats (25 per sex per group) were fed SAIB in the diet at 0, 1, or 5 percent (equivalent to 0, 1.0, or 5.0 g/kg bw/d). This study showed an increase (7.4 percent) in the relative liver weights of the 5-percent SAIB-treated female rats compared to the control females; liver weights in SAIB-treated males were not affected. Kidney weights in the SAIB-treated groups were not different from the kidney weights of the control rats. Final bw's were slightly decreased (3 to 4 percent) in only the males of the 5-percent dose group. No differences were observed in the final bw's of the males in the 1-percent dose group or the females in all of the dose groups when compared to respective controls. BW gain in all of the female treatment groups was comparable to the female control groups. Overall, feed intakes and feed efficiencies appeared to be similar across treatment and control groups for both sexes (Ref. 16).

In another 90-day study (Appendix 64), groups of rats (10 per sex per group) were fed SAIB in the diet at levels of 0, 0.38, 1.88, or 9.38 percent (equivalent to 0, 0.38, 1.88, or 9.40 g/kg bw/d). A slight increase in the mean hemoglobin values

and a tendency toward leukocytosis (increased white corpuscle counts) were observed in treated rats relative to control rats. SAP levels and BSP clearance rates were not evaluated in this study. BW gains in the SAIB-treated males were slightly decreased (8 to 11 percent) compared to control males; in treated females, bw gain was not affected. Liver, kidney, lung, gonad, spleen, and heart weights (relative and absolute weights) of the SAIB-treated rats were not significantly different from the respective organ weights of the control rats.

Data from the limited histopathological analyses showed an increased incidence of clear vacuoles (fat vacuoles) in the livers of all of the SAIB-treated rats with the greatest increase being seen in the 1.88-percent SAIB group (Ref. 16).

In a 12-week study (Appendix 65), groups of rats (20 per sex per group) were fed SAIB at doses of 2.5, 5.0, or 10 percent (equivalent to 2.50, 5.0, or 10.0 g/kg bw/d) in the diet. SAIB-treated male rats in this study showed decrements in weight gain at all dose levels compared to controls; weight gains in the SAIB-treated female rats were not affected. There was a significant decrease in SAP levels in females treated with 10-percent SAIB. Urinary ascorbic acid levels were substantially decreased (47 percent in males and 64 percent in females) in the 10-percent SAIB group relative to controls. There were no increases in carboxyl esterase levels in any of the SAIB-treated rats. Neither liver weights nor the ultrastructure of the livers in the SAIB-treated rats were affected during the study. Biochemical analyses performed on the livers of rats in the control and 10-percent SAIB groups showed increases in liver glycogen in the 10-percent SAIB group (in both sexes) as well as significant increases in the water content of the livers in the males of the 10-percent SAIB group (Ref. 16).

Because of inadequacies in data analyses and reporting (e.g., limited statistical analyses and incomplete histopathology data) in the subchronic rat studies, the agency could not reach a conclusion as to whether there were treatment-related liver effects in the SAIB-fed rats of these studies. The results from these studies did show: (1) Significantly increased (relative to controls) relative liver weights in rats (females only) that were fed 5-percent SAIB, and (2) increased glycogen content and increased water content (males only) in the livers of rats (both sexes) fed 10-percent SAIB relative to controls (Ref. 5).

Dog Studies (Appendices 67, 68, 69, and 70). In a 12-week study (Appendix 67), groups of dogs (four per sex per group) were fed diets containing 0, 0.2, 0.6, or 2.0 percent (equivalent to 0, 0.05, 0.15, or 0.5 g/kg bw/d) SAIB. This study showed increases in SAP levels in the SAIB-treated male dogs, with a two-fold increase in the 2.0-percent dose group. At the end of the study, relative liver weights of male and female dogs fed SAIB at the 0.6-percent and 2.0-percent dose levels increased compared to the respective control groups. Relative weights of the other organs that were examined in the study (kidney, spleen, brain, gonads, adrenals, thyroids, and pituitary) did not differ significantly from respective relative organ weights of controls. Survival, hematology parameters, and urine parameters tested in the SAIB-treated dogs were also not significantly different from controls (Ref. 18).

In another subchronic study (Appendices 68 and 69), groups of dogs (six per sex per group) were fed dog chow containing 0-, 0.5-, 1.0-, 2.0-, or 4.0-percent (equivalent to 0, 0.13, 0.25, 0.50, or 1.0 g/kg bw/d) SAIB for 12 weeks followed by a 3-week recovery period, during which the dogs were fed a chow diet that did not contain SAIB. During the 12-week treatment period and the 3-week recovery period of the study, the control group received a basal chow meal without SAIB. During the 12-week exposure period, all of the dogs in this study that were fed SAIB (all doses) exhibited significant increases (3- to 7-fold) in serum BSP concentrations compared to control dogs. BSP retention data collected during the 3-week recovery period without SAIB showed a reduction in BSP plasma levels in the 4-percent SAIB-treated dogs to levels that were similar to pretest values and those seen in control dogs (Appendix 69).

Relative liver weights increased in the male dogs fed SAIB at levels of 1.0 and 2.0 percent in the diet; relative liver weights in the 0.5-percent SAIB-treated males were not different from controls. Relative liver weights in the SAIB-treated female dogs (all groups) were not significantly different from control females. Absolute liver weights were significantly increased in SAIB-treated males at dose levels of 0.5, 1.0, and 2.0 percent. Liver weights of the 4.0-percent male dose group were not analyzed at the time that the 1.0 and 2.0-percent male dose groups were analyzed; instead, this dose group was held for 3 additional weeks for a recovery phase of the study. At the end of the 3-week period (recovery phase), absolute and relative liver weights of the 4-percent male dose group were also significantly

increased when compared to control liver weight values measured at the end of the 12-week treatment phase. This 3-week recovery phase of the study did not include a comparable control group of dogs that was held for the additional 3 weeks after the treatment phase.

Data from liver biochemistry analyses showed significantly increased liver glycogen in all of the SAIB-treated groups, significantly increased liver lipid content in all of the dogs fed 2.0-percent SAIB, and significantly increased liver carboxyl esterase levels in all of the dogs fed 4.0-percent SAIB. Total protein levels in the liver were greatly reduced in all of the SAIB-treated groups compared to controls. Alkaline phosphatase, adenosine triphosphatase, and glucose-6-phosphatase levels in the bile canaliculi of the livers in all of the dose groups increased relative to controls.

Results from the microscopic (light and electron) analysis of liver tissue samples showed dilation of the bile canaliculi, liver hypertrophy and enlargement (males only), increased bile pigment granules, increases in the smooth endoplasmic reticula, and prominent Golgi bodies in the dogs fed 2-percent SAIB in the diet (Appendix 69). In addition, the distribution and arrangement of the smooth and rough endoplasmic reticula were altered in the 2-percent SAIB-treated dogs (Ref. 18).

In a 91-day study (Appendix 70), a group of five dogs were fed dog chow containing 5-percent (equivalent to 1.25 g/kg bw/d) SAIB. A second group of five dogs served as controls and was fed dog chow containing 5-percent corn oil for the study duration. This study demonstrated that SAIB significantly affected liver function in the five SAIB-treated dogs, causing moderate elevations in SAP levels, prolonged ICG clearance, and increases in the absolute and relative liver weights. Hematological or clinical chemistry parameters examined in this study, other than SAP, were not affected by the SAIB treatment (Ref. 3).

Based upon the data in the subchronic studies in dogs, the agency concludes that SAIB affected liver function in SAIB-treated dogs at all of the tested dose levels. As noted, the liver effects observed in the SAIB-treated dogs were: (1) Increased BSP retention at SAIB doses as low as 0.13 g/kg bw/d and up to a dose of 1.0 g/kg bw/d, (2) increased SAP levels at SAIB doses of 0.05 g/kg bw/d and higher, (3) increased liver weights at doses of 0.13 g/kg bw/d and higher, and (4) liver ultrastructural changes in the 0.5 g/kg bw/d dose group (liver enlargement/hypertrophy, increased liver glycogen deposition,

increased liver carboxyl esterase activity, and proliferation of smooth endoplasmic reticulum). Because effects were observed at the lowest tested dose, the agency could not establish a NOEL for the observed liver effects in the SAIB-treated dogs in the subchronic studies (Refs. 3, 5, and 18).

Agency Conclusions Regarding Subchronic Studies on SAIB. The agency concludes from the subchronic studies that SAIB affected liver function in dogs when fed SAIB at doses of 0.13 g/kg bw/d up to 1.0 g/kg bw/d.

The subchronic studies in rats also suggested apparent liver effects in rats that were fed SAIB at dose levels of 5.0 g/kg bw/d and higher. However, because of study limitations (e.g., incomplete histopathology data and inadequate statistical analyses), the agency could not determine from the subchronic rat studies whether the liver effects seen in the SAIB-treated rats were caused by the treatment with SAIB (Refs. 3, 5, 16, and 18).

In order to investigate further the effects of SAIB on liver function in different species, the petitioner performed specific liver function tests in rats, dogs, monkeys, and humans. The results from these tests are discussed in sections II.B.5.a.iii. and II.B.5.b.ii of this document.

iii. *Specific liver function tests (Appendices 75, 76, 78, 80, and 81).* BSP and ICG clearance tests were performed by the petitioner in rats, dogs, and monkeys. In these tests, BSP or ICG is administered by injection and the clearance of these dyes from the blood is analyzed spectrophotometrically at various time intervals up to 48 hours. In normal subjects, generally 95 percent of the injected dye is cleared from the blood through the liver within 30 minutes. Retention of BSP in the blood is indicative of some form of liver dysfunction such as hepatic degeneration/inflammatory changes, hepatic fibrosis, hepatic cholestasis, or depressed hepatic blood flow (Refs. 19, 20, 21, 22, 23, and 24).

Rat Tests (Appendices 75 and 76). In a 36-day study (Appendix 75), two groups of rats (17 males per group) were fed a chow diet containing either 4.0-percent (equivalent to 4.0 g/kg bw) SAIB in 5.0-percent corn oil or only 5.0-percent corn oil. On days 1, 3, 5, 8, 10, 22, 26, and 36, after the start of these diets, 2 rats from each group were selected for ICG clearance testing. ICG clearance rates in SAIB-treated rats were not significantly different from control rats at any of the time intervals (Ref. 3).

In a 7-day study (Appendix 76), 15 rats (5 males per group) were fed a rodent diet containing 4-percent

(equivalent to 4.0 g/kg bw/d) SAIB. BSP clearance was measured in these rats at 0, 24, and 48 hours posttreatment with SAIB. SAIB had no effect on BSP clearance from the liver in these rats when fed for 7 days (Ref. 3).

Dog Tests (Appendices 76 and 78). In an intermittent dosing study (Appendix 76), two male and two female dogs were serially provided, on one dose per week, laboratory dog chow ration containing SAIB at increasing concentrations of 0.1, 0.3, and 0.5 percent (equivalent to dose levels of 0.03, 0.08, or 0.13 g/kg bw). The animals were fed dog chow without SAIB on days between each dosing. BSP clearance rates for the 4 dogs were evaluated at 24 and 48 hours following each dosing. BSP clearance rates were also measured in each of the dogs prior to the start of the study to determine pretest baseline values. Results from this study showed increased BSP retention at the 24-hour time interval in the dogs at all treatment levels (Ref. 3).

Results from another study in dogs (Appendix 78) showed that BSP retention increased (up to seven-fold) in both male and female dogs administered SAIB as single (oral gavage) doses ranging from 0.005 g/kg bw to 2.0 g/kg bw. Initial increases of BSP levels were observed within 4 to 6 hours posttreatment with SAIB (Refs. 2 and 3).

Monkey Tests (Appendices 80 and 81). In a study (Appendix 80), a group of monkeys (three males) were administered 1.0 g/kg bw of SAIB in cottonseed oil by gavage as a single dose. A second group of monkeys (three males) received no treatment and served as controls. After this dosing of SAIB, BSP clearance tests were performed. The three SAIB-treated monkeys were given a second 1.0-g dose of SAIB after a 7-day rest period followed by additional BSP clearance testing. The first SAIB dosings showed an increase in the BSP level in one of the three treated monkeys, while the second SAIB dosing resulted in an increase in the BSP levels in a different treated monkey (Ref. 3). FDA concluded that these results are inconclusive because of the equivocal BSP results and the small group sizes.

In another study (Appendix 81), a group of monkeys (four males) was administered SAIB orally by gavage at a dose of 5 g/kg bw. Another group of four males was gavaged with corn oil and served as a control group. BSP clearance was tested in the control and SAIB-treated monkeys 5 hours after the SAIB dosing. The group mean BSP level in the treated monkeys was comparable to that in the control group (Ref. 3). Based upon the results from this study, which tested a higher dose of SAIB and had a

larger group size than the above 1.0 g/kg bw monkey study (Appendix 80), FDA concludes that BSP clearance was not affected in monkeys that were orally gavaged with SAIB as a single dose of 1 or 5 g/kg bw (Ref. 5).

Based upon FDA's reviews of these liver function tests, the agency concludes that liver function in dogs was clearly affected by SAIB regardless of the doses tested (0.005 to 2.0 g/kg bw). From these studies the agency also concludes that liver function was not affected in either rats or monkeys at SAIB doses up to 5 g/kg bw. However, because of the short duration of these studies, the agency was unable to determine whether liver function would be affected in rats or monkeys upon chronic exposure to SAIB.

In response to this concern of FDA, the petitioner conducted two 1-year feeding studies (rats and monkeys), in which test animals were subjected to specific liver function tests following a continuous SAIB exposure for 1 year. Results from these 1-year studies are discussed in section II.B.5.b.i of this document. In addition to the 1-year studies in rats and monkeys, the petitioner conducted three human clinical studies to investigate whether the liver function effect that was consistently demonstrated in SAIB-treated dogs could also occur in humans upon oral ingestion of SAIB. Results from the three human clinical studies are also discussed in section II.B.5.b.ii of this document.

b. Studies resolving the altered liver function issue. The petitioner performed two 1-year chronic toxicity studies (rats and monkeys) and the human clinical studies in an effort to resolve the concern regarding liver function. These investigations are discussed in sections II.B.5.b.i. and II.B.5.b.ii. of this document.

i. One-Year Chronic Toxicity Studies (Appendices 83 and 84). The 1-year chronic toxicity studies were performed in rats and in monkeys in order to evaluate any general toxicological effects of SAIB in these animals and to investigate whether there were effects on liver function in rats and monkeys chronically-exposed to SAIB.

Rat Study (Appendix 83). Groups of male and female Charles River rats (20 per sex per group) were fed SAIB in the diet at dose levels of 0, 0.5, 1.0, or 2.0 g/kg bw/d for 52 weeks. The control group was fed the diet minus SAIB for the same duration. BSP clearance tests were performed during weeks 23 and 48 on all control and high-dose rats after an overnight fast. Ophthalmic examinations were performed at weeks 0, 26, and 52 of the study. Selected

hematology and clinical chemistry tests were performed on 10 animals prior to dosing and on all animals at weeks 27 and 53. Histopathological examinations were performed on tissue from liver, kidneys, lungs, and all lesions from all dose groups. Liver sections were also processed for electron microscopy.

A small bw gain decrement (10.3 percent) was observed in the high-dose (2.0 g/kg bw/d) SAIB-treated females. The mean final bw in the high-dose females was also significantly decreased by 6.4 percent, compared to controls. The decreased bw gain in the high-dose females was mostly accounted for by decreased food intake (4-percent reduction). BW gains in the SAIB-treated females at the mid and low doses were not different from control females. The decreases in bw gain that were sporadically seen in the SAIB-treated males in the short-term studies were not observed in the males during this 1-year chronic study. Because the bw gain decrement observed in the high-dose females was small, and because it was not observed in either the low- or mid- dose females or in treated males, and was partially accounted for by decreased food intake in females, the agency concludes that this effect is not toxicologically significant.

No differences were observed in BSP clearance between the SAIB-treated rats and the control rats at 23 or 48 weeks. Other clinical chemistry parameters measured in the SAIB-treated rats at week 53 were comparable to values in control rats.

An increased incidence of high-dose female rats with hepatocellular adenomas (2 out of 19) was observed in this study but was not seen in the longer-term (2-year) rat carcinogenicity study on SAIB, indicating that this effect was not treatment related (see section II.B.4 of this document). Therefore, the agency concludes that there are no indications of liver toxicity or other toxicologically significant effects seen in rats chronically exposed to SAIB for 1 year. The NOEL for this study is 2.0 g/kg bw/d, the highest dose tested (Refs. 5, 16, and 25).

Monkey Study (Appendix 84). In this study, groups of *Cynomolgus* monkeys (four per sex per group; young adults, age unknown) were administered SAIB in corn oil by gavage at doses of 0, 0.50, 1.45, or 2.40 g/kg bw/d for 1 year. The control group was administered only corn oil in a similar manner for the same duration. Ophthalmic, hematological, and clinical chemistry examinations were performed at pretest and at months 3, 6, 9, and 12 of the study. BSP clearance tests were performed to assess liver function in all

animals at pretest and at months 3, 6, 9, and 12 of the study. Organ weight data (absolute and relative) were collected on brain, thyroid/parathyroid, heart, kidney, liver, testis, spleen, ovary, pituitary, and adrenals for all monkeys after week 52 of the study. Macroscopic and microscopic examinations were performed at sacrifice (week 52) on representative tissue from a comprehensive selection of organs. Liver sections from the monkeys in the control and high-dose group were processed for electron microscopy.

The survival, bw, ophthalmoscopic, and hematological data showed no findings that were toxicologically significant or SAIB-related. There were some differences noted between the SAIB-treated and control monkeys for some of the clinical chemistry parameters, but these were sporadically expressed and thus were not toxicologically significant.

Data from the clinical chemistry parameters that assessed hepatobiliary function did not reveal any effects that could be attributed to the administration of SAIB. The percentages of BSP excretion seen 30 minutes after BSP dye injection in the SAIB-treated monkeys at 3, 6, and 12 months, were similar to those seen in controls at comparable time intervals. There were no differences between SAIB-treated monkeys and control monkeys with respect to SAP levels, cholesterol, bile acids, bilirubin, and gamma glutamyl transpeptidase. Organ weight data for SAIB-treated monkeys were comparable to control monkeys except for some occasional differences in the combined weights of the thyroid and parathyroid glands (absolute and relative) in the low- and mid-dose male monkeys and in the absolute and relative ovary weights in high-dose female monkeys. The liver weights (absolute or relative weights) of the dosed monkeys were not different from the liver weights in control monkeys. The agency concludes that none of these changes are toxicologically significant.

Electron micrographs of liver tissue from the SAIB-treated monkeys (high-dose group, four per sex) showed no difference from controls in the quantity of smooth endoplasmic reticulum in their livers. Compared to the controls, there were no ultrastructural changes in either the mitochondria or their associated rough and smooth endoplasmic reticula or any evidence of peroxisomal proliferation in the liver of the SAIB-treated monkeys. Based upon these findings, the agency concludes that there was no evidence of abnormalities in the livers of the SAIB-treated monkeys compared to livers

from control monkeys that would indicate an SAIB-induced effect on liver function.

Based upon FDA's review of the data in this 1-year chronic study, the agency concludes that SAIB does not affect the function or ultrastructure of the liver in monkeys when orally administered at doses up to 2.40 g/kg bw/d for 1 year. No other SAIB-related histopathological lesions were observed in the SAIB-treated monkeys, nor was there other evidence of adverse effects in the SAIB-gavaged monkeys at any of the administered doses. Therefore, the agency has determined that the NOEL for this study is 2.40 g/kg bw/d (Refs. 5 and 17).

ii. *Human clinical studies* (Appendices 97, 98, and 99). The primary objective of the human clinical studies was to evaluate any potential effects of SAIB on liver function in humans when administered as a single daily dose for 14 days.

In a 14-day study (Appendix 97), SAIB was administered to 20 human subjects (10 per sex) daily as a single dose of 0.01 g/kg bw/d. In a second 14-day study (Appendix 98), groups of human subjects (4 per sex) were administered daily a carbonated beverage containing SAIB at either a dose of 0.007 g/kg bw or 0.20 g/kg bw. A third group (four per sex) served as a control and were administered daily a carbonated beverage without SAIB. In a third 14-day study (Appendix 99), groups of 13 human male and 14 human female human subjects were administered daily orange juice containing SAIB at a dose of 0.02 g/kg bw/d. In each of these clinical studies, hematology and clinical chemistry parameters were measured prior to the SAIB dosing on day 0, during the study on day 7, and at the end of the study on day 14 or 18. BSP clearance tests were performed prior to the SAIB dosing and postdosing on day 15.

None of these studies showed any SAIB-related abnormalities in any of the hematology or clinical chemistry parameters measured in these studies, including those clinical chemistry parameters that assessed hepatobiliary function (i.e., SAP levels, alanine amino transferase, aspartate amino transferase, lactate dehydrogenase, gamma glutamyl transferase, bile acids, and total bilirubin). BSP retention in all of the SAIB-treated human subjects was normal compared to pretest values or control values.

Based upon the data in these studies, the agency concludes that SAIB is not toxic in humans and does not induce liver toxicity at doses up to 0.02 g/kg bw/day for 14 days. The 0.02 g/kg bw

SAIB dose is equivalent to exposures resulting from drinking 4 liters per day of a beverage containing SAIB at its assumed maximum allowable use level of 300 milligrams/liter (mg/L) (Refs. 5, 26, 27, and 28).

c. *Agency conclusions regarding altered liver function issue.* During the initial safety review of SAIB, FDA raised a concern that, regardless of the tested dose or study duration, treatment-related liver effects were consistently noted in SAIB-treated dogs. In response to this concern, the petitioner provided a significant amount of pharmacokinetics and metabolism data on SAIB in various species, including humans. Based on these data, FDA finds that there appear to be greater quantitative differences in the absorption and metabolism of SAIB between dogs and humans than between the other tested species and humans. To evaluate further the significance of the liver effects to the overall safety of SAIB for human consumption, the agency carefully considered the test results with monkeys, a nonhuman primate species that is phylogenetically closest to humans, as well as liver function data collected directly from human subjects in the three clinical studies.

Unlike the liver effects seen in SAIB-treated dogs, there was no evidence of liver effects in the specific liver function tests with monkeys that received acute oral doses of SAIB as high as 5 g/kg bw (Appendix 84). Data also demonstrate a lack of treatment-related liver effects in monkeys that were exposed continuously to SAIB at dose levels up to 2.4 g/kg bw/d over a 1-year treatment period. Importantly, this dose level of 2.4 g/kg bw/d is nearly one thousand fold the anticipated 90th percentile human exposure of SAIB in the daily diet.

FDA's review of the human clinical studies (Appendices 97, 98, and 99) further support the agency's conclusion regarding the significance of the liver effects. In all three clinical studies, no SAIB-induced effects on liver function were observed in either male or female subjects. While the duration of the human studies was relatively short (14 days), the highest dose used (0.02 g/kg bw/d) provided reasonable assurance, in conjunction with the chronic monkey study data (Appendix 84), that the liver effects seen in SAIB-treated dogs will not occur in humans that ingest SAIB. The highest dose tested in the human clinical studies is equivalent to an exposure resulting from the drinking 4 L/d of a beverage containing SAIB at its proposed maximum allowable use level of 300 mg/L.

Based upon FDA's reviews of the nonhuman primate data and the direct human data provided in the SAIB data base, the agency concludes that the liver function effect seen in SAIB-treated dogs is not determinative of the overall safety evaluation of SAIB for human consumption. The agency further concludes that there is reasonable certainty that the adverse liver effects seen in the SAIB-treated dogs will not occur in humans that consume SAIB at the anticipated levels of dietary intake.

C. Acceptable Daily Intake for SAIB

As discussed in section II.B.5.c of this document, FDA has relied on the monkey and human data to resolve questions concerning the altered liver function observed in SAIB-treated dogs. To support the overall safety of SAIB for human consumption and to establish an ADI, FDA has relied on data from rat studies of SAIB because the most complete toxicological profile of SAIB was established in this rodent species. The rat studies in the SAIB data base assess both the potential carcinogenicity and the reproductive/developmental toxicity of SAIB. In addition, because of their duration and size, the chronic rat studies had greater sensitivity and thus, were more likely to manifest treatment-related chronic effects. Furthermore, the available absorption and metabolism data demonstrated substantial similarities, both qualitative and quantitative, between rats and humans in the metabolic handling of SAIB following oral ingestion.

Based on the 1- and 2-year rat studies, FDA determined that the highest dose tested in both studies (2.0 g/kg bw/d) was the NOEL for SAIB. Based on this NOEL and the use of a safety factor of 100, FDA calculated an ADI of 0.02 g/kg bw/d or 1.20 g/p/d for SAIB (Ref. 5). The EDI exposure for SAIB is 0.17 g/p/d (90th percentile, all ages) which is 14 percent of the ADI calculated for the additive.

III. Conclusion

Based on all the SAIB data reviewed by the agency, FDA concludes that there is a reasonable certainty that no harm will result from the use of SAIB as an emulsion stabilizer for flavoring oils in nonalcoholic beverages, and thus, SAIB is safe for its proposed use. Therefore, the agency concludes that the food additive regulations should be amended as set forth in this document.

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.

IV. Environmental Effects

The agency has determined under 21 CFR 25.32(k) 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.

V. Paperwork Reduction Act of 1995

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.

VI. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday. **Note:** References with an asterisk are not on display; they are available generally because they are published articles or books.

1. Memorandum from DiNovi, Division of Product Manufacture and Use, to Anderson, Direct Additives Branch, FDA, July 31, 1991.
2. Memorandum from Taylor, Additives Evaluation Branch, to McLaughlin, Direct Additives Branch, FDA, November 4, 1985.
3. Memorandum from Pellicore, Additives Evaluation Branch, to Anderson, Direct Additives Branch, FDA, September 29, 1992.
4. Memorandum from Pellicore, Additives Evaluation Branch, to Anderson, Novel Ingredients Branch, FDA, February 5, 1993.
5. Memorandum from Whiteside, Division of Health Effects Evaluation, to Anderson, Division of Product Policy, FDA, August 27, 1998.
6. Memorandum from Donnely, Genetic Toxicity Branch, to Dunkel, Genetic Toxicity Branch, FDA, September 23, 1985.
7. Memorandum from Prival, Additives Evaluation Branch #1, to Whiteside, Additives Evaluations Branch #2, FDA, March 14, 1996.
8. Memorandum from Moreland, Genetic Toxicity Branch, FDA, August 12, 1985.
9. Memorandum from Lavappa, Genetic Toxicity Branch, to Chief, Genetic Toxicity Branch, FDA, September 9, 1985.
10. Memorandum from Bradlaw, Genetic Toxicity Branch, to Dunkel, Genetic Toxicity Branch, FDA, May 24, 1985.
11. Memorandum from Bradlaw, Genetic Toxicity Branch, to Dunkel, Genetic Toxicity Branch, FDA, August 15, 1985.
12. Memorandum from Bradlaw, Genetic Toxicity Branch, to Lin, Additives Evaluation Branch, FDA, September 6, 1989.

13. Memorandum from Welsh, Additives Evaluation Branch #2, to Whiteside, Additives Evaluations Branch #2, FDA, August 28, 1995.

14. Memorandum from Whiteside, Division of Health Effects Evaluation, to Lorentzen, Cancer Assessment Committee, FDA, March 18, 1997.

15. Memorandum of Conference, Cancer Assessment Committee Meeting, FDA, October 28, 1996.

16. Memorandum from Raffaele, Additives Evaluations Branch #2, to Whiteside, Additives Evaluations Branch #2, FDA, June 23, 1994.

17. Memorandum from Whiteside, Additives Evaluation Branch #2, to Anderson, Direct Additives Branch, FDA, March 23, 1994.

18. Memorandum from Whiteside, Additives Evaluation Branch #2, to Anderson, Direct Additives Branch, FDA, August 20, 1993.

*19. Cornelius, C. E., "Liver Function," *Clinical Biochemistry of Domestic Animals*, C. E. Cornelius and J. J. Kaneko, eds. Academic Press, pp. 251-264, 1963.

*20. Cornelius, C. E., et al., "An assessment of hepatic function in rhesus and squirrel monkeys," *Veterinary Medicine/Small Animal Clinicals*, 78: 1885-1888, 1983.

*21. Cornelius, C. E., "Liver Function," *Clinical Biochemistry of Domestic Animals*, 4th ed. Jiro J. Kaneko, Ed., Academic Press, Inc., pp. 375-379, 391-397, 1989.

*22. Poutsiaika, et al., "Simultaneous Determination in Dogs of Liver and Kidney Functions with Bromosulfalein and Phenolsulfonephthalein," *Toxicology and Applied Pharmacology*, 4:55, 1962.

*23. Krasavage, et al., "Indocyanine Green Testing," *Proceedings Society for Experimental Biology of Medicine*, 119: 215, 1965.

*24. Bonasch, H. and C. E. Cornelius, "Indocyanine Green: A Liver Function Test for the Dog," *American Journal of Veterinary Research*, 25: 254-59, 1964.

25. Memorandum from Alam, Pathology Branch, to Anderson, Novel Ingredients Branch, FDA, July 10, 1997.

26. Memorandum from Hotta, Clinical Nutrition Branch, to Blendermann, Division of Nutrition, FDA, December 31, 1986.

27. Memorandum from Calvert, Clinical Nutrition Branch, to Anderson, Novel Ingredients Branch, FDA, January 21, 1992.

28. Memorandum from Calvert, Clinical Nutrition Branch, to Anderson, Novel Ingredients Branch, FDA, September 2, 1993.

VI. Objections

Any person who will be adversely affected by this regulation may at any time on or before July 6, 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 172

Food additives, Incorporation by reference, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 172 is amended as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 172 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 348, 371, 379e.

2. Section 172.833 is added to subpart I to read as follows:

§ 172.833 Sucrose acetate isobutyrate (SAIB).

Sucrose acetate isobutyrate may be safely used in foods in accordance with the following prescribed conditions:

(a) Sucrose acetate isobutyrate (CAS Reg. No. 27216-37-1), or SAIB, is the chemical *alpha*-D-glucopyranoside, O-acetyl-tris-O-(2-methyl-1-oxopropyl)-beta-D-fructofuranosyl, acetate tris(2-methyl propanoate).

(b) SAIB, a pale, straw-colored liquid, meets the following specifications:

(1) Assay: Not less than 98.8 percent and not more than 101.9 percent, based on the following formula:

$$\text{Assay} = ((\text{SV} \cdot 0.10586) \div 56.1) \times 100$$

Where SV = Saponification value

(2) Saponification value: 524-540 determined using 1 gram of sample by the "Guide to Specifications for General Notices, General Analytical Techniques, Identification Tests, Test Solutions, and Other Reference Materials," in the

"Compendium of Food Additive Specifications, Addendum 4, Food and Agriculture Organization of the United Nations (FAO), Food and Nutrition Paper 5, Revision 2" (1991), pp. 203 and 204, which is incorporated by reference, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available from the Office of Pre-market Approval, Center for Food Safety and Applied Nutrition (HFS-200), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or may be examined at the Center for Food Safety and Applied Nutrition's Library, 200 C St. SW., rm. 3321, Washington, DC, or at the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.

(3) Acid value: Not to exceed 0.20 determined using 50 grams of sample by the "Guide to Specifications for General Notices, General Analytical Techniques, Identification Tests, Test Solutions, and Other Reference Materials," in the "Compendium of Food Additive Specifications, Addendum 4, FAO Food and Nutrition Paper 5, Revision 2," p. 189 (1991), which is incorporated by reference; see paragraph (b)(2) of this section for availability of the incorporation by reference.

(4) Lead: Not to exceed 1.0 milligrams/kilogram determined by the "Atomic Absorption Spectrophotometric Graphite Furnace Method, Method I," in the "Food Chemicals Codex," 4th ed. (1996), pp. 763 and 764, with an attached modification to the sample digestion section in Appendix III.B (July 1996), which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Box 285, Washington, DC 20055 (Internet "http://www.nap.edu"), or may be examined at the Center for Food Safety and Applied Nutrition's Library, 200 C St. SW., rm. 3321, Washington, DC, or at the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.

(5) Triacetin: Not to exceed 0.10 percent determined by gas chromatography as described in the "Guide to Specifications for General Notices, General Analytical Techniques, Identification Tests, Test Solutions, and Other Reference Materials," in the "Compendium of Food Additive Specifications, Addendum 4, FAO Food and Nutrition Paper 5, Revision 2" (1991), pp. 13-26, which is incorporated by reference; see paragraph (b)(2) of this section for availability of the incorporation by reference.

(c) The food additive is used as a stabilizer (as defined in § 170.3(o)(8) of

this chapter) of emulsions of flavoring oils in nonalcoholic beverages.

(d) The total SAIB content of a beverage containing the additive does not exceed 300 milligrams/kilogram of the finished beverage.

Dated: May 27, 1999.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 99-14147 Filed 6-3-99; 8:45 am]

BILLING CODE 4160-01-F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AL-40-2-9909a; FRL-6352-5]

Approval and Promulgation of Implementation Plans; Alabama

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving a State Implementation Plan (SIP) revision for the State of Alabama. This revision consists of the 1990 base year ozone emission inventory for the Birmingham marginal ozone nonattainment area. The inventory was submitted to satisfy a Clean Air Act (CAA) requirement that states containing ozone nonattainment areas submit inventories of actual ozone precursor emissions in accordance with guidance from the EPA.

DATES: This direct final rule is effective August 3, 1999 without further notice, unless EPA receives adverse comment by July 6, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: All comments should be addressed to Joey LeVasseur at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

Copies of the state submittal are available at the following addresses for inspection during normal business hours: The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Reference file AL-40-2-9909. The Region 4 office may have additional background documents not available at the other locations.

Environmental Protection Agency,
Atlanta Federal Center, Region 4 Air
Planning Branch, 61 Forsyth Street
SW, Atlanta, Georgia 30303-3104.

Alabama Department of Environmental Management, 1751 Congressman W. L. Dickinson Drive, Montgomery, Alabama 36109.

FOR FURTHER INFORMATION CONTACT: Joey LeVasseur at 404/562-9035 or E-mail (levasseur.joey@epa.gov).

SUPPLEMENTARY INFORMATION: Alabama submitted its 1990 base year emission inventory of ozone precursors to the EPA on November 13, 1992.

I. Background Information

Under the CAA as amended in 1990, states have the responsibility to inventory emissions contributing to nonattainment of a National Ambient Air Quality Standard (NAAQS), to track these emissions over time, and to ensure that control strategies are being implemented that reduce emissions and move areas towards attainment. The 1990 base year emissions inventory is the primary inventory from which the periodic inventory, the Reasonable Further Progress (RFP) projection inventory, and the modeling inventory are derived. Further information on these inventories and their purpose can be found in the "Emission Inventory Requirements for Ozone State Implementation Plans," U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina, March 1991. The base year inventory may also serve as part of statewide inventories for purposes of regional modeling in transport areas. The base year inventory plays an important role in modeling demonstrations for nonattainment areas. The air quality planning requirements for marginal to extreme ozone nonattainment areas are set out in section 182(a)-(e) of title I of the 1990 amendments to the CAA (title I). The EPA has issued a General Preamble describing the EPA's preliminary views on how the Agency intends to review SIP revisions submitted under title I, including requirements for the preparation of the 1990 base year inventory (see 57 FR 13502 (April 16, 1992) and 57 FR 18070 (April 28, 1992)). In this action, EPA will rely on the General Preamble's interpretation of the CAA, and the reader should refer to the General Preamble for a more detailed discussion of the interpretations of title I advanced in today's rule and the supporting rationale.

Those states containing ozone nonattainment areas classified as marginal to extreme are required under section 182(a)(1) of the CAA to submit a final, comprehensive, accurate, and

current inventory of actual ozone season, weekday emissions from all sources within 2 years of enactment (November 15, 1992). This inventory is for calendar year 1990 and is denoted as the base year inventory. It includes both anthropogenic and biogenic sources of volatile organic compounds (VOC), nitrogen oxides (NO_x), and carbon monoxide (CO). The inventory is to address actual VOC, NO_x, and CO emissions for the area during the ozone season, which is generally comprised of the summer months. All stationary point and area sources, as well as mobile sources within the nonattainment area, are to be included in the compilation. Guidance for preparing emission inventories is provided in the General Preamble (57 FR 13498 (April 16, 1992)).

II. Analysis of State Submission

A. Procedural Background

The CAA requires states to observe certain procedural requirements in developing emission inventory submissions to the EPA. Section 110(a)(2) of the CAA provides that each emission inventory submitted by a state must be adopted after reasonable notice and public hearing. Also section 172(c)(7) of the CAA requires that plan provisions for nonattainment areas meet the applicable provisions of section 110(a)(2).

On November 13, 1992, the State of Alabama submitted to the EPA as a SIP revision the 1990 base year inventory for the Birmingham marginal ozone nonattainment area.

B. Emission Inventory Review

Section 110(k) of the CAA sets out provisions governing the EPA's review of base year emission inventory submittals in order to determine approval or disapproval under section 182(a)(1) (see 57 FR 13565-13566 (April 16, 1992)). This section outlines the review procedures performed to determine if the base year emission inventories are acceptable. For a base year emission inventory to be acceptable it must pass all of the following acceptance criteria.

1. The state provided an approved Inventory Preparation Plan (IPP) and performed the Quality Assurance program contained in the IPP and documented its implementation.

2. The state provided adequate documentation that enabled the reviewer to determine the emission estimation procedures and the data sources used to develop the inventory.

3. The point source inventory must be complete.

4. The state must have prepared or calculated the point source emissions according to the current EPA guidance.

5. The area source inventory must be complete.

6. The state must have prepared or calculated the area source emissions according to the current EPA guidance.

7. The state must have prepared the biogenic emissions according to the current EPA guidance or another approved technique.

8. The method (e.g., Highway Performance Modeling System or a network transportation planning model) used to develop vehicle miles traveled (VMT) estimates must follow EPA guidance, which is detailed in the document, "Procedures for Emission Inventory Preparation, Volume IV: Mobile Sources," U.S. Environmental Protection Agency, Office of Mobile Sources and Office of Air Quality Planning and Standards, Ann Arbor, Michigan, and Research Triangle Park, North Carolina, December 1992.

9. The state correctly used The MOBILE model to produce emission factors for each of the vehicle classes.

10. The state prepared the Non-road mobile emissions according to current EPA guidance for all of the source categories.

The emission inventory prepared by Alabama meets the ten criteria. Documentation of the EPA's evaluation, including details of the review procedure, is contained within the technical support document prepared for the Alabama 1990 base year inventory, which is available to the public as part of the docket supporting this action.

Alabama has submitted a complete inventory containing point, area, mobile and biogenic source data, and accompanying documentation. Emissions from these sources are presented in the following table.

EMISSION INVENTORY SUMMARY FOR
1990
[Tons per day]

	VOC	NO _x	CO
Point	61.83	408.98	179.87
Area	59.18	54.38	42.57
Mobile ...	94.23	60.34	585.11
Biogenic	200.29	NA	NA
Total	415.53	523.70	807.55

Alabama has satisfied all of the EPA's requirements for providing a comprehensive, accurate, and current inventory of actual ozone precursor emissions in the Birmingham marginal ozone nonattainment area. The

inventory is complete and approvable according to the criteria set out in the November 12, 1992, memorandum from J. David Mobley, Chief Emission Inventory Branch, TSD to G.T. Helms, Chief Ozone Carbon Monoxide Programs Branch, AQMD. In today's final action, the EPA is approving the SIP 1990 base year ozone emission inventory submitted by the State for the Birmingham area as meeting the requirements of section 182(a)(1) of the CAA.

Final Action

EPA is approving the aforementioned emissions inventory into the Alabama SIP. The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal 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 August 3, 1999 without further notice unless the Agency receives adverse comments by July 6, 1999.

If the EPA receives such comments, EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on August 3, 1999 and no further action will be taken on the proposed rule.

III. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 12875

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

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

Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities.

C. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, 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 Executive Order 13084 do not apply to this rule.

D. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that

EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

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

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 CAA 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 CAA, 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 August 3, 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, Carbon monoxide, Hydrocarbons, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: March 30, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401-7641q.

Subpart B—Alabama

2. Section 52.50 is amended by revising the word "Delaware" in paragraph (a) to read "Alabama" and by adding a new paragraph (e) to read as follows:

§ 52.50 Identification of plan.

* * * * *

(e) EPA-approved Alabama non-regulatory provisions.

Provision	State effective date	EPA approval date	Federal Register notice	Comments
Birmingham 1990 Baseline Emissions Inventory	November 13, 1992 ..	June 4, 1999	[Insert cite of publication].	

[FR Doc. 99-13944 Filed 6-3-99; 8:45 am]
BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[FL-79-9918a; FRL-6352-7]

Approval and Promulgation of State Plans For Designated Facilities and Pollutants: Florida

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The United States Environmental Protection Agency (EPA) is approving the section 111(d) Plan submitted by the Florida Department of Environmental Protection (DEP) for the State of Florida on October 28, 1998, for implementing and enforcing the Emissions Guidelines (EG) applicable to existing Municipal Solid Waste (MSW) Landfills. See 40 CFR part 60, subpart Cc.

DATES: This final rule is effective on August 3, 1999 unless significant, material, and adverse comments are received by July 6, 1999. If such adverse comments are received, timely notice of

the withdrawal will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: Joey LeVasseur, EPA Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Copies of materials submitted to EPA may be examined during normal business hours at the following locations:

EPA Region 4, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.

Florida Department of Environmental Protection, Air Resources Management Division, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

FOR FURTHER INFORMATION CONTACT: Joey LeVasseur at (404) 562-9035 or Scott Davis at (404) 562-9127.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 111(d) of the Clean Air Act (Act), EPA has established procedures whereby states submit plans to control certain existing sources of "designated pollutants." Designated pollutants are defined as pollutants for which a standard of performance for new sources applies under section 111, but which are not "criteria pollutants"

(i.e., pollutants for which National Ambient Air Quality Standards (NAAQS) are set pursuant to sections 108 and 109 of the Act) or hazardous air pollutants (HAPs) regulated under section 112 of the Act. As required by section 111(d) of the Act, EPA established a process at 40 CFR part 60, subpart B, which states must follow in adopting and submitting a section 111(d) plan. Whenever EPA promulgates a new source performance standard (NSPS) that controls a designated pollutant, EPA establishes EG in accordance with 40 CFR 60.22 which contain information pertinent to the control of the designated pollutant from that NSPS source category (i.e., the "designated facility" as defined at 40 CFR 60.21(b)). Thus, a state, local, or tribal agency's section 111(d) plan for a designated facility must comply with the EG for that source category as well as 40 CFR part 60, subpart B.

On March 12, 1996, EPA published EG for existing MSW landfills at 40 CFR part 60, subpart Cc (40 CFR 60.30c through 60.36c) and NSPS for new MSW Landfills at 40 CFR part 60, subpart WWW (40 CFR 60.750 through 60.759). (See 61 FR 9905-9944.) The pollutants regulated by the NSPS and EG are MSW landfill emissions, which

contain a mixture of volatile organic compounds (VOCs), other organic compounds, methane, and HAPs. VOC emissions can contribute to ozone formation which can result in adverse effects to human health 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. To determine whether control is required, nonmethane organic compounds (NMOCs) are measured as a surrogate for MSW landfill emissions. Thus, NMOC is considered the designated pollutant. The designated facility which is subject to the EG is each existing MSW landfill (as defined in 40 CFR 60.32c) for which construction, reconstruction or modification was commenced before May 30, 1991.

Pursuant to 40 CFR 60.23(a), states were required to either: (1) submit a plan for the control of the designated pollutant to which the EG applies; or (2) submit a negative declaration if there were no designated facilities in the state within nine months after publication of the EG (by December 12, 1996).

EPA has been involved in litigation over the requirements of the MSW landfill EG and NSPS since the summer of 1996. On November 13, 1997, EPA issued a notice of proposed settlement in *National Solid Wastes Management Association v. Browner, et al.*, No. 96-1152 (D.C. Cir), in accordance with section 113(g) of the Act. See 62 FR 60898. It is important to note that the proposed settlement does not vacate or void the existing MSW landfill EG or NSPS. Pursuant to the proposed settlement agreement, EPA published a direct final rulemaking on June 16, 1998, in which EPA is amending 40 CFR part 60, subparts Cc and WWW, to add clarifying language, make editorial amendments, and to correct typographical errors. See 63 FR 32743-32753, 32783-32784. EPA regulations at 40 CFR 60.23(a)(2) provide that a state has nine months to adopt and submit any necessary State Plan revisions after publication of a final revised emission guideline document. The State of Florida has amended their rules for MSW landfills in Chapter 62-204 of the Florida Administrative Code (FAC), Rule 62-204.800(8)(c) and Rule 62-204.800(7)(b)72 (effective dates of October 19, 1998), to reflect the June 16, 1998, amendments to subparts Cc and WWW. Accordingly, the MSW landfill EG published on March 12, 1996, and amended on June 16, 1998, was used as

the basis by EPA for review of this section 111(d) Plan submittal.

This action approves the section 111(d) Plan submitted by the Florida DEP for the State of Florida to implement and enforce subpart Cc.

II. Discussion

The Florida DEP submitted to EPA on October 28, 1998, the following in their section 111(d) Plan for implementing and enforcing the emission guidelines for existing MSW landfills in the State of Florida: Legal Authority; Enforceable Mechanisms; MSW Landfill Source and Emission Inventory; Emission Limits; Review and Approval Process for Collection and Control System Design Plans; Compliance Schedules; Testing, Monitoring, Recordkeeping and Reporting Requirements; Demonstration That the Public Had Adequate Notice and Public Hearing Record; Submittal of Progress Reports to EPA; and applicable State of Florida statutes and rules of the FAC.

The approval of the Florida State Plan is based on finding that: (1) The Florida DEP provided adequate public notice of public hearings for the proposed rulemaking which allows the Florida DEP to implement and enforce the EG for MSW landfills; and (2) the Florida DEP also demonstrated legal authority to adopt emission standards and compliance schedules applicable to the designated facilities; enforce applicable laws, regulations, standards and compliance schedules; seek injunctive relief; obtain information necessary to determine compliance; require recordkeeping; conduct inspections and tests; require the use of monitors; require emission reports of owners and operators; and make emission data publicly available.

In section 1.0 and Appendix B of the Plan, the Florida DEP cites the following references for the legal authority: Florida Statutes (FS) section 403.061; section 403.8055; section 403.061(6), (7), (8), (12), and (13); section 403.121; section 403.131; section 403.141; section 403.161; and section 119.07. These statutes are approved as being at least as protective as the Federal requirements for existing MSW landfills.

In section 2.0 of the Plan, the Florida DEP cites the enforceable mechanisms for implementing the EG for existing MSW landfills. The enforceable mechanisms are the State regulations adopted by the State of Florida in Rule 62-204.800(8)(c) and Rule 62-204.800(7)(b)72 of the FAC. Florida's regulations meet the Federal requirements for an enforceable mechanism and are approved as being at

least as protective as the Federal requirements contained in subpart Cc for existing MSW landfills.

In section 2.0 of the Plan, the Florida DEP cites all emission limitations for the major pollutant categories related to the designated sites and facilities. These limitations in Rule 62-204.800(8)(c) are approved as being at least as protective as the Federal requirements contained in subpart Cc for existing MSW landfills.

In section 3.0 and 4.0 of the Plan, the Florida DEP submitted a source and emission inventory of all designated pollutants for each MSW landfill in the State of Florida. This portion of the Plan has been reviewed and approved as meeting the Federal requirements for existing MSW landfills.

Section 5.0 of the Florida State Plan describes the process that Florida DEP will utilize for the review of site-specific design plans for gas collection and control systems. The process outlined in the Plan meets the Federal requirements contained in subpart Cc for existing MSW landfills.

In section 5.0 of the Plan, the Florida DEP cites the compliance schedules adopted in Rule 62-204.800(8)(c) for each existing MSW landfill to be in compliance within 30 months of the designated date of December 31, 1996, in their implementing regulation. These compliance times for affected MSW landfills will be no later than June 30, 1999, and address the required compliance time lines of the EG. This portion of the Plan has been reviewed and approved as being at least as protective as Federal requirements for existing MSW landfills.

Section 6.0 of the Florida State Plan includes its legal authority to require owners and operators of designated facilities to maintain records and report to their agency the nature and amount of emissions and any other information that may be necessary to enable their agency to judge the compliance status of the facilities. The Florida DEP also cites its legal authority to provide for periodic inspection and testing and provisions for making reports of MSW landfill emissions data, correlated with emission standards that apply, available to the general public. Rule 62-204.800(8)(c) and Rule 62-204.800(7)(b)72 of the FAC support the requirements of monitoring, recordkeeping, reporting, and compliance assurance. These Florida rules have been reviewed and approved as being at least as protective as Federal requirements for existing MSW landfills.

Section 7.0 of the Plan outlines how the Florida DEP will provide progress

reports of Plan implementation updates to the EPA on an annual basis. These progress reports will include the required items pursuant to 40 CFR part 60, subpart B. This portion of the Plan has been reviewed and approved as meeting the Federal requirement for Plan reporting.

Consequently, EPA finds that the Florida State Plan meets all of the requirements applicable to such plans in 40 CFR part 60, subparts B and Cc. The Florida DEP did not, however, submit evidence of authority to regulate existing MSW landfills in Indian Country. Therefore, EPA is not approving this Plan as it relates to those sources.

Final Action

Based on the rationale discussed above, EPA is approving the State of Florida section 111(d) Plan, as submitted on October 28, 1998, for the control of landfill gas from existing MSW landfills, except for those existing MSW landfills located in Indian Country. As provided by 40 CFR 60.28(c), any revisions to the Florida State Plan or associated regulations will not be considered part of the applicable plan until submitted by the Florida DEP in accordance with 40 CFR 60.28(a) or (b), as applicable, and until approved by EPA in accordance with 40 CFR part 60, subpart B.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the revision should significant, material, and adverse comments be filed. This action will be effective August 3, 1999 unless by July 6, 1999, adverse or critical comments are received.

If the EPA receives 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 the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective August 3, 1999.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any section 111(d) plan. Each request for revision to the section 111(d) plan shall be

considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

III. Administrative Requirements

A. Executive Order 12866

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

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, 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.

C. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, 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 Executive Order 13084 do not apply to this rule.

D. Executive Order 13045

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

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

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 CAA 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 CAA, 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 August 3, 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: April 21, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

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 K—Florida

2. Section 62.2350 is amended by adding paragraphs (b)(6) and (c)(4) to read as follows:

§ 62.2350 Identification of plan.

* * * * *

(b) * * *

(6) State of Florida Department of Environmental Protection Section 111(d) State Plan For Municipal Solid Waste Landfills, submitted on October 28, 1998, by the Florida Department of Environmental Protection.

(c) * * *

(4) Existing municipal solid waste landfills.

Subpart K—[Amended]

3. Subpart K is amended by adding a new § 62.2360 and a new undesignated center heading to read as follows:

Landfill Gas Emissions From Existing Municipal Solid Waste Landfills

§ 62.2360 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. 99-13942 Filed 6-3-99; 8:45 am]

BILLING CODE 6560-50-P

Proposed Rules

Federal Register

Vol. 64, No. 107

Friday, June 4, 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-NE-06-AD]

RIN 2120-AA64

Airworthiness Directives; Pratt & Whitney JT9D-7R4 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Pratt & Whitney JT9D-7R4 series turbofan engines. This proposal would require initial and repetitive inspections of certain High Pressure Turbine (HPT) stage 1 and stage 2 disks utilizing an improved ultrasonic method when the disks are exposed during a shop visit, and if a subsurface anomaly is found, removal from service and replacement with a serviceable part. This proposal is prompted by the results of a stage 1 HPT disk fracture investigation which has identified a population of HPT stage 1 and 2 disks that may have subsurface anomalies formed during the forging process. The actions specified by the proposed AD are intended to prevent HPT disk fracture, which could result in an uncontained engine failure, damage to the aircraft, and an in-flight engine shutdown.

DATES: Comments must be received by July 6, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99-NE-06-AD, 12 New England Executive Park, Burlington, MA 01803-5299. Comments may also be sent via the Internet using the following address: "9-ane-adcomment@faa.gov". Comments sent via the Internet must contain the docket

number in the subject line. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565-6600, fax (860) 565-4503. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Peter White, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803-5299; telephone (781) 238-7128, fax (781) 238-7199.

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 summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99-NE-06-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, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99-NE-06-AD, 12 New England Executive Park, Burlington, MA 01803-5299.

Discussion

The Federal Aviation Administration (FAA) received a report of an uncontained high pressure turbine (HPT) disk failure on an International Aero Engines (IAE) V2500-A1 series turbofan engine. The investigation into the cause of that failure revealed that certain HPT stage 1 and stage 2 disks were manufactured using a process that resulted in a subsurface defect in the disk material. The subsurface defect, called a "clean linear" anomaly, was formed during a specific forging process also used for HPT stage 1 and stage 2 disks for the JT9D-7R4 series engines. The anomaly may not have been detected during ultrasonic inspection during manufacture due to its orientation and shape. The disk failure occurred as a result of a crack that initiated at the anomaly site. An improved ultrasonic inspection has been developed which is more capable of detecting anomalies, or cracks that originate from the sites of anomalies, prior to disk failure. V2500-A1, PW2000 and JT9D-7R4 1st and 2nd stage HPT disks manufactured using this same material and forging process are affected. There are approximately 131 JT9D-7R4 HPT stage 1 and stage 2 disks that were manufactured using this material and forging process, and those disks have been identified by serial number in Pratt & Whitney (PW) Service Bulletin JT9D-7R4-72-553, Revision 1, dated February 17, 1999. This condition, if not corrected, could result in an HPT disk fracture, which could result in an uncontained engine failure, damage to the aircraft, and an in-flight engine shutdown.

The FAA has reviewed and approved the technical contents of PW Service Bulletin (SB) JT9D-7R4-72-553, Revision 1, dated February 17, 1999, that describes inspection procedures and criteria for certain stage 1 and 2 HPT disks.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same

type design, the proposed AD would require initial and repetitive inspections of certain stage 1 and stage 2 HPT disks using an improved ultrasonic method whenever the disk is exposed during a shop visit. If a subsurface anomaly is found, the disk must be removed from service and replaced with a serviceable part. The actions would be required to be accomplished in accordance with the SB described previously.

There are approximately 131 affected disks installed in engines in the worldwide fleet. The FAA estimates that 25 engines on aircraft of U.S. registry would be affected by this proposed AD. The FAA estimates that the shipping cost per disk to the facility which will inspect the disk and its return will be approximately \$250 per disk, that no engines will require an unplanned HPT module disassembly/assembly, that the inspection would take approximately 8 work hours per disk to accomplish the proposed actions, and that the average labor rate is \$60 per work hour. Some disks will require multiple inspections during their service life. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be \$88,000. The manufacturer has advised the FAA that the all costs relative to the inspection will be reimbursed to the operator.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

39.13 [Amended]

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

99-XX-XX Pratt & Whitney: Docket No. 99-NE-06-AD.

Applicability: Pratt & Whitney JT9D-7R4 Series Turbofan Engines, installed on but not limited to Boeing 747, Airbus A300 and Airbus A310 series airplanes.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent high pressure turbine (HPT) disk fracture, which could result in an uncontained engine failure and damage to the aircraft, accomplish the following:

(a) For engines with a HPT stage 1 or Stage 2 disk installed that has a serial number listed in the Accomplishment Instructions section of PW SB JT9D-7R4-72-553, Revision 1, dated February 17, 1999, perform initial and repetitive ultrasonic inspections in accordance with the Accomplishment Instructions section of PW SB JT9D-7R4-72-553, Revision 1, dated February 17, 1999, as follows:

(1) Perform an initial ultrasonic inspection at the next HPT disk piece part accessibility after the effective date of this AD.

(2) Thereafter, perform an ultrasonic inspection at each HPT disk piece part accessibility after the initial inspection performed in accordance with paragraph (a)(1) of this AD.

(3) For the purpose of this AD, piece part accessibility is defined as removal of the blades from the disk.

(b) Remove from service those HPT disks found with a crack indicating a subsurface anomaly and replace with a serviceable part.

(c) For engines that do not have a HPT stage 1 or Stage 2 disk installed that has a serial number listed in the Accomplishment Instructions section of PW SB JT9D-7R4-72-553, Revision 1, dated February 17, 1999, no inspections are required.

(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, Engine Certification Office. Operators shall submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

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

(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 aircraft to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on May 27, 1999.

David A. Downey,

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

[FR Doc. 99-14128 Filed 6-3-99; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98-NM-266-AD]

RIN 2120-AA64

Airworthiness Directives; Dassault Model Mystere-Falcon 50 and 900 Series Airplanes, Falcon 900EX Series Airplanes, and Falcon 2000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Dassault Model Mystere-Falcon 50 and 900 series airplanes, Falcon 900EX series airplanes, and Falcon 2000 series airplanes. This proposal would require revising the Airplane Flight Manual to provide the flight crew with certain instructions associated with the onset of stall warning. This proposal also would require repetitive inspections to detect discrepancies of the hinge pin assemblies of the rear horizontal stabilizer, and corrective actions, if necessary. For certain airplanes, this proposal also would require

replacement of the hinge pin assemblies with new, improved parts. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent excessive movement and consequent deformation of the hinge pin assemblies of the rear horizontal stabilizer, which could result in flutter and possible failure of the rear horizontal stabilizer.

DATES: Comments must be received by July 6, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 98-NM-266-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2110; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98-NM-266-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 98-NM-266-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on all Dassault Model Mystere-Falcon 50 and 900 series airplanes, Falcon 900EX series airplanes, and Falcon 2000 series airplanes. The DGAC advises that, during a flight test, excessive clearance was found between the hinge bushings and the hinge pin that attaches the rear horizontal stabilizer to the fuselage structure. Investigation revealed that the excessive clearance was caused by deformation of the hinge bushings due to high dynamic (forceful) loads encountered during flight test stall maneuvers. Although the amount of deformation detected did not represent an immediate hazard to the airplane during the flight test, repeated stall conditions could cause the deformation of the hinge bushings to increase. This condition, if not corrected, could result in flutter and possible failure of the rear horizontal stabilizer.

Explanation of Relevant Service Information

Dassault has issued Airplane Maintenance Manual (AMM) Temporary Revision 704.0/1, dated November 1997 (for Model Mystere-Falcon 50 series airplanes); AMM Procedure 55-501, dated March 1998 (for Model Mystere-Falcon 900 series airplanes); AMM Temporary Revision 55-501, dated November 1997 (for Model Falcon 900EX series airplanes); and AMM Procedure 55-501, dated November 1997 (for Model Falcon 2000 series airplanes). These procedures provide instructions for repetitive dimensional inspections to detect discrepancies (damage, deformation, and excessive movement) of the hinge pin assemblies of the rear horizontal stabilizer.

Additionally, Dassault has issued Service Bulletins F50-274 (F50-55-4), F900-203 (F900-55-3), F900EX-37 (F900EX-55-1), and F2000-118 (F2000-55-1); all dated December 17, 1997. These service bulletins describe, among other things, procedures for replacement of the hinge pin assemblies of the rear horizontal stabilizer with new, improved parts.

The DGAC classified these service documents as mandatory and issued French airworthiness directives 97-370-020(B)R1, dated December 17, 1997 (for Models Mystere-Falcon 50 and 900 series airplanes, and Falcon 900EX series airplanes), and 97-369-004(B), dated December 3, 1997 (for Model Falcon 2000 series airplanes), in order to assure the continued airworthiness of these airplanes in France.

Accomplishment of the actions specified in the applicable service documents is intended to adequately address the identified unsafe condition.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

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

Differences Between Proposed Rule and Related Service Information

Operators should note that, although the Dassault service bulletins and Dassault airplane maintenance manual procedures recommend that the manufacturer be contacted for disposition of certain repair conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by either the FAA or the DGAC (or its

delegated agent). In light of the type of repair that would be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this proposed AD, a repair approved by either the FAA or the DGAC would be acceptable for compliance with this proposed AD.

This proposed AD would differ from the parallel French airworthiness directives in that this proposed AD would require performing an initial inspection to detect discrepancies (damage, deformation, and excessive movement) of the hinge pin assemblies of the rear horizontal stabilizer within 300 flight hours or 6 months after the effective date of this AD. The French airworthiness directives require the initial inspection within 6 years, or prior to the accumulation of 3,750 total flight cycles. In developing the appropriate compliance time, the FAA considered the manufacturer's recommendation and the degree of urgency associated with addressing the subject unsafe condition. In light of these factors, the FAA finds that an initial inspection within 300 flight hours or 6 months after the effective date of this AD to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Cost Impact

The FAA estimates that 269 airplanes of U.S. registry would be affected by this proposed AD.

For all airplanes, it would take approximately 1 work hour per airplane to accomplish the proposed Airplane Flight Manual (AFM) revision, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of the AFM revision proposed by this AD on U.S. operators is estimated to be \$16,140, or \$60 per airplane.

Additionally, for all airplanes, it would take approximately 8 work hours per airplane to accomplish the proposed inspection, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be \$129,120, or \$480 per airplane, per inspection cycle.

For 49 airplanes of U.S. registry it would take approximately 10 work hours per airplane to accomplish the proposed replacement, at an average labor rate of \$60 per work hour. Required parts would cost approximately \$6,000 per airplane. Based on these figures, the cost impact of the replacement proposed by this AD

on U.S. operators is estimated to be \$323,400, or \$6,600 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Dassault Aviation: Docket 98-NM-266-AD.

Applicability: All Model Mystere-Falcon 50 and 900 series airplanes, Falcon 900EX series airplanes, and Falcon 2000 series airplanes; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent excessive movement and consequent deformation of the hinge pin assemblies of the rear horizontal stabilizer, which could result in flutter and possible failure of the rear horizontal stabilizer, accomplish the following:

Dassault Airplane Flight Manual (AFM) Revision

(a) Within 30 days after the effective date of this AD, revise the Limitations Section of the FAA-approved AFM to include the following statement. This may be accomplished by inserting a copy of this AD into the AFM.

"DO NOT INTENTIONALLY FLY THE AIRPLANE SLOWER THAN INITIAL STALL WARNING ONSET"

Note 2: The AFM revision required by paragraph (a) of this AD also may be accomplished by inserting a copy of the applicable Temporary Change into the applicable AFM, as specified below. When these Temporary Changes have been incorporated into the general revisions of the AFM, the general revisions may be inserted into the AFM, provided that the information contained in the general revisions is identical to that specified in the Temporary Changes.

- For Model Mystere-Falcon 50 series airplanes: Dassault Mystere-Falcon 50 AFM Temporary Change No. 46 (DTM813); and Dassault Mystere-Falcon 50 AFM Temporary Change No. 12 (M813EX).
- For Model Mystere-Falcon 900 series airplanes: Dassault Mystere-Falcon 900 AFM Temporary Change No. 69 (DTM20103).
- For Model Falcon 900EX series airplanes: Dassault Falcon 900EX AFM Temporary Change No. 14 (DTM561).
- For Model Falcon 2000 series airplanes: Dassault Falcon 2000 AFM Temporary Change No. 44 (DTM537).

Initial and Repetitive Inspections

(b) Within 300 flight hours or 6 months after the effective date of this AD, whichever occurs first: Perform a dimensional inspection to detect discrepancies (damage, deformation, and excessive movement) of the hinge pin assemblies of the rear horizontal stabilizer in accordance with paragraph (b)(1), (b)(2), (b)(3), or (b)(4) of this AD, as applicable.

(1) For Model Mystere-Falcon 50 series airplanes: Inspect in accordance with

Dassault Airplane Maintenance Manual, Temporary Revision, 704.0/1, dated November 1997.

(2) For Model Mystere-Falcon 900 series airplanes: Inspect in accordance with Dassault Airplane Maintenance Manual, Procedure 55-501, dated March 1998.

(3) For Model Falcon 900EX series airplanes: Inspect in accordance with Dassault Airplane Maintenance Manual, Temporary Revision, 55-501, dated November 1997.

(4) For Model Falcon 2000 series airplanes: Inspect in accordance with Dassault Airplane Maintenance Manual, Procedure 55-501, dated November 1997.

(c) If any stall event occurs after the effective date of this AD, perform a dimensional inspection as required by paragraph (b) within 300 flight hours or 6 months after the occurrence of the stall event, whichever occurs first. For the purposes of this AD, a stall event is considered to be any event as defined by Federal Aviation Administration [14 CFR 25.201(d)].

(d) If no discrepancy is detected during any inspection required by this AD, repeat at 3,750 flight cycles or 6 years, whichever occurs first.

(e) If any discrepancy is detected during any inspection required by this AD, prior to further flight, repair in accordance with a method approved by either the Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate; or the Direction Générale de l'Aviation Civile (DGAC) (or its delegated agent). Thereafter, repeat the inspections at the times specified in paragraph (b) of this AD.

Replacement

(f) For airplanes listed in Dassault Service Bulletins F50-274 (F50-55-4), F900-203 (F900-55-3), F900EX-37 (F900EX-55-1), and F2000-118 (F2000-55-1), all dated December 17, 1997: Replace the hinge pin assemblies of the rear horizontal stabilizer with new, improved parts in accordance with Part 2, paragraph B.(2) of the Accomplishment Instructions of the applicable service bulletin at the later of the times specified in paragraphs (f)(1) and (f)(2) of this AD.

(1) Accomplish the replacement within 6 years since date of manufacture, or prior to the accumulation of 3,750 total flight cycles, whichever occurs first.

(2) Accomplish the replacement within 300 flight hours or 6 months after the effective date of this AD, whichever occurs first.

Spares

(g) As of the effective date of this AD, no person shall install a rear horizontal stabilizer hinge pin having part number MY2033175 on any airplane.

Alternative Methods of Compliance

(h) 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, International Branch, ANM-116, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then

send it to the Manager, International Branch, ANM-116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM-116.

Special Flight Permits

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

Note 4: The subject of this AD is addressed in French airworthiness directives 97-370-020(B)R1, dated December 17, 1997, and 97-369-004(B), dated December 3, 1997.

Issued in Renton, Washington, on May 26, 1999.

D.L. Rigglin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
[FR Doc. 99-14129 Filed 6-3-99; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97-CE-79-AD]

RIN 2120-AA64

Airworthiness Directives; American Champion Aircraft Corporation 7, 8, and 11 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This document withdraws a notice of proposed rulemaking (NPRM) that would have applied to all American Champion Aircraft Corporation (ACAC) 7, 8, and 11 series airplanes, excluding Model 8GCBC airplanes. The proposed AD would have required installing inspection holes on the top and bottom wing surfaces, repetitively inspecting the front and rear wood spars for damage, repairing or replacing any damaged wood spar, and installing inspection covers. Damage is defined as cracks; compression cracks; longitudinal cracks through the bolt holes or nail holes; or loose or missing rib nails. The proposed AD results from a review of the service history of the affected airplanes that incorporate wood wing spars. The review was prompted by in-flight wing structural failures on ACAC Model 8GCBC airplanes, and revealed several incidents where damage was found on the front and rear wood spars on the affected airplanes. The FAA received comments on the NPRM that

recommended alternative methods of complying with the proposed AD and recommended combining the proposed AD with the actions of the current AD required for the ACAC Model 8GCBC airplanes. The FAA has determined that the ideas in the above-referenced comments have merit and should be implemented, and is therefore withdrawing the NPRM and proposing these actions in a new AD that would supersede the current AD required for ACAC Model 8GCBC airplanes.

FOR FURTHER INFORMATION CONTACT: Mr. William Rohder, Aerospace Engineer, FAA, Chicago Aircraft Certification Office, 2300 E. Devon Avenue, Des Plaines, Illinois 60018; telephone: (847) 294-7697; facsimile: (847) 294-7834.

SUPPLEMENTARY INFORMATION:

Events Leading to This Action

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all ACAC 7, 8, and 11 series airplanes (excluding the Model 8GCBC airplanes) was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on November 3, 1997 (62 FR 59310). The NPRM proposed to require installing inspection holes on the top and bottom wing surfaces, repetitively inspecting the front and rear wood spars for damage, repairing or replacing any damaged wood spar, and installing surface covers. Accomplishment of the proposed actions as specified in the NPRM would be required as follows:

- Installations: in accordance with ACAC Service Letter 417, Revision A, dated October 2, 1997;
- Inspections: in accordance with ACAC Service Letter 406, dated March 28, 1994; and
- Spar Repair and Replacement, as applicable: in accordance with Advisory Circular (AC) 43.13-1A, Acceptable Methods, Techniques and Practices; or other data that the FAA has approved for spar repair and replacement.

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

Comment Issue No. 1: Combine the Actions of the Proposed AD With Those of AD 98-05-04

Two commenters recommend that the FAA combine the actions of the proposed AD with those currently required by AD 98-05-04, which applies to the Model 8GCBC airplanes. These commenters feel that this would

provide a successful and consistent inspection program for all airplanes in the production line.

The FAA concurs that combining the actions of the proposed AD and AD 98-05-04 would provide a consistent inspection program for all ACAC airplanes in the production line. As discussed in this document, the FAA is withdrawing the NPRM (Docket No. 97-CE-79-AD) and will propose to supersede AD 98-05-04 with a new AD (will be initiated as an NPRM) that would affect all 7, 8, and 11 series airplanes and incorporate recommended alternative methods for complying with the actions.

Comment Issue No. 2: Allow an Alternative Spar Inspection Method

Three commenters state that inspecting the spar through the utilization of inspection holes on the bottom of the spar using mirrors and a small high intensity light source is an effective method of inspection. The commenters believe that allowing this inspection method will save the owners thousands of dollars in inspection costs. Also, because the additional inspection covers would not be needed, the aesthetics of the aircraft would be preserved.

The FAA concurs that inspecting the spar through the utilization of inspection holes in the bottom of the spar using mirrors and a small high intensity light is a valid inspection method provided an inspector with wood spar compression failure experience accomplishes the inspection. For example, the inspection method was useful in detecting spar failure on one of the commenter's airplanes, and a member of the FAA's Chicago Aircraft Certification Office staff detected a compression failure in the rear spar of a Model 7AC airplane using this method.

ACAC has incorporated procedures to accomplish this inspection method into Service Letter 406, Revision A, dated May 6, 1998, and the FAA has approved this inspection method as an alternative method of compliance to AD 98-05-04, which applies to the Model 8GCBC airplanes. The owners of the Model 8GCBC have been informed of this inspection alternative through a special airworthiness information bulletin (SAIB).

As discussed in this document, the FAA is withdrawing the NPRM (Docket No. 97-CE-79-AD) and will propose to supersede AD 98-05-04 with a new AD (will be initiated as an NPRM) that would affect all 7, 8, and 11 series airplanes and incorporate recommended alternative methods for complying with

the actions. The FAA will incorporate the inspection method discussed above into the combined proposed AD.

Comment Issue No. 3: Exclude Certain Airplanes From the Proposed AD

Numerous commenters request that the FAA exclude certain airplanes, such as the Model 7AC. The commenters state that the light-weight and low-horsepower airplanes manufactured by Aeronca and Champion Aircraft are not certificated for aerobatic flight and induce lower stresses in the spars. The commenters feel there is no justification for including them in this AD action.

The FAA does not concur that these light-weight and low-horsepower airplanes should be removed from the proposed AD. Section 39.1 of the Federal Aviation Regulations (14 CFR 39.1) specifies that the FAA should issue an airworthiness directive against aircraft of the same type design where the unsafe condition exists or is likely to develop. Since there have been compression failures and spar damage reports on the light-weight and low-horsepower airplane models (i.e., Model 7AC), the AD should address these models.

No changes have been made to the AD as a result of these comments. However, as discussed in this document, the proposal is being withdrawn and the actions revised and combined with the actions of the current AD required for the ACAC Model 8GCBC airplanes.

Comment Issue No. 4: The Proposed AD Should Only Apply to Airplanes With Previous Wing Damage or Evidence of Compression Failures

Several commenters request that the proposed AD only apply to those airplanes that have a history of wing damage. The commenters state that spar compression failures and spar damage are a direct result of the airplane flipping, ground looping, or other similar type of activity that causes wing damage.

The FAA does not concur that the proposed AD should only apply to those airplanes that have a history of wing damage. The FAA agrees that incidents involving wing damage are a major cause of compression failures and other spar damage; however, the FAA has received reports of compression failures in airplanes without previous wing damage.

However, to better understand all causes of spar damage of the affected airplanes, the FAA has determined that all findings of aircraft wing damage should be submitted on a Malfunction or Defect Report (M or D), FAA Form 8010-4, describing the damage and a

copy of the report sent to the Chicago Aircraft Certification Office. The FAA could then initiate further rulemaking action that increases or reduces the burden upon the owners/operators of the ACAC 7, 8, and 11 series airplanes, as justified.

As discussed in this document, the FAA is withdrawing the NPRM (Docket No. 97-CE-79-AD) and will propose to supersede AD 98-05-04 with a new AD (will be initiated as an NPRM) that would affect all 7, 8, and 11 series airplanes and incorporate recommended alternative methods for complying with the actions. The FAA will incorporate this reporting requirement into the combined proposed AD.

Comment Issue No. 5: The Proposed AD Should Not Apply to the 7 and 11 Series Airplanes

One commenter objects to an AD against the ACAC 7 and 11 series airplanes because the market value of these airplanes will decrease by several thousand dollars. The commenter believes that simply mailing the manufacturer's service instructions to the owners of the 7 and 11 series airplanes will result in the desired effect.

The FAA does not concur. The FAA's duty to public safety must outweigh considerations of an aircraft's market value. The FAA has worked with associations and type clubs that are interested in the safety and market value of these airplanes in order to decrease the economic impact of the proposed AD's inspection requirements. Service history of all models of the ACAC 7, 8, and 11 series airplanes reveals susceptibility to wing spar cracking and compression failures. The FAA has no reason to believe that compliance will be guaranteed on a voluntary basis alone.

No changes have been made to the proposed AD as a result of these comments.

Comment Issue No. 6: The Proposed AD Should Not Address Loose and Missing Nails

Four commenters feel that the proposed AD should not include procedures for inspecting for and replacing loose or missing nails in the wing spars of the ACAC 7, 8, and 11 series airplanes. The commenters state that the nails are only used during manufacture of the wing to hold the ribs in place.

The FAA does not concur. Rib nails are required to transfer the load from the ribs to the spar. If the rib nails are loose or missing, damage to the wing spar could result from the ribs chafing

against the spar. For this reason, the FAA has determined the procedures for inspecting for and replacing loose or missing nails are justified.

No changes have been made to the proposed AD as a result of these comments.

Comment Issue No. 7: Properly Performed Annual Inspections Eliminate the Need for the Proposed AD

Several commenters object to the proposed AD because they feel that a properly performed annual inspection is adequate to detect spar damage. These commenters state that the maintenance manual specifies regular inspections of the wing spars for cracks.

The FAA concurs that the maintenance manual for the ACAC 7, 8, and 11 series airplanes specifies inspecting the wing spars for cracks during annual and 100-hour inspections, particularly at the butt and strut attach points. However, sufficient guidance is not given on accessing the spar or identifying compression failures. These compression failures appear as hardly visible, minute, and jagged series of lines that run across the grain on the top or bottom of the spar. If not viewed with detailed instruction and the right equipment, they may be overlooked. For these reasons, the FAA does not concur that the inspections specified in the maintenance manual are adequate to detect all wing spar cracks and compression failures.

No changes have been made to the proposed AD as a result of these comments.

Comment Issue No. 8: Compliance Extension for Airplanes With Wings That Have Been Rebuilt

Several commenters request an extension to the compliance time for those airplanes where the wing has been rebuilt. The commenters state that the wing spar was inspected during the rebuild.

The FAA does not concur. In order to adequately inspect the wing spars for cracks and compression failures, the detailed inspection procedures detailed in ACAC Service Letter 406, Revision A, dated May 6, 1998 (or procedures approved to be acceptable by the FAA), must be utilized to adequately perform the inspection. The FAA has determined that cracks and compression failures have been overlooked because these procedures were not followed.

No changes have been made to the proposed AD as a result of these comments.

Comment Issue No. 9: Reopen and Extend the Comment Period for the NPRM

Two commenters request that the FAA reopen the comment period and allow more time for the public to comment on the NPRM. These commenters cite the large public interest as the reason for this request.

The FAA will establish a new comment period. As discussed in this document, the FAA is withdrawing the NPRM (Docket No. 97-CE-79-AD) and will propose to supersede AD 98-05-04 with a new AD (will be initiated as an NPRM) that would affect all ACAC 7, 8, and 11 series airplanes and incorporate recommended alternative methods for complying with the actions. The FAA will utilize an NPRM with a 45-day comment period to propose this new AD to combine the actions.

Comment Issue No. 10: Eliminate, Minimize, or Provide Alternatives to Installing Inspection Covers

Numerous commenters express some opposition to the proposed requirement of installing inspection covers on the wings of the ACAC 7, 8, and 11 series airplanes. These comments include the following:

- Top wing inspection covers could leak, causing water damage to the spar and resulting in a reduction of wing structural integrity;
- Top wing inspection covers could come off during flight due to the negative pressure on the top surface, which could result in wing damage;
- Top wing inspection covers will cause aerodynamic and performance concerns; and
- The FAA should allow fabric patches in place of top wing inspection covers.

The FAA does not concur that water damage to the wing spar, resulting in wing structural integrity reduction, or aerodynamic and performance concerns, will occur when inspection covers are installed on the wings of the affected airplanes. To address the concern of water damage, ACAC added a water-tight seal to the wing inspection cover installation, which the FAA approved. As for aerodynamic and performance concerns, the top inspection covers were designed as low-profile covers and FAA flight test pilots have evaluated and approved them. Also, out of the over 200 sets of top inspection covers delivered to the field, the FAA has not received any reports of decreased performance.

The FAA does not concur that the top inspection covers would cause wing damage if they came off the airplane

while in flight. The covers are designed not to damage the reinforced cutout if the eight screws that attach the covers were inadvertently left off or not tightened and the cover came off the airplane.

The FAA concurs with the request of allowing fabric patches in place of the top wing inspection covers, as an acceptable standard practice. ACAC Service Letter 417, Revision C, dated May 6, 1998, includes procedures for installing fabric patches.

As discussed in this document, the FAA is withdrawing the NPRM (Docket No. 97-CE-79-AD) and will propose to supersede AD 98-05-04 with a new AD (will be initiated as an NPRM) that would affect all 7, 8, and 11 series airplanes and incorporate recommended alternative methods for complying with the actions. One of these alternative methods will include the installation of these fabric patches.

Comment Issue No. 11: FAA Underestimated the Cost Impact of the Proposed AD

Numerous commenters believe that the cost of installing the inspection covers will be significantly greater than the FAA estimated in the NPRM.

The FAA does not concur and believes that the cost impact specified in the NPRM was indicative of the initial inspection and inspection cover installation costs associated with the proposed action. The cost reflected an 11-inspection hole installation on each wing (a total of 22). Utilizing the alternative inspection method referenced in ACAC Service Letter 406, Revision A, dated May 6, 1998, would reduce the number of inspection holes required and consequently would reduce the cost impact upon the public.

The FAA is incorporating this service information into a new AD (will be initiated as an NPRM) that would combine both the actions in the NPRM (Docket No. 97-CE-79-AD) and AD 98-05-04.

Comment Issue No. 12: Require Additional Training for Inspectors

Three commenters state that compression failures are extremely difficult to detect and are easily overlooked. For these reasons, the commenters believe that the inspectors should obtain additional training in the detection of compression failures on ACAC 7, 8, and 11 series airplanes.

The FAA concurs that the compression failures are difficult to detect and could be easily overlooked by inspectors who are untrained in this area. ACAC Service Letter 406, Revision A, dated May 6, 1998, contains a more

detailed description of compression failures than the original issue of this service letter, and also includes a recommendation that inspectors should have previous compression failure detection experience. The FAA has determined that this more detailed description, combined with the inspection procedures included in the service letter, should give the inspectors adequate information to detect compression failures in the wing spars of ACAC 7, 8, and 11 series airplanes.

The FAA is incorporating this service information into a new AD (will be initiated as an NPRM) that would combine both the actions in the NPRM (Docket No. 97-CE-79-AD) and AD 98-05-04.

Comment Issue No. 13: Delete the Proposed Requirement To Install Additional Bottom Inspection Covers

Several commenters state additional inspection covers over that which already exist may not be required for some aircraft. These commenters suggest that the FAA delete the specific proposed requirement in the NPRM of installing additional bottom inspection covers.

The FAA concurs. The inspection-authorized mechanic who is performing the inspection is in the best position to determine the number of bottom inspection covers needed to accomplish the intent of the AD. The selected inspection method and the location of previously installed inspection covers will determine the number and location of the additional inspection covers required to perform a thorough inspection. The service information referenced in the NPRM has been revised and clarifies that additional inspection covers need only be installed in order to accomplish a thorough spar inspection.

The FAA is incorporating this service information into a new AD (will be initiated as an NPRM) that would combine both the actions in the NPRM (Docket No. 97-CE-79-AD) and AD 98-05-04.

Comment Issue No. 14: The FAA Proposed This AD Only for the Manufacturer's Benefit

Numerous commenters object to the proposal and believe that the only reason the FAA issued an NPRM is because ACAC requested an AD to dodge a liability issue or make a profit.

The FAA does not concur. The FAA has an obligation to implement AD action when an unsafe condition is found in a product and that unsafe condition could develop in other products of the same type design. The

service history of all the affected airplane models indicates that cracks and compression failures in the wing spars are unsafe conditions that need to be addressed through AD action.

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

Comment Issue No. 15: Prohibit Aerobatic Flight Instead of Requiring Repetitive Inspections

Five commenters state that spar damage is a direct result of aerobatic flight. Because of this, the commenters suggest that the FAA change the proposal to include a placard that specifies prohibiting aerobatic flight instead of the repetitive inspection requirement currently proposed.

The FAA does not concur. Not all of the affected airplanes are certificated for aerobatic flight. However, spar damage has been found on many of the affected airplane model designs, regardless of whether they have been certificated for aerobatic flight.

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

Comment Issue No. 16: Install a "G" Meter Instead of Requiring Repetitive Inspections

Three commenters state that installing a "G" meter in the airplane will help limit the peak accelerations. The commenters request that the FAA propose the "G" meter installation instead of repetitive inspections.

The FAA does not concur. While the FAA believes that installing a "G" meter may aid in limiting peak accelerations, this will not account for all wing loading conditions or detect existing spar damage before structural failure of the wing.

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

Comment Issue No. 17: Allow the Use of a Borescope as an Alternative Method of Compliance to the Proposed Inspections

Several commenters request that the FAA allow the use of a borescope as an alternative method of compliance to the inspections proposed in the NPRM.

The FAA concurs that a borescope, when available, is an acceptable alternative inspection method. Therefore, this inspection method is being incorporated into a new AD (will be initiated as an NPRM) that would combine both the actions in the NPRM (Docket No. 97-CE-79-AD) and AD 98-05-04. This inspection method is referenced in ACAC Service Letter 406, Revision A, dated May 6, 1998.

The FAA's Determination

After careful review of all available information related to the subject presented above, including the comments submitted to the NPRM (Docket No. 97-CE-79-AD), the FAA has determined that:

- The proposed rule should be withdrawn; and
- A new NPRM should be issued in a different action that would supersede AD 98-05-04 with a new AD (will be initiated as an NPRM) that would affect all 7, 8, and 11 series airplanes and incorporate recommended alternative methods for complying with the actions.

Withdrawal of this NPRM constitutes only such action, and does not preclude the agency from issuing future rulemaking on this issue, nor does it commit the agency to any course of action in the future. Combining the proposed actions of this NPRM and AD 98-05-04 will be initiated in a different AD action.

Since this action only withdraws an NPRM, it is neither a proposed nor a final rule and therefore, is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Withdrawal

Accordingly, the notice of proposed rulemaking, Docket No. 97-CE-79-AD, published in the **Federal Register** on November 3, 1997 (62 FR 59310), is withdrawn.

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

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99-14130 Filed 6-3-99; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98-CE-121-AD]

RIN 2120-AA64

Airworthiness Directives; American Champion Aircraft Corporation 7, 8, and 11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede Airworthiness Directive (AD) 98-05-04, which currently requires repetitively inspecting the front and rear wood spars for damage, including installing any necessary inspection holes, on certain American Champion Aircraft Corporation (ACAC) Model 8GCBC airplanes; and repairing or replacing any damaged wood spar. Damage is defined as cracks; compression cracks; longitudinal cracks through the bolt holes or nail holes; or loose or missing nails. The proposed AD would retain the actions of AD 98-05-04; would extend these actions to ACAC 7, 8, and 11 series airplanes; and would incorporate alternative methods of accomplishing the actions. The proposed AD is the result of a review of the service history of the affected airplanes that incorporate wood wing spars. The review was prompted by in-flight wing structural failures on ACAC Model 8GCBC airplanes, and revealed several incidents where damage was found on the front and rear wood spars on the affected airplanes. The actions specified by the proposed AD are intended to prevent possible compression cracks and other damage in the wood spar wing, which, if not detected and corrected, could eventually result in in-flight structural failure of the wing with consequent loss of the airplane.

DATES: Comments must be received on or before July 16, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98-CE-121-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 American Champion Aircraft Corporation, P.O. Box 37, 32032 Washington Avenue, Highway D, Rochester, Wisconsin 53167; internet address:

"www.amerchampionaircraft.com". This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. William Rohder, Aerospace Engineer, FAA, Chicago Aircraft Certification Office, 2300 E. Devon Avenue, Des Plaines, Illinois 60018; telephone: (847) 294-7697; facsimile: (847) 294-7834.

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. 98-CE-121-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. 98-CE-121-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

AD 98-05-04, Amendment 39-10365 (63 FR 10297, March 3, 1998), currently requires repetitively inspecting the front and rear wood spars for damage, including installing any necessary inspection holes; and repairing or replacing any damaged wood spar on certain ACAC Model 8GCBC airplanes. Damage is defined as cracks; compression cracks; longitudinal cracks through the bolt holes or nail holes; or loose or missing nails.

The FAA issued AD 98-05-04 as a result of a review of the service history of the affected airplanes that incorporate wood wing spars. The review was prompted by in-flight wing structural failures on ACAC Model 8GCBC airplanes, and revealed several incidents where damage was found on

the front and rear wood spars on the affected airplanes.

In addition, the FAA issued a notice of proposed rulemaking (NPRM) (Docket No. 97-CE-79-AD) on October 27, 1997, that, if followed by a final rule, would have required the same actions as AD 98-05-04 on all ACAC 7, 8, and 11 series airplanes (excluding the Model 8GCBC airplanes). This NPRM was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on November 3, 1997 (62 FR 59310).

Numerous comments were received on the NPRM (Docket No. 97-CE-79-AD). Many of these comments proposed that the FAA combine the actions of the NPRM and AD 98-05-04 into one AD that would affect all ACAC 7, 8, and 11 series airplanes and incorporate recommended alternative methods for complying with the actions.

Relevant Service Information

ACAC Service Letter C-139, dated January 28, 1980, includes procedures for inspecting the wing rib/spar attachment and leading edge support block nails of the ACAC 7, 8, and 11 series airplanes.

In addition, ACAC has issued other service information, as follows:

- Service Letter 406, Revision A, dated May 6, 1998, which includes alternative methods of compliance to the actions required by AD 98-05-04 and proposed in Docket No. 97-CE-79-AD; and
- Service Letter 417, Revision C, dated May 6, 1998, which includes procedures for installing fabric patches instead of inspection hole covers.

The FAA's Determination

After examining all information related to the NPRM (Docket No. 97-CE-79-AD) and AD 98-05-04, the FAA has determined that:

- The NPRM (Docket No. 97-CE-79-AD) should be withdrawn;
- AD 98-05-04 should be superseded with a new AD that would combine the actions of that AD and Docket No. 97-CE-79-AD, and incorporate recommended alternative methods for complying with those actions; and
- AD action should be taken on all ACAC 7, 8, and 11 series airplanes to prevent possible compression cracks and other damage in the wood spar wing, which, if not detected and corrected, could eventually result in in-flight structural failure of the wing with consequent loss of the airplane.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other ACAC 7, 8, and 11 series airplanes of the same type design, the FAA is proposing AD action to supersede AD 98-05-04. The proposed AD would retain the actions of AD 98-05-04; would extend these actions to all ACAC 7, 8, and 11 series airplanes; and would incorporate alternative methods of accomplishing the actions. The inspections specified by the proposed AD would be accomplished in accordance with ACAC Service Letter 406, Revision A, dated May 6, 1998.

The FAA is withdrawing the NPRM (Docket No. 97-CE-79-AD) in a separate action. A full disposition of the comments on the NPRM may be found in that document.

Compliance Time of the Proposed AD

The compliance time of the proposed AD is presented in calendar time and hours time-in-service (TIS). Although the unsafe condition specified in the proposed AD is a result of airplane operation, operators of the affected airplanes utilize their airplanes in different ways.

For example, an operator may utilize his/her airplane 50 hours TIS in a year while utilizing the aircraft in no or very little crop dusting operations, banner or glider tow operations, or rough field or float operations. This airplane would obviously have a lower crack propagation rate than an airplane operated 300 hours TIS a year in frequent crop dusting operations, banner or glider tow operations, or rough field or float operations. However, either airplane could have pre-existing and undetected wood spar damage that occurred during previous operations. In this situation, the damage to the wood spar would propagate at a rate that depends on the operational exposure of the airplane and severity of the initial wood spar damage.

The FAA is proposing repetitive inspection compliance times that would coincide with the owner's/operator's annual inspection program. This should have the least impact upon operators because the costs of having the airplane out of service can be absorbed with regularly scheduled down-time.

To assure that compression cracks do not go undetected in the wood spars of the affected airplanes, the FAA has determined that the following compliance times should be used:

1. The proposed initial inspection at the first annual inspection that occurs 30 calendar days or more after the effective date

of the AD or within 13 calendar months after the effective date of the AD, whichever occurs first; and

2. The proposed repetitive inspections thereafter at intervals not to exceed 12 calendar months or 500 hours TIS, whichever occurs first.

Cost Impact

Though the proposed AD would not require installing additional inspection holes/covers, the following cost analysis is based on the presumption that 11 additional inspection holes/covers per wing would be required to complete a thorough inspection in accordance with ACAC Service Letter 406, Revision A, dated May 6, 1998. These inspection holes/covers may not be required, which would reduce the proposed cost impact upon U.S. operators of the affected airplanes.

The FAA estimates that 6,701 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 6 workhours (Installations: 5 workhours; Initial Inspection: 1 workhour) per airplane to accomplish the proposed action, and that the average labor rate is approximately \$60 an hour. Parts cost approximately \$292 per airplane, provided that each airplane would only need 11 additional standard inspection hole covers per wing bottom surface (total of 22 new covers per airplane). If the airplane would require the installation of more inspection covers (i.e., a result of previous non-factory wing recover work), the cost could be slightly higher.

Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be \$4,369,052, or \$652 per airplane.

These cost figures are based on the presumption that no affected Model 8GCBC airplane owner/operator has accomplished the installations or the initial inspection as currently required by AD 98-05-04, and do not account for repetitive inspections. The FAA has no way of determining the number of repetitive inspections each owner/operator of the affected airplanes will incur over the life of his/her airplane. However, each proposed repetitive inspection would cost substantially less than the initial inspection because the cost of the initial proposed inspection hole and cover installations would not be repetitive. The inspection covers allow easy access for the inspection of the wood spars, and the proposed compliance time would enable the owners/operators of the affected airplanes to accomplish the repetitive annual inspections.

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 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 98-05-04, Amendment 39-10365 (63 FR 10297, March 3, 1998), and by adding a new AD to read as follows:

American Champion Aircraft Company:

Docket No. 98-CE-121-AD; Supersedes AD 98-05-04, Amendment 39-10365.

Applicability: The following airplane models, all serial numbers, certificated in any category, that are equipped with wood wing spars:

7AC
7BCM (L-16A)
7DC
S7EC
7GC

7GCB
7HC
7KCAB
11AC
S11BC
7ACA
7CCM (L-16B)
S7DC
7ECA
7GCA
7GCBA
7JC
8GCBC
S11AC
11CC
S7AC
S7CCM
7EC
7FC
7GCAA
7GCBC
7KC
8KCAB
11BC
S11CC

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

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

To prevent possible compression cracks and other damage in the wood spar wing, which, if not detected and corrected, could eventually result in in-flight structural failure of the wing with consequent loss of the airplane, accomplish the following:

(a) **Initial Inspection With Possible Repair or Replacement:** Inspect and repair or replace the wood wing spars, as follows:

(1) At the first annual inspection that occurs 30 calendar days or more after the effective date of this AD or within the next 13 calendar months after the effective date of this AD, whichever occurs first, inspect (detailed visual) both the front and rear wood wing spars for cracks; compression cracks; longitudinal cracks through the bolt holes or nail holes; and loose or missing rib nails (referred to as damage hereafter). Accomplish these inspections in accordance with American Champion Aircraft Corporation (ACAC), Service Letter 406, Revision A, dated May 6, 1998. This service bulletin specifies using a high intensity flexible light (for example a "Bend-A-Light"). A regular flashlight and mirrors may not be used for this inspection.

(2) If any spar damage is found, prior to further flight, repair or replace the wood wing spar in accordance with Advisory

Circular (AC) 43.13-1B, Acceptable Methods, Techniques and Practices; or other data that is approved by the FAA for wing spar repair or replacement.

(b) **Repetitive Inspections:** Accomplish the inspection, repair, replacement, and installation required by paragraphs (a)(1) and (a)(2) of this AD within 12 calendar months or 500 hours TIS (whichever occurs first) after these initial actions, and thereafter at intervals not to exceed 12 calendar months or 500 hours TIS, whichever occurs first.

(c) **Additional Inspection Requirements After Accident/Incident:** If, after the effective date of this AD, any of the affected airplanes are involved in an incident/accident that involves wing damage (e.g., surface deformations such as abrasions, gouges, scratches, or dents, etc.), prior to further flight after that incident/accident, accomplish the inspection and repair or replacement required by paragraphs (a)(1) and (a)(2) of this AD, as applicable.

(d) **Reporting Requirements:** Within 30 days after any wing damage is found per the requirements of this AD, submit a Malfunction or Defect Report (M or D), FAA Form 8010-4, which describes the damage; and send a copy of this report to the Manager, Chicago Aircraft Certification Office (ACO), 2300 E. Devon Avenue, Des Plaines, Illinois 60018; facsimile: (847) 294-7834. Include the airplane model and serial number, the extent of the damage (location and type), and the number of total hours TIS on the damaged wing. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) and have been assigned OMB Control Number 2120-0056.

(e) **Alternatives to the AD:** ACAC Service Letter 406, Revision A, and ACAC Service Letter 417, Revision C, both dated May 6, 1998, specify additional inspection and installation alternatives over that included in the original issue of these service letters. All inspection and installation alternatives presented in these service letters are acceptable for accomplishing the applicable actions of this AD.

(f) **Special Flight Permits:** 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.

(g) **Alternative Methods of Compliance:** An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Chicago ACO, 2300 E. Devon Avenue, Des Plaines, Illinois 60018.

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

(2) Alternative methods of compliance approved in accordance with AD 98-05-04 are considered approved for this AD.

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

(h) **Availability of Service Information:** All persons affected by this directive may obtain copies of the documents referred to herein upon request to the American Champion Aircraft Corporation, P.O. Box 37, 32032 Washington Avenue, Highway D, Rochester, Wisconsin 53167; internet address: "www.amerchampionaircraft.com"; or may examine these documents at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(i) **Other AD's Affected:** This amendment supersedes AD 98-05-04, Amendment 39-10365.

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

Michael Gallagher,
Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99-14131 Filed 6-3-99; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR PARTS 4 AND 159

RIN 1515-AC30

Foreign Repairs to American Vessels

AGENCY: Customs Service, Department of the Treasury.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This document provides an additional 30 days for interested members of the public to submit comments on proposed amendments to the Customs Regulations concerning foreign repairs to American vessels. The proposed amendments would revise the regulations regarding the declaration, entry, assessment of duty and processing of petitions for relief from duty for vessels of the United States that undergo foreign shipyard operations. The proposed amendments to the vessel repair regulations are intended to accurately reflect current statutory law, as well as legal and policy determinations made as a result of judicial decisions and administrative enforcement experience.

DATES: Comments must be received on or before July 21, 1999.

ADDRESSES: Comments may be addressed to the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington D.C. 20229. All comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19

CFR 103.11(b)), between 9:00 a.m. and 4:30 p.m. on normal business days at the above address.

FOR FURTHER INFORMATION CONTACT:
Larry L. Burton, Office of Regulations and Rulings, 202-927-1287.

SUPPLEMENTARY INFORMATION:

Background

Customs published a document in the **Federal Register** (64 FR 19508) on April 21, 1999, inviting the public to comment on proposed amendments to its regulations concerning foreign repairs to American vessels. Specifically, the proposed amendments would revise the Customs Regulations regarding the declaration, entry, assessment of duty and processing of petitions for relief from duty for vessels of the United States that undergo foreign shipyard operations. The proposed amendments to the vessel repair regulations are intended to accurately reflect current statutory law, as well as legal and policy determinations made as a result of judicial decisions and administrative enforcement experience.

Comments on the proposed rule were due on or before June 21, 1999. However, a request has been made on behalf of a large shipping concern to extend the period of time for comments on the proposed rule for an additional 30 days (until July 21, 1999). The additional time is requested so that a thorough and meaningful comment may be prepared, in light of the fact that the proposal involves a major revision of the vessel repair regulations.

Customs has concluded under the circumstances that this request has merit. Accordingly, the period of time for the submission of public comments on the proposed rule is being extended as requested.

Dated: June 1, 1999.

Stuart P. Seidel,

Assistant Commissioner, Office of Regulations and Rulings.

[FR Doc. 99-14167 Filed 6-3-99; 8:45 am]

BILLING CODE 4820-02-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AL-40-2-9909b; FRL-6352-4]

Approval and Promulgation of Implementation Plans; Alabama

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Alabama through the Alabama Department of Environmental Management (ADEM) on November 13, 1992. This revision consists of the 1990 base year ozone emission inventory for the Birmingham marginal ozone nonattainment area.

In the final rules section of this **Federal Register**, the EPA is approving Alabama's SIP revision as a direct final rule without prior proposal because the Agency views 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 proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by July 6, 1999.

ADDRESSES: Written comments on this action should be addressed to Joey LeVasseur at the Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Copies of documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Reference file AL-40-2-9909. The Region 4 office may have additional background documents not available at the other locations.

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

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.

Alabama Department of Environmental Management, 1751 Congressman W.L. Dickinson Drive, Montgomery, Alabama 36109.

FOR FURTHER INFORMATION CONTACT: Joey LeVasseur at 404/562-9035.

SUPPLEMENTARY INFORMATION: For additional information see the direct

final rule which is published in the rules section of this **Federal Register**.

Dated: March 30, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 99-13945 Filed 6-3-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[FL-79-9918b; FRL-6352-6]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Florida

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the section 111(d) Plan submitted by the Florida Department of Environmental Protection (DEP) for the State of Florida on October 28, 1998, for implementing and enforcing the Emissions Guidelines applicable to existing Municipal Solid Waste Landfills. The Plan was submitted by the Florida DEP to satisfy certain Federal Clean Air Act requirements. In the Final Rules section of this **Federal Register**, EPA is approving the Florida State Plan submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates that it will not receive any significant, material, and adverse comments. A detailed rationale for the approval is set forth in the direct final rule and incorporated herein. If no significant, material, and adverse comments are received in response to this action, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action.

DATES: Comments on this proposed rule must be received in writing by July 6, 1999.

ADDRESSES: Written comments should be addressed to Joey LeVasseur at the EPA Regional Office listed below. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office

at least 24 hours before the day of the visit.

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.

Florida Department of Environmental Protection, Air Resources Management Division, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

FOR FURTHER INFORMATION CONTACT: Joey Levasseur at (404) 562-9035 or Scott Davis at (404) 562-9127.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action which is located in the Rules section of this **Federal Register** and incorporated herein.

Dated: April 21, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 99-13943 Filed 6-3-99; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99-190, RM-9631]

Radio Broadcasting Services; Colony, OK

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Suelou, Inc., seeking the allotment of Channel 286A to Colony, OK, as its first local aural service. Channel 286A can be allotted to Colony in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.7 kilometers (1.7 miles) northwest, at coordinates 35-22-15 NL; 98-41-23 WL, to avoid a short-spacing to Station KBLP, Channel 286A, Lindsay, OK. Petitioner is requested to provide further information to demonstrate that Colony is a "community" for allotment purposes.

DATES: Comments must be filed on or before July 12, 1999, and reply comments on or before July 27, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW, Room TW-A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Jeffrey D. Southmayd, Southmayd & Miller, 1220 19th Street, NW, Washington, DC 20036 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99-190, adopted May 12, 1999, and released May 21, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99-14104 Filed 6-3-99; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99-191, RM-9632]

Radio Broadcasting Services; Tularosa, NM

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Mountain West Broadcasting seeking the allotment of Channel 274C3 to Tularosa, NM, as the community's first local aural service. Channel 274C3 can be allotted to Tularosa in compliance with the Commission's minimum distance separation requirements without the imposition of a site

restriction, at coordinates 33-04-30 NL; 106-01-06 WL. Mexican concurrence in the allotment is required since Tularosa is located within 320 kilometers (199 miles) of the U.S.-Mexican border.

DATES: Comments must be filed on or before July 12, 1999, and reply comments on or before July 27, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW, Room TW-A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Victor A. Michael, Jr., President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, WY 82009 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99-191, adopted May 12, 1999, and released May 21, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99-14105 Filed 6-3-99; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 73**

[MM Docket No. 99-192, RM-9633]

Radio Broadcasting Services; Ravenna, NE**AGENCY:** Federal Communications Commission.**ACTION:** Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Mountain West Broadcasting seeking the allotment of Channel 276C2 to Ravenna, NE, as the community's first local aural service. Channel 276C2 can be allotted to Ravenna in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 41-01-36 NL; 98-54-48 WL.

DATES: Comments must be filed on or before July 12, 1999, and reply comments on or before July 27, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW-A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Victor A. Michael, Jr., President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, WY 82009 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99-192, adopted May 12, 1999, and released May 21, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

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

[FR Doc. 99-14106 Filed 6-3-99; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 73**

[MM Docket No. 99-193; RM-9561]

Radio Broadcasting Services; Merville, IA**AGENCY:** Federal Communications Commission.**ACTION:** Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Mountain West Broadcasting proposing the allotment of Channel 246A at Merville, Iowa, as the community's first local aural transmission service. Channel 246A can be allotted to Merville in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.2 kilometers (3.2 miles) east to avoid a short-spacing to the licensed site of Station KMXC(FM), Channel 247C1, Sioux Falls, Iowa. The coordinates for Channel 246A at Merville are 42-29-11 North Latitude and 96-00-36 West Longitude.

DATES: Comments must be filed on or before July 12, 1999, and reply comments on or before July 27, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Victor A. Michael, Jr. President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, Wyoming 82009 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99-193, adopted May 12, 1999, and released May 21, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room

CY-A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

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

[FR Doc. 99-14107 Filed 6-3-99; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 73**

[MM Docket No. 99-194; RM-9562]

Radio Broadcasting Services; Rockford, IA**AGENCY:** Federal Communications Commission.**ACTION:** Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Mountain West Broadcasting proposing the allotment of Channel 225A at Rockford, Iowa, as the community's first local aural transmission service. Channel 225A can be allotted to Rockford in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.3 kilometers (1.4 miles) southwest to avoid short-spacings to the licensed sites of Station KATF(FM), Channel 225C1, Dubuque, Iowa, and Station KFSI(FM), Channel 225A, Rochester, Minnesota. The coordinates for Channel 225A at Rockford are 43-01-55 North Latitude and 92-57-53 West Longitude.

DATES: Comments must be filed on or before July 12, 1999, and reply comments on or before July 27, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Victor A. Michael, Jr. President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, Wyoming 82009 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99-194, adopted May 12, 1999, and released May 21, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99-14108 Filed 6-3-99; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99-195; RM-9563]

Radio Broadcasting Services; Wheatland, WY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Mountain West Broadcasting proposing the allotment of Channel 293C1 at Wheatland, Wyoming, as the community's second local FM transmission service. Channel 293C1 can be allotted to Wheatland in compliance with the Commission's minimum distance separation requirements with a site restriction 41 kilometers (25.5 miles) north to avoid a short-spacing to the allotment site for Channel 292C3, Cheyenne, Wyoming. The coordinates for Channel 293C1 at Wheatland are 42-25-32 North Latitude and 104-57-21 West Longitude.

DATES: Comments must be filed on or before July 12, 1999, and reply comments on or before July 27, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Victor A. Michael, Jr. President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, Wyoming 82009 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99-195, adopted May 12, 1999, and released May 21, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99-14109 Filed 6-3-99; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99-196; RM-9619]

Radio Broadcasting Services; Bethel Springs, TN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Sherry A. Brown proposing the allotment of Channel 249A at Bethel Springs, Tennessee, as the community's first local aural transmission service. Channel 249A can be allotted to Bethel Springs in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.9 kilometers (3.6 miles) north to avoid short-spacings to the licensed sites of Station WWMS(FM), Channel 248C1, Oxford, Mississippi, and Station WKGL(FM), Channel 249A at Russellville, Alabama. The coordinates for Channel 249A at Bethel Springs are 35-17-02 North Latitude and 88-37-36 West Longitude.

DATES: Comments must be filed on or before July 12, 1999, and reply comments on or before July 27, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Jimmy D. Brown, 3668 Kimball Avenue, Memphis, Tennessee 38111 (Consultant for Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99-196, adopted May 12, 1999, and released May 21, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, S.W., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service,

Inc., (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99-14110 Filed 6-3-99; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98-190 RM-9317]

Radio Broadcasting Services; Cross City, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal.

SUMMARY: This document dismisses a proposal filed by Tony Downes requesting the allotment of Channel 249A at Cross City, Florida, as the community's second FM broadcast service. See 63 FR 59928, November 6, 1998. As stated in the *Notice*, a showing of continuing interest is required before a channel will be allotted. Since there

has been no interest expressed for the allotment of a channel at Cross City, the *Report and Order* dismisses the proposal.

DATES: The proposal is dismissed as of June 4, 1999.

FOR FURTHER INFORMATION CONTACT:

Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 98-190, adopted May 12, 1999, and released May 21, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857-3800, facsimile (202) 857-3805.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99-14111 Filed 6-3-99; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99-197, RM-9573]

Digital Television Broadcast Service; Salt Lake City, Ogden and Provo, UT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition jointly filed by

eight television stations in the Utah market that include: Brigham Young University, licensee of NCE station KBYU-TV, Provo; Larry H. Miller Communications Corporation, licensee of station KJZZ-TV, Salt Lake City; Bonneville Holding Company, licensee of station KSL-TV, Salt Lake City; United Television, Inc., licensee of station KTVX, Salt Lake City; University of Utah, licensee of NCE stations KUED, Salt Lake City and KULC, Ogden; KUTV Associates, licensee of station KUTV, Salt Lake City; and ACME Television Licenses of Utah, LLC, proposed licensee of station KUWB, Ogden. See supplementary information, *infra*.

DATES: Comments must be filed on or before July 12, 1999, and reply comments on or before July 27, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW, Room TW-A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Jonathan D. Blake and Jennifer A. Johnson, Covington & Burling, 1201 Pennsylvania Avenue, NW, Washington, DC 20044-7566 (Counsel)

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

SUPPLEMENTARY INFORMATION: Channels *36, *44, 46 and 48 can be substituted and allotted to Ogden, Provo, Salt Lake City, and Ogden, Utah, as proposed, in compliance with the principal community coverage requirements of Section 73.625(a) at reference coordinates (40-39-33 N and 112-12-07 W). In addition, we find that these channel changes are acceptable under the 2 percent criterion for *de minimis* impact that is applied in evaluating requests for modification of initial DTV allotments under Section 73.623.

State and city	DTV channel	DTV power (kW)	Antenna HAAT (m)	DTV service pop. (thous.)
UT Provo	*44	403.0	1257	1389
UT Ogden	*36	304.0	1257	1393
UT Ogden	48	200.0	1257	1374
UT Salt Lake City	46	200.0	1267	1384

This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99-197, adopted May 19, 1999, and released May 21, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference

Center (Room CY-A257) 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex*

parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Digital Television Broadcasting,
Federal Communications Commission.

Barbara A. Kreisman,
Chief, Video Services Division, Mass Media
Bureau.

[FR Doc. 99-14103 Filed 6-3-99; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF VETERANS AFFAIRS

48 CFR Parts 808, 812, 813, 852 and 853

RIN 2900-AJ16

VA Acquisition Regulation: Simplified Acquisition Procedures

AGENCY: Department of Veterans Affairs.
ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Department of Veterans Affairs Acquisition Regulation (VAAR) concerning simplified acquisition procedures. It proposes to amend VAAR provisions to conform to the Federal Acquisition Regulation, to update references and section titles, and to remove obsolete material.

DATES: Comments must be received on or before August 3, 1999.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900-AJ16." All written comments will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Don Kaliher, Acquisition Policy Team (95A), Office of Acquisition and Materiel Management, Department of Veterans Affairs, 810 Vermont Ave., NW, Washington, DC 20420, telephone number (202) 273-8819.

SUPPLEMENTARY INFORMATION: Part 13 of the Federal Acquisition Regulation (FAR) was recently reorganized. This

document proposes to amend part 813 of the Department of Veterans Affairs Acquisition Regulation (VAAR) to correspond to the newly reorganized FAR. Part, subpart, and section titles and/or numbers are proposed to be revised as necessary to correspond to FAR changes.

This document proposes to add, at appropriate locations in the VAAR, references to Office of Management and Budget approved forms used by VA in its Integrated Funds Distribution, Control Point Activity, Accounting, and Procurement (IFCAP) system, a computerized purchasing and accounting system. In addition, it is proposed to delete an obsolete reference to VAAR section 801.670-15 that previously was removed from the VAAR.

It is proposed to redesignate 813.507 as 813.302-5 to correspond to the FAR and to revise the advice to contracting officers provided therein. Currently, the VAAR advises contracting officers to attach a copy of the clause found at 852.237-70, Contractor responsibilities, to a purchase order for services performed on Government property. It is proposed to revise this section to advise contracting officers to incorporate the referenced clause in the purchase order rather than to just attach a copy of the clause to the order. This change is necessary to ensure that the purchase order clearly shows that the clause is part of the order.

It is proposed to delete sections 808.404-1 and 808.404-3. These sections address various requirements regarding the mandatory use of FSS contracts. FSS contracts no longer provide for mandatory use, making these sections obsolete.

It is proposed to amend part 812 by adding the provision at section 852.252-1, Provisions and clauses requiring completion by the offeror or prospective contractor, to the list of provisions and clauses at section 812.301(c) for use in commercial item solicitations. The provision is set forth in full in section 852.252-1 of this proposed rule. This is necessary to inform bidders and offerors on commercial item solicitations of FAR requirements.

Instead of including the full text of provisions and clauses, the FAR at 52.102(c) allows agencies to incorporate agency approved provisions and clauses by reference, provided the contracting officer: (1) identifies all provisions and clauses that require completion by the offeror or prospective contractor; (2) specifies that the provisions and clauses must be completed by the offeror or prospective contractor and must be submitted with the quotation or offer;

and (3) identifies to the offeror or prospective contractor at least one electronic address where the full text may be accessed. This rule proposes to add section 852.102, paragraph (a), and section 852.252-1, Provisions or clauses requiring completion by the offeror or prospective contractor, to allow VA to meet the requirements of FAR 52.102(c)(1) and (c)(2) for incorporating approved provisions and clauses by reference.

Some FAR and VAAR provisions and clauses require the contracting officer to fill in needed information. If these provisions or clauses are incorporated by reference, that information would be missing from the solicitation or contract. This rule proposes to add paragraph 852.102(b) to require contracting officers to include in full text the title and the paragraph of any provision or clause that requires the contracting officer to provide information. The balance of the provision or clause may be included by reference. This will ensure that the information required by these provisions or clauses will be included in solicitations or contracts.

The FAR at 52.102(c) and 52.102(c)(3) allows agencies to incorporate agency approved provisions and clauses by reference, provided the contracting officer identifies to the offeror or prospective contractor at least one electronic address where the full text may be accessed. The FAR, at 52.252-1 and 52.252-2, provides a "fill in the blank" provision and clause, respectively, for use by contracting officers in meeting this requirement, but the FAR does not provide an electronic address where the full texts of referenced provisions and clauses may be accessed. This rule proposes to add paragraphs (c), (d), (e), and (f) of section 852.102 to ensure compliance with FAR 52.102(c) and 52.102(c)(3). Paragraphs (c) and (d) advise contracting officers to include the applicable FAR provision or clause in solicitations and contracts when 48 CFR Chapter 8 (VAAR) provisions or clauses are incorporated by reference. In addition, paragraphs (e) and (f) provide the electronic addresses where full texts of both FAR and VAAR referenced provisions and clauses may be accessed. These proposed changes are necessary to comply with FAR 52.102(c) and 52.102(c)(3).

The Secretary hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. This rule would revise the VAAR to correspond to the FAR and would have a minuscule effect, if any, on small businesses.

Therefore, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

List of Subjects

48 CFR Part 808

Government procurement, Utilities.

48 CFR Parts 812, 813 and 853

Government procurement.

48 CFR Part 852

Government procurement, Reporting and recordkeeping requirements.

Approved: May 21, 1999.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 48 CFR Chapter 8 is proposed to be amended as follows:

PART 808—REQUIRED SOURCES OF SUPPLIES AND SERVICES

1. The authority citation for part 808 continues to read as follows:

Authority: 38 U.S.C. 501 and 40 U.S.C. 486(c).

808.404-1 [Removed]

2. Section 808.404-1 is removed.

808.404-3 [Removed]

3. Section 808.404-3 is removed.

PART 812—ACQUISITION OF COMMERCIAL ITEMS

4. The authority citation for part 812 continues to read as follows:

Authority: 38 U.S.C. 501 and 40 U.S.C. 486(c).

* * * * *

5. In section 812.301, paragraphs (c)(13), (c)(14), and (c)(15) are redesignated as paragraphs (c)(14), (c)(15), and (c)(16), respectively; newly designated paragraph (c)(16) is revised and a new paragraph (c)(13) is added to read as follows:

812.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

(c) * * *

(13) 852.252-1, Provisions or clauses requiring completion by the offeror or prospective contractor.

* * * * *

(16) 852.270-3, Purchase of shellfish.

* * * * *

PART 813—SIMPLIFIED ACQUISITION PROCEDURES

6. The part heading for part 813 is revised to read as set forth above.

7. The authority citation for part 813 is revised to read as follows:

Authority: 38 U.S.C. 501 and 40 U.S.C. 486(c).

7a. Subpart 813.1 is added to read as follows:

Subpart 813.1—Procedures

Subpart 813.5—[Redesignated as Subpart 813.3]

8. Subpart 813.5 is redesignated as subpart 813.3; and the subpart heading is revised to read as follows:

Subpart 813.3—Simplified Acquisition Methods

9. Section 813.302 and heading are added to read as follows:

813.302 Purchase orders.

§ 813.505-2 [Redesignated as 813.307]

10. Section 813.505-2 is redesignated as 813.307 and is transferred to subpart 813.3; the section heading and paragraphs (a) and (e) are revised to read as follows:

813.307 Forms.

(a) VA Form 90-2138, Order for Supplies or Services, VA Form 90-2139, Order for Supplies or Services (Continuation), VA Form 90-2138-ADP, Purchase Order for Supplies or Services, and VA Form 2139-ADP, Order for Supplies and Services (Continuation), provide in one set of forms a purchase or delivery order, vendor's invoice, and receiving report. They will be used in lieu of and in the same manner as Optional Form 347, Order for Supplies or Services, Optional Form 348, Order for Supplies or Services Schedule—Continuation, and Standard Form 1449, Solicitation/Contract/Order for Commercial Items.

* * * * *

(e) VA Form 10-2421, Prosthetics Authorization and Invoice, will be used for indicated services not in excess of \$300.

813.506-70 [Redesignated as 813.106-70]

11. Section 813.506-70 is redesignated as 813.106-70 and is transferred to the beginning of subpart 813.1; and is amended by removing "13.106c" and adding, in its place, "13.106-3".

§ 813.507 [Redesignated as 813.302-5]

12. Section 813.507 is redesignated as 813.302-5 and is transferred to subpart 813.3 following section 813.302; and is revised to read as follows:

813.302-5 Clauses.

When using VA Forms 90-2138 or 90-2138-ADP for maintenance contracts involving services performed

on Government property which have the potential for property damage and liability claims, the contracting officer shall incorporate in the purchase order the Contractor's Responsibilities clause found at 852.237-70. Applicable maintenance contracts include but are not limited to window washing, pest control and elevator maintenance.

PART 852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

13. The authority citation for part 852 continues to read as follows:

Authority: 38 U.S.C. 501 and 40 U.S.C. 486(c).

14. Section 852.102 is added to read as follows:

§ 852.102 Incorporating provisions and clauses by reference.

(a) As authorized by FAR 52.102(c), any 48 CFR Chapter 8 (VAAR) provision and clause may be included in a solicitation or contract by reference, provided the contracting officer complies with the requirements stated in FAR 52.102(c)(1), (c)(2), and (c)(3). To ensure compliance with FAR 52.102(c)(1) and (c)(2), contracting officers shall include the provision at 852.252-1, Provisions or clauses requiring completion by the offeror or prospective contractor, in full text in a quotation, solicitation, or contract whenever a FAR or 48 CFR Chapter 8 (VAAR) provision or clause that requires completion by the offeror or prospective contractor and submittal with the quotation or offer is included by reference.

(b) For any FAR or 48 CFR Chapter 8 (VAAR) provision or clause that requires completion by the contracting officer, the contracting officer shall, as a minimum, include the title of the provision or clause and the paragraph that requires completion in full text in the solicitation and contract. The balance of the provision or clause may be included by reference.

(c) When one or more FAR or 48 CFR Chapter 8 (VAAR) provisions, or portions thereof, are included in a solicitation by reference, the solicitation shall include the provision found at FAR 52.252-1, Solicitation Provisions Incorporated by Reference.

(d) When one or more FAR or 48 CFR Chapter 8 (VAAR) clauses, or portions thereof, are included in a contract by reference, the contract shall include the clause found at FAR 52.252-2, Clauses Incorporated by Reference.

(e) When one or more FAR provisions or clauses, or portions thereof, are incorporated in a solicitation or contract

by reference, the FAR provision or clause required by paragraph (c) or (d) of this section shall include the following Internet address:

<http://www.arnet.gov/far/>

(f) When one or more 48 CFR Chapter 8 (VAAR) provisions or clauses, or portions thereof, are incorporated in a solicitation or contract by reference, the FAR provision or clause required by paragraph (c) or (d) of this section shall include the following Internet address:

<http://www.va.gov/oa&mm/vaar/>

15. Section 852.252-1 is added to read as follows:

852.252-1 Provisions or clauses requiring completion by the offeror or prospective contractor.

As prescribed by 852.102(a), the following provision shall be included in full text in all quotations, solicitations, or contracts that incorporate by reference any FAR or 48 CFR Chapter 8 (VAAR) provision or clause that requires completion by the offeror or prospective contractor and submittal with the quotation or offer.

Provisions or Clauses That Require Completion by the Offeror or Prospective Contractor (Date)

The following provisions or clauses incorporated by reference in this solicitation must be completed by the offeror or prospective contractor and submitted with the quotation or offer. Copies of these provisions or clauses are available on the Internet at the web sites provided in provision 52.252-1 or clause 52.252-2. Copies may also be obtained from the contracting officer.

[Contracting officer shall list all FAR and 48 CFR Chapter 8 (VAAR) provisions and clauses incorporated by reference that must be completed by the offeror or prospective contractor and submitted with the quotation or offer]

(End of provision)

PART 853—FORMS

16. The authority citation for part 853 is revised to read as follows:

Authority: 38 U.S.C. 501 and 40 U.S.C. 486(c).

Subpart 853.2—Prescription of Forms

17. Section 853.213 is revised to read as follows:

853.213 Simplified acquisition procedures.

The following forms are prescribed as stated in this section for use in simplified acquisition procedures, orders under existing contracts or agreements, orders from required sources of supplies and services, and orders for other supplies or services as stated in this section:

(a) VA Forms 90-2138, Order for Supplies or Services, or 90-2138-ADP, Purchase Order for Supplies or Services, shall be used as indicated in 813.307. They will be used in lieu of but similar to OF 347, Order of Supplies and Services, or SF 1449, Solicitation/Contract/Order for Commercial Items.

(b) The following forms are for use for obtaining indicated medical and dental services within the limitations prescribed in 813.307:

(1) VA Form 10-7078, Authorization and Invoice for Medical and Hospital Services.

(2) VA Form 10-7079, Request for Outpatient Medical Services.

(3) VA Form 10-2570d, Dental Record, Authorization and Invoice for Outpatient Services.

(c) VA Form 10-2511, Authority and Invoice for Travel by Ambulance or Other Hired Vehicle, will be used as prescribed in 813.307.

(d) VA Form 10-2421, Prosthetics Authorization and Invoice, will be used for indicated procurements not to exceed \$300 as prescribed in 813.307.

[FR Doc. 99-13886 Filed 6-3-99; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants: Reopening of Comment Period on 90-day Finding and Commencement of Status Review for a Petition To List the Black-tailed Prairie Dog as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of reopening comment period on 90-day petition finding.

SUMMARY: The Fish and Wildlife Service provides notice of the reopening of the comment period on the 90-day finding for a petition to list the black-tailed prairie dog (*Cynomys ludovicianus*) as a threatened species under the Endangered Species Act of 1973. As amended. The initial comment period opened on March 15, 1999 (64 FR 14424), and closed on May 24, 1999. To accommodate several requests for extensions, we are reopening the comment period for an additional 45 days.

DATES: To be considered in the 12-month finding for this petition, written comments and materials should be received on or before July 19, 1999.

ADDRESSES: Information, data, or comments concerning this petition should be submitted to the Field Supervisor., South Dakota Ecological Services Field Office, U.S. Fish and Wildlife Service, 420 South Garfield Avenue, Pierre, South Dakota 57501. The petition, finding, support data, and comments are available for public inspection, by appointment, during normal business hours, at the above address.

FOR FURTHER INFORMATION CONTACT: Pete Gober, at the above address, or telephone (605) 224-8693.

SUPPLEMENTARY INFORMATION:

Background

The black-tailed prairie dog is a colonial ground squirrel and one of five species in the genus *Cynomys*, all of which occur in western North America. The black-tailed prairie dog (*C. ludovicianus*), is found in Montana, Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, northern Texas, and Canada.

On July 31, 1998, we received a petition to list the black-tailed prairie dog as a threatened species throughout its range pursuant to the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*). On March 25, 1999 (64 FR 14424), we published a 90-day notice on this petition, finding that it presented substantial information indicating that listing this species may be warranted, and initiating a status review of the species.

Public Comments Solicited

We are soliciting information primarily on (1) population status and trends, (2) management policies and conservation plans affecting black-tailed prairie dogs, and (3) threats to the species, including those identified in the petition. The original comment period for this action expired May 24, 1999. With this notice, we reopen the comment period for an additional 45 days.

Author: The author of this notice is Pete Gober (see **ADDRESSES** section).

Authority: Authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: May 27, 1999.

Terry Terrell,

Deputy Regional Director, Denver, Colorado.

[FR Doc. 99-14163 Filed 6-3-99; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 635**

[Docket No. 990528152-9152-01; I.D. 051199A]

RIN 0648-AM27

Atlantic Highly Migratory Species Fisheries; Atlantic Bluefin Tuna Fishery; Regulatory Adjustment

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

ACTION: Proposed rule; public hearings; request for comments.

SUMMARY: NMFS proposes to amend the regulations governing the Atlantic highly migratory species (HMS) fisheries to prohibit fishing vessel operators from using spotter aircraft to assist in the location and capture of Atlantic bluefin tuna (BFT) for all vessels other than Purse Seine category vessels. The proposed regulatory amendments are necessary to achieve domestic management objectives for HMS fisheries. NMFS has received extensive comment on this issue during the comment period for the rule to implement the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP) and during previous related comment periods. However, NMFS will hold two public hearings to receive additional comments from fishery participants and other members of the public regarding these proposed amendments.

DATES: Comments are invited and must be received on or before June 22, 1999. The public hearings dates are:

1. Monday, June 14, 1999, 2-5 p.m. in Silver Spring, MD.
2. Tuesday, June 15, 1999, 7-10 p.m. in Gloucester, MA.

ADDRESSES: Comments on the proposed rule should be sent to, Rebecca Lent, Chief, Highly Migratory Species Management Division (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3282. Copies of supporting documents, including a Draft Environmental Assessment (EA), which includes a Draft Regulatory Impact Review and an Initial Regulatory Flexibility Analysis (IRFA), are available from Brad McHale, Highly Migratory Species Management Division, Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930.

The public hearing locations are:

1. Silver Spring (Monday June 14, 1999), NMFS, 1315 East-West Highway, Room 4527, Silver Spring, MD 20910.

2. Gloucester, MA (Tuesday June 15, 1999), Milton Fuller School, 4 School House Road, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Mark Murray-Brown, 978-281-9260.

SUPPLEMENTARY INFORMATION: Atlantic tunas are managed under the dual authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act (ATCA). ATCA authorizes the Secretary of Commerce to implement binding recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The authority to issue regulations under the Magnuson-Stevens Act and ATCA has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA). Within NMFS, daily responsibility for management of Atlantic HMS fisheries rests with the Office of Sustainable Fisheries, and is carried out by the HMS Management Division.

NMFS proposes this action under the framework provisions described in the HMS FMP. NMFS believes that the prohibition on the use of spotter aircraft assistance by fishing vessel operators (other than those in the Purse Seine category) in the location and capture of Atlantic BFT is a necessary regulatory action in order to meet the goals and objectives of the FMP.

After reviewing public comments and additional information or data that may be available, NMFS will, if appropriate, make final determinations regarding the consistency of this proposed measure with the objectives of the FMP, the national standards of the Magnuson-Stevens Act, and other applicable law. Within 30 days of the close of the public comment period, NMFS will take final action.

Background

Background information on the use of spotter aircraft in the BFT fishery was provided in the HMS FMP, released in April 1999, and is provided in greater detail in the Draft EA.

Relation to Previous Rulemaking

NMFS has, on four prior occasions (in 1988, 1989, 1996, and 1997), requested specific comments on the impacts of spotter aircraft use in the BFT fishery. NMFS has proposed prohibiting the use of spotter aircraft by all but Purse Seine category vessels twice, and, in 1997, published a final rule to prohibit the use of spotter aircraft by all but Purse Seine

and Harpoon category vessels. Prior to 1997, NMFS did not take final action due to concerns about the enforceability of spotter aircraft regulations. Additionally, in 1996, the majority of active tuna spotters signed a voluntary agreement limiting their activity to assisting vessels using harpoon gear. NMFS recognized that the voluntary agreement warranted a trial period, but also indicated that the agency would continue to monitor the situation and would take appropriate action if necessary. Public comment indicated that some rod-and-reel vessels in the General category were using spotter aircraft contrary to the terms of the agreement.

On March 4, 1997 (62 FR 9726), NMFS proposed to prohibit the use of spotter aircraft except in the Purse Seine category fishery. NMFS indicated that it had considered combining the Harpoon and General categories as a means of resolving catch rate and safety issues (since a daily catch limit of one BFT per vessel for all handgear fishermen would decrease the incentive for spotter aircraft use), but was concerned that the harpoon fishery, as it had traditionally existed, might not be able to continue under such restriction. NMFS requested comment on suggestions from constituents that self-policing would assist with enforcement of a spotter aircraft prohibition, and on alternative measures to address the fishery management and safety issues raised by use of spotter aircraft in the BFT fishery. In response, NMFS received nearly 2,000 comments on the proposed prohibition on the use of spotter aircraft. On July 18, 1997 (62 FR 38487), NMFS published a final rule prohibiting the use of spotter aircraft to assist vessels in all but the Purse Seine and Harpoon categories.

In response to a lawsuit filed by the Atlantic Fish Spotters Association, the United States District Court for Massachusetts, on June 10, 1998, overturned the prohibition on the use of spotter aircraft in assisting BFT vessels in other than the Harpoon and Purse Seine categories, as codified in 50 CFR 285.31(a)(40); the prohibition is now void. NMFS decided not to appeal the Court's decision, but rather, to gather more facts and relevant data in order to reach a satisfactory resolution.

At the August 1998 meeting of the HMS Advisory Panel (AP) in Warwick, Rhode Island, apart from three abstentions, all members of the AP requested and advised that NMFS prohibit the use of spotter aircraft in the BFT fishery. In the draft HMS FMP published in October 1998, NMFS once again presented alternatives on

regulating the use of spotter aircraft in the BFT fishery. NMFS did not propose any changes at that time, pending further deliberation and analysis, but the agency did indicate that it would address the issue in a separate rulemaking before the start of the 1999 General and Harpoon category seasons (June 1, 1999).

In April 1999, NMFS adopted the final HMS FMP. This FMP establishes a rebuilding program for west Atlantic BFT and brings the management of Atlantic tuna under the dual authority of the Magnuson-Stevens Act and ATCA. The Magnuson-Stevens Act and the FMP bring new considerations to regulating the use of spotter aircraft. In the time since the prohibition on the use of spotter aircraft in assisting BFT vessels in other than the Harpoon and Purse Seine categories was overturned (July 1998), NMFS has obtained further information, conducted additional analyses, and contracted for an independent study regarding the use of spotter aircraft in the BFT fishery.

NMFS remains concerned that the use of spotter aircraft to locate BFT accelerates the catch rates and closures in the General and Harpoon categories. This undermines NMFS' regulations designed to control effort in the General category, alters the distribution of optimum yield, and impedes the collection of important scientific information in the fishery. In addition, the use of spotter aircraft is inconsistent with the reasoning behind the initial establishment of the Harpoon category (in which multiple daily landings are allowed) and the Harpoon category quota in 1980, i.e., dependency on optimal weather and sea conditions, negatively impacts traditional fisheries and has adverse impacts on communities. The issue of spotter aircraft use in the BFT fishery is a source of great conflict in the fishery. Conflicts in the fishery are exacerbated by the fact that the BFT fishery is a derby fishery (with the exception of the Purse Seine category), in which vessels are concentrated on the fishing grounds over short periods of time. Some commenters have indicated that potential for accidents at sea is increased by the use, whether direct or indirect, of spotter aircraft as vessels may congregate under the aircraft. NMFS has received extensive comment from the public and guidance from the HMS AP urging NMFS to prohibit the use of spotter aircraft by all vessels in the BFT fishery other than those in the Purse Seine category.

After a review of all the information on record regarding this issue, NMFS has determined that the status quo is

unacceptable and that the proposed action would best address the management concerns regarding spotter aircraft use in the BFT fishery, while ensuring that the objectives of the FMP are met, consistent with the Magnuson-Stevens Act and that Act's national standards.

Spotter Aircraft

This proposed rule would prohibit the use of spotter aircraft to assist fishing vessels in the location and capture of BFT, with the exception of Purse Seine category vessels.

Permit Category Deadline Change

Within 1 week, NMFS will announce, in the **Federal Register**, the deadline to change Atlantic tuna permit categories for calendar year 1999. Previously, NMFS suspended this deadline to allow vessel owners to weigh the impacts of various rulemakings on each permit category (64 FR 27207, May 19, 1999).

Public Hearings and Special Accommodations

The public hearing sites are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mark Murray-Brown (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days prior to the hearing.

The public is reminded that NMFS expects participants at the public hearings to conduct themselves appropriately. At the beginning of each public hearing, a NMFS representative will explain the ground rules (e.g., alcohol in the hearing room is prohibited, attendees will be called to give their comments in the order in which they registered to speak, each attendee will have an equal amount of time to speak, and attendees should not interrupt one another). The NMFS representative will attempt to structure the hearing so that all attending members of the public are able to comment, if they so choose, regardless of the controversiality of the subject(s). Attendees are expected to respect the ground rules, and if they do not, they will be asked to leave the hearing.

Classification

This proposed rule is published under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.*, and the Atlantic Tunas Convention Act, 16 U.S.C. 971 *et seq.* Preliminarily, the AA has determined that the regulations contained in this proposed rule are consistent with the FMP, the Magnuson-Stevens Act, and the 1998 ICCAT

recommendation (ICCAT Rebuilding Program).

NMFS has prepared a draft EA for this proposed rule and has concluded that, depending on the universe of potentially impacted small business entities involved in the BFT fishery chosen for analysis, this action may or may not result in a significant impact on small entities in the fishery as a whole. Therefore, NMFS has prepared an IRFA to accompany the proposed rule. The reasons this action is being considered and the objectives of, and legal basis for, the proposed rule are as stated in the preamble above. The IRFA indicates that if the proposed regulations are implemented, there may be a negative impact on a significant number of small business entities, including fishing vessels and spotter aircraft, involved in the BFT fishery. NMFS estimates that less than 70 small entities, including fishing vessels and spotter aircraft, would be significantly affected by the proposed rule. This is less than 1 percent of the small entities participating in the bluefin tuna fishery in terms of the total number of spotter aircraft/pilots and commercially-permitted vessels. The impact is significant for a greater percentage of small entities in the fishery if one considers only those vessels which land fish as those which are potentially affected. In addition, these regulations may also impact related parties and communities such as marinas, gear suppliers, and aviation-related businesses. There are no relevant Federal rules which duplicate, overlap, or conflict with the proposed rule. There are no proposed reporting, recordkeeping or compliance requirements in the proposed rule. Although the preferred alternative may have a significant impact on small business entities, NMFS believes that these impacts are unavoidable if the management concerns regarding spotter aircraft are to be addressed. NMFS considered several alternatives to the preferred alternative, including: No action, prohibition of the use of spotter aircraft for vessels in the General category only, and requiring registration and reporting for fishing vessels or spotter aircraft. NMFS has preliminarily determined that none of these alternatives meet the objectives of, and basis for, this proposed action.

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

NMFS initiated formal consultation on the HMS and billfish fisheries on May 12, 1998. The consultation request concerned the possible effects of management measures in the HMS FMP

and Billfish Amendment. On April 23, 1999, NMFS issued a Biological Opinion (BO) under section 7 of the Endangered Species Act. The BO applies to the Atlantic pelagic fisheries for tunas, sharks, swordfish, and billfish.

The harpoon/handline/rod-and-reel gear fisheries are listed as category III fisheries under the Marine Mammal Authorization Program due to their remote likelihood of interaction with marine mammals. Although a few reports of entanglement in handline and harpoon gear exist, these were likely non-injurious entanglements from which the whales could easily disentangle themselves or be disentangled. Increased development of the Disentanglement Network under the Atlantic Large Whale Take Reduction Plan should provide adequate mitigation for these infrequent (and thus far, non-lethal) entanglements.

The B.O. states that after reviewing the current status of the subject species, the environmental baseline for the action area, the cumulative effects of the continued operation of the Atlantic HMS fisheries and associated management actions, it is NMFS' biological opinion that the continued operation of the harpoon/handline/rod-and-reel gear fisheries is not likely to adversely affect the continued existence of any endangered or threatened species under NMFS jurisdiction.

Because the proposed action addresses only the Atlantic BFT harpoon/handline/rod-and-reel gear fisheries, NMFS has determined that proceeding with this proposed rule

would not result in any irreversible and irretrievable commitment of resources that would have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures. This proposed rule would prohibit of fishing vessel operators from using spotter aircraft to assist in the location and capture of BFT for all vessels other than Purse Seine category vessels. Therefore, the proposed rule is not expected to increase endangered species or marine mammal interaction rates.

The area in which this proposed action is planned has been identified as essential fish habitat (EFH) for species managed by the New England Fishery Management Council, the Mid-Atlantic Fishery Management Council and the Highly Migratory Species Division of NMFS. It is not anticipated that this action will have any adverse impacts to EFH and therefore no consultation is required.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Reporting and recordkeeping requirements, Treaties.

Dated: May 28, 1999.

Andrew A. Rosenberg

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 635 is proposed to be amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.* and 16 U.S.C. 1801 *et seq.*

2. In § 635.2, the definition for "aircraft" is added to read as follows:

§ 635.2 Definitions.

* * * * *

Aircraft means any contrivance used for flight in air.

* * * * *

3. In § 635.21, paragraph (e) is added to read as follows:

§ 635.21 Gear operation and deployment restrictions.

* * * * *

(e) *Aircraft.* Other than for a vessel holding a valid permit in the Purse Seine category under § 635.4, locating, fishing for, catching, taking, retaining or possessing, or attempting to locate, fish for, catch, retain, or possess, bluefin tuna by means, aid, or use of any aircraft is prohibited.

4. In § 635.71, paragraph (b)(28) is added to read as follows:

§ 635.71 Prohibitions.

* * * * *

(b) * * *

(28) Locate, fish for, catch, possess or retain, or attempt to locate fish for, catch, possess or retain any bluefin tuna by means, aid, or use of any aircraft, unless holding a valid permit in the Purse Seine category under § 635.4.

* * * * *

[FR Doc. 99-14138 Filed 6-1-99; 10:51 am]

BILLING CODE 3510-22-F

Notices

Federal Register

Vol. 64, No. 107

Friday, June 4, 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

Commodity Credit Corporation

Bylaws of Corporation

The Bylaws of the Commodity Credit Corporation, revised May 17, 1999, are as follows:

Offices

1. The principal office of the Corporation shall be in the City of Washington, District of Columbia (D.C.), and the Corporation shall also have offices at such other places as it may deem necessary or desirable in the conduct of its business.

Seal

2. There is impressed below the official seal which is hereby adopted for the Corporation. The seal may be used by causing it or its facsimile to be impressed, affixed, or reproduced.



Meetings of the Board

3. Meetings of the Board of Directors (Board) shall be held, whenever necessary, at the U.S. Department of Agriculture in the City of Washington, D.C. All meetings of the Board shall be held in accordance with provisions of the Government in the Sunshine Act (5 U.S.C. 552b). Meetings of the Board may be called at any time by the Chairman, the Vice Chairman, or the President. The Executive Vice President may call a meeting at the written request of any five Members. Notice of meetings shall be given either orally or in writing. Any Member may waive in writing any notice of a meeting, whether before or after the time of the meeting, and the presence of a Member at any meeting shall constitute a waiver of notice of such meeting. Any and all business may be transacted at any meeting unless otherwise indicated in the notice thereof.

4. The Secretary of Agriculture shall serve as Chairman of the Board. The Deputy Secretary of Agriculture shall serve as Vice Chairman of the Board and, in the absence or unavailability of the Chairman, shall preside at meetings of the Board. In the absence or unavailability of the Chairman and the Vice Chairman, the President of the Corporation shall preside at meetings of the Board. In the absence or unavailability of the Chairman, the Vice Chairman, and the President, the Members present at the meeting shall designate a Presiding Officer.

5. At any meeting of the Board, a quorum shall consist of five Members. The act of a majority of the Members present at any meeting at which there is a quorum shall be the act of the Board.

6. The General Counsel of the U.S. Department of Agriculture, whose office

shall perform all legal work of the Corporation, and the Associate General Counsel for International Affairs, Commodity Programs and Food Assistance Programs, shall serve as General Counsel and Associate General Counsel of the Corporation, respectively.

Compensation of Board Members

7. The compensation of each Member shall be prescribed by the Secretary of Agriculture. Any Member who holds another office or position within the Federal Government shall receive compensation at the rate provided for such other office or position in lieu of compensation as a Member.

Officers

8. The officers of the Corporation shall be: a President; an Executive Vice President; Vice Presidents; Deputy Vice Presidents; a Secretary; a Deputy Secretary; an Assistant Secretary; a Controller; a Treasurer; a Chief Accountant; and such additional officers as the Secretary of Agriculture may appoint.

9. The Under Secretary of Agriculture for Farm and Foreign Agricultural Services shall be the *ex officio* President of the Corporation.

10. The following officials of the Farm Service Agency (FSA), the Foreign Agricultural Service (FAS), the Food and Nutrition Service (FNS), the Natural Resources Conservation Service (NRCS), and the Agricultural Marketing Service (AMS) shall be *ex officio* officers of the Corporation:

Administrator, FSA	Executive Vice President.
Administrator, AMS	Vice President.
Administrator, FAS	Vice President.
Administrator, FNS	Vice President.
Chief, NRCS	Vice President.
General Sales Manager, FAS	Vice President.
Associate Administrator, Programs, FSA	Vice President.
Associate Administrator, Operations and Management, FSA	Vice President.
Deputy Administrator, Commodity Operations, FSA	Deputy Vice President.
Deputy Administrator, Management, FSA	Deputy Vice President.
Deputy Administrator, Farm Programs, FSA	Deputy Vice President.
Director, Economic and Policy Analysis Staff, FSA	Deputy Vice President.
Associate Chief, NRCS	Deputy Vice President.
Deputy Chief, Programs, NRCS	Deputy Vice President.
Deputy Chief, Management, NRCS	Deputy Vice President.
Executive Assistant to the Administrator, FSA	Secretary.

Director, Strategic Management & Corporate Operations Staff, FSA	Deputy Secretary.
Staff Assistant, Strategic Management & Corporate Operations Staff, FSA	Assistant Secretary.
Director, Financial Management Division, FSA	Controller.
Deputy Director, Financial Management Division, FSA	Treasurer.
Chief, Financial Accounting and Reporting Branch, Financial Management Division, FSA	Chief Accountant.

The person occupying, in an acting capacity, any position listed in this paragraph shall, during occupancy of such position, act as the corresponding officer of the Corporation.

11. Officers who do not hold *office ex officio* shall be appointed by the Secretary of Agriculture and shall hold office until their respective appointments shall have been terminated.

The President

12. The President shall have general supervision and direction of the Corporation, its officers and employees.

The Vice Presidents

13. (a) The Executive Vice President shall be the chief executive officer of the Corporation. Except as provided in paragraphs (b), (c), (d), (e), and (f) below, the Executive Vice President shall have general supervision and direction of: the preparation of policies and programs for submission to the Board; the administration of the policies and programs approved by the Board; and the day-to-day conduct of the business of the Corporation and its officers and employees.

(b) The Vice President who is the Administrator, FAS, shall be responsible for preparation for submission by the Executive Vice President to the Board of those policies and programs of the Corporation which are for performance through the facilities and personnel of FAS. This Vice President shall have responsibility for the administration of those operations of the Corporation, under policies and programs approved by the Board, which are carried out through facilities and personnel of FAS, and shall perform such special duties and exercise such powers as may be prescribed, from time-to-time, by the Secretary of Agriculture, the Board, or the President of the Corporation.

(c) The Vice President who is the Administrator, AMS, shall be responsible for the administration of those operations of the Corporation, under policies and programs approved by the Board, which are carried out through facilities and personnel of AMS. This Vice President shall perform such special duties and exercise such powers as may be prescribed, from time-to-time, by the Secretary of Agriculture, the Board, or the President of the Corporation.

(d) The Vice President who is the General Sales Manager, FAS, shall be responsible for preparation for submission by the Executive Vice President to the Board of those policies and programs of the Corporation which are for performance through the facilities and personnel of FAS. This Vice President shall also have responsibility for the administration of those operations of the Corporation, under the policies and programs approved by the Board, which are carried out through facilities and personnel of FAS, and shall perform such special duties and exercise such powers as may be prescribed, from time-to-time, by the Secretary of Agriculture, the Board, or the President of the Corporation.

(e) The Vice President who is the Administrator, FNS, shall be responsible for the administration of those operations of the Corporation, under policies and programs approved by the Board, which are carried out through facilities and personnel of FNS. This Vice President shall perform such special duties and exercise such powers as may be prescribed, from time-to-time, by the Secretary of Agriculture, the Board, or the President of the Corporation.

(f) The Vice President who is the Chief, NRCS, shall be responsible for preparation for submission by the Executive Vice President to the Board of those policies and programs of the Corporation which are for performance through the facilities and personnel of NRCS. This Vice President shall have responsibility for the administration of those operations of the Corporation, under policies and programs approved by the Board, which are carried out through facilities and personnel of NRCS, and shall perform such special duties and exercise such powers as may be prescribed, from time-to-time, by the Secretary of Agriculture, the Board, or the President of the Corporation.

14. The Vice Presidents who are the Associate Administrators, FSA, and the Deputy Vice Presidents shall assist the Executive Vice President to such extent as the President or the Executive Vice President shall prescribe, and shall perform such special duties and exercise such powers as may be prescribed, from time-to-time, by the Secretary of Agriculture, the Board, the President of the Corporation, or the

Executive Vice President of the Corporation.

The Secretary

15. The Secretary shall: attend and keep the minutes of all meetings of the Board; serve all required notices of meetings of the Board; sign all papers and instruments that require the Secretary's signature; attest to the authenticity of and affix the seal of the Corporation upon any instrument requiring such action; and perform such other duties and exercise such other powers as are commonly incidental to the office of Secretary, as well as such other duties as may be prescribed, from time-to-time, by the President or the Executive Vice President.

The Controller

16. The Controller shall: have charge of all fiscal and accounting affairs of the Corporation, including all borrowings and related financial arrangements and claims activities, and perform such other duties as may be prescribed, from time-to-time, by the President or the Executive Vice President.

The Treasurer

17. (a) The Treasurer shall: assist the Controller in the administration of all fiscal and accounting affairs of the Corporation, including all borrowings and related financial arrangements and claims activities, and perform such other duties relating to the fiscal and accounting affairs of the Corporation as may be prescribed, from time-to-time, by the Controller, the President, or the Executive Vice President.

(b) The Treasurer, under the general supervision and direction of the Controller, shall: supervise the receipt and disbursement of all funds of the Corporation; designate qualified persons to authorize disbursement of corporate funds; be responsible for documents relating to the general financing operations of the Corporation; and supervise the claims activities of the Corporation.

The Chief Accountant

18. The Chief Accountant, under the general supervision and direction of the Controller, shall: have charge of the general accounting books and accounts of the Corporation and the preparation of financial statements and reports; be responsible for the issuance of policies and practices related to accounting

matters and procedures, including those dealing with official inventories and records; and perform such other duties relating to the fiscal and accounting affairs of the Corporation as may be prescribed, from time-to-time, by the Controller.

Other Officials

19. Except as otherwise authorized by the Secretary of Agriculture or the Board, the operations of the Corporation shall be carried out through the facilities and personnel of FSA, FAS, FNS, AMS, and NRCS in accordance with any assignment of functions and responsibilities made by the Secretary of Agriculture and, within the respective agency or office, by the Administrator of FSA, FAS, FNS, or AMS, the Chief NRCS, or the General Sales Manager, FAS, as applicable.

20. The Directors of the divisions of FSA and the Directors of the Kansas City Commodity Office and the Kansas City Management Office of FSA shall be Contracting Officers of the Corporation and executives of the Corporation in general charge of the activities of the Corporation carried out through their respective divisions or offices in accordance with these Bylaws and applicable programs, policies, and procedures.

Contracts of the Corporation

21. Contracts of the Corporation relating to any of its activities may be executed in its name by the Secretary of Agriculture or the President. The Vice Presidents, the Deputy Vice Presidents, the Controller, the Treasurer, the Directors of the divisions of FSA, and the Directors of the Kansas City Commodity Office and the Kansas City Management Office of FSA may execute contracts relating to the activities of the Corporation for which they are respectively responsible.

22. The Executive Vice President and, subject to the written approval by the Executive Vice President of each appointment, the Vice Presidents, the Deputy Vice Presidents, the Controller, the Directors of the divisions of FSA, and the Directors of the Kansas City Commodity Office and the Kansas City Management Office of FSA may appoint, by written instrument, such Contracting Officers as they deem necessary, who may, to the extent authorized by such instrument, execute contracts in the name of the Corporation. A copy of each such instrument shall be filed with the Secretary of the Corporation.

23. Appointments of Contracting Officers may be revoked by written instruction or instrument by the

Executive Vice President or the official who made the appointment. A copy of each instrument shall be filed with the Secretary of the Corporation.

24. Employees of FSA, FAS, FNS, AMS and NRCS may execute contracts on behalf of the Corporation as delegated to them in accordance with applicable dockets of the Corporation, program regulations, or delegations approved by the President or Vice Presidents of the Corporation.

Annual Report

25. The Executive Vice President shall be responsible for the preparation of an annual report of the activities of the Corporation, which shall be filed with the Secretary of Agriculture and with the Board.

Amendments

26. These Bylaws may be altered, amended, or repealed by the Secretary of Agriculture or the Board.

Approval of Board Action

27. The actions of the Board shall be subject to the approval of the Secretary of Agriculture.

I, Juanita B. Daniels, Acting Secretary, Commodity Credit Corporation, do hereby certify that the above is a full, true, and correct copy of the Bylaws of Commodity Credit Corporation. As revised May 17, 1999.

In witness whereof I have officially subscribed my name and have caused the corporate seal of the said Corporation to be fixed this 17th day of May, 1999.

Juanita B. Daniels,

Acting Secretary, Commodity Credit Corporation.

[FR Doc. 99-14185 Filed 6-3-99; 8:45 am]

BILLING CODE 3410-05-P

DEPARTMENT OF AGRICULTURE

Forest Service

Rocky Mountain Front Minerals Withdrawal EIS—Lewis and Clark and Helena National Forests

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement on a proposal to withdraw from locatable mineral entry, 429,000 acres of National Forest System lands along Montana's Rocky Mountain Front in Glacier, Pondera, Teton and Lewis and Clark Counties, Montana. Specific land descriptions were provided in the **Federal Register** (64 FR 5311-5312, Feb.

3, 1999) under the Bureau of Land Management Notice of Proposed withdrawal. The purpose of the proposal is to preserve the area for traditional cultural purposes by Native Americans, protect threatened and endangered species, and preserve the outstanding scenic values and roadless character. If approved, the withdrawal would remove National Forest System lands along the Rocky Mountain Front from new mining claims for up to 20 years. The EIS will be designed to satisfy the requirements of the Federal Land Policy and Management Act of 1976 and implementing regulations (43 CFR 2310.1).

DATES: Comments concerning the scope of the analysis should be received on or before July 6, 1999. See **SUPPLEMENTARY INFORMATION** section for public meeting dates.

ADDRESSES. Send written comments to Rick Prausa, Forest Supervisor, Lewis and Clark National Forest, 1101 15th Street North, Box 869, Great Falls, MT 59403. Electronic mail may be sent to comment/rl—lewisclark@fs.fed.us. See **SUPPLEMENTARY INFORMATION** section for additional information about electronic filing and public meeting addresses.

FOR FURTHER INFORMATION CONTACT: David Whittekiend, EIS Team Leader, (406) 466-5341 or (406) 791-7700.

SUPPLEMENTARY INFORMATION: The Forest Service proposes to withdraw from locatable mineral entry, National Forest System lands along the Rocky Mountain Front. The proposed mineral withdrawal is 429,000 acres of federal lands, subject to valid existing rights associated with the existing unpatented mining claims in the study area. The withdrawal would have an immediate effect on 426,800 acres of currently unclaimed federal land, which would be withdrawn for up to 20 years. The mineral withdrawal may or may not affect the remaining acreage (approximately 2,200 acres of unpatented mining claims), depending upon whether the 104 unpatented mining claims constitute valid existing rights. If these unpatented mining claims were abandoned or determined to be invalid, the mineral withdrawal would prohibit the relocation of new mining claims. The mineral withdrawal would be subject to review at the end of 20 years according to federal regulations. The primary purpose of the proposed mineral withdrawal is to preserve the area for tradition cultural uses by Native Americans, to protect threatened and endangered species and protect outstanding scenic values and roadless character. Many individuals and groups have expressed concern

about the potential of minerals development along the Rocky Mountain Front after the staking of 104 claims in the Blackleaf/Muddy Creek area.

The study area includes areas considered sacred to several Indian tribes. Traditional cultural uses that take place in the study area include religious ceremonies and gathering of traditional herbs. The study area provides habitat for several threatened and endangered species including grizzly bear, gray wolf, peregrine falcon, and bald eagle. The risks of mining development to these species include increased roading, habitat destruction and increased human presence. The scenic qualities of the study area are believed by many to be among the best in the nation. These qualities could be degraded by the development of mineral resources. Withdrawal of these lands would ensure that the cultural, biological and scenic resources of these lands would be maintained and the impacts of mining related activities would be reduced.

Decisions To Be Made

The U.S. Department of Agriculture, Forest Service, has filed an application with the Department of the Interior, Bureau of Land Management to withdraw 429,000 acres of National Forest System lands from locatable mineral entry under the United States mining laws. The Forest Service will prepare an EIS. The Chief of the Forest Service will have two decisions to make: he will decide whether or not to recommend that the Secretary of the Interior withdraw this area. If the Secretary of the Interior withdraws the area, the Chief of the Forest Service will also amend the Lewis and Clark and Helena National Forest Plans to reflect the change in management of locatable hardrock minerals. The Chief's Forest Plan amendments decisions will be contingent on the Secretary of the Interior's withdrawal decision.

The Chief of the Forest Service will submit his decision and the EIS to the Montana State Director, Bureau of Land Management who will submit a recommendation to the Director of the Bureau of Land Management. The recommendation and supporting documentation will then be forwarded to the Secretary of the Interior for a decision. The authority to withdraw lands from mineral entry lies with the Secretary of the Interior. The Secretary will decide which lands, if any, to withdraw, and for how long. The Secretary is limited to a maximum withdrawal period of 20 years. If a withdrawal of over 5,000 acres is approved, the Secretary of the Interior would advise Congress of the

withdrawal action being taken. No action is required by Congress to implement a mineral withdrawal. Congress can terminate a withdrawal with a concurrent resolution from the House and Senate within 90 days of the approval of the Public Land Order. At the end of the 20 year period, the withdrawal decision would be reviewed to determine if it is appropriate to extend it. If the Secretary chooses to implement a withdrawal, the withdrawal would become effective on the date the Public Land Order is published in the **Federal Register**.

Responsible Official

Mike Dombeck, Chief, USDA Forest Service, Auditors Building, 201 14th Street, SW at Independence Ave., SW., Washington, DC 20250 is the Responsible Official for making the withdrawal recommendation to the Secretary of the Interior. The Chief of the Forest Service is also responsible for any decision to amend the Forest Plans to reflect any change in management of locatable hardrock minerals. He will document his decisions and rationale in a Record of Decision.

Preliminary Issues

Two preliminary issues have been identified: Approval of the withdrawal would result in the loss of opportunity to extract minerals from the area and withdrawal would limit the economic base of rural communities along the Rocky Mountain Front.

Public Involvement, Rationale, and Public Meetings

In February, 1999, a notice of proposed withdrawal was published in the **Federal Register** (64 FR 5311-5312, Feb. 3, 1999). This notice invited public comment for a period of 90 days. Comments received will be included in the documentation for the EIS. The public is encouraged to take part in the process and is encouraged to visit with Forest Service officials at any time during the analysis and prior to the decision. The Forest Service will be seeking information, comments and assistance from Federal, State and local agencies and other individuals or organizations who may be interested in, or affected by, the proposed action.

While public participation in this analysis is welcome at any time, comments received within 30 days of the publication of this notice will be especially useful in the preparation of the Draft EIS. Public meetings associated with the project will be held to gain a better understanding of public issues and concerns. These meetings will be held in Choteau, Montana at the

Stagestop Inn on June 22, 1999 from 3-8 p.m. and in Lincoln, Montana at the Lincoln Community Hall on June 24, 1999 from 3-7 p.m.

Information from the meetings will be used in preparation of the draft and final EIS. The scoping process will include identifying: potential issues, significant issues to be analyzed in depth, alternatives to the proposed action, and potential environmental effects of the proposal and alternatives.

Electronic Access and Filing Addresses

Comments may be sent by electronic mail (e-mail) to comment/rl_lewisclark@fs.fed.us. Please reference the Rocky Mountain Front Minerals Withdrawal on the subject line. Also, include your name and mailing address with your comments so documents pertaining to this project may be mailed to you.

Estimated Dates for Filing

The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by January, 2000. At the time EPA will publish a Notice of Availability of the draft EIS in the **Federal Register**. The comment period on the draft EIS will be 45 days from the date the EIS publishes the Notice of Availability in the **Federal Register**. It is very important that those interested in the management of this area participate at that time.

The final EIS is scheduled to be completed by August, 2000. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making a decision regarding the proposal.

The Reviewers Obligation To Comment

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alters an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts.

Wisconsin Heritages, Inc. v. Harris, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: June 1, 1999.

Paul Brouha,

Associate Deputy Chief, National Forest System.

[FR Doc. 99-14223 Filed 6-3-99; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Forest Service

California Coast Provincial Advisory Committee (PAC) Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The California Coast Provincial Advisory Committee (PAC) will meet on June 16 and 17, 1999, at the Six Rivers National Forest Supervisor's Office in Eureka, California. The meeting will be held from 9 a.m. to 5 p.m. on June 16. A field trip to the Mad River Ranger District will be held from 7:30 a.m. to 5 p.m. on June 17. The Forest Supervisor's Office is located at 1330 Bay Shore Way in Eureka. Agenda items to be covered include: (1) Designation of a chairperson for the Public/Private/Tribal Partnership Opportunities Subcommittee; (2) Regional Ecosystem Office (REO)/IAC Update (to include IAC/PAC Summit); (3) Status of FERC/Potter Valley Project; (4) Aquatic Conservation Subcommittee resolution concerning herbicide use by CalTrans; (5) Implementation of the

Northwest Forest Plan on the ground in the California Coast Province; and (6) Open public comment. All California Coast Provincial Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT:

Direct questions regarding this meeting to Daniel Chisholm, USDA, Forest Supervisor, Mendocino National Forest, 825 N. Humboldt Avenue, Willows, CA 95988, (530) 934-3316 or Phebe Brown, Province Coordinator, USDA, Mendocino National Forest, 825 N. Humboldt Avenue, Willows, CA, 95988, (530) 934-3316.

Dated: May 26, 1999.

Daniel K. Chisholm,

Forest Supervisor.

[FR Doc. 99-14189 Filed 6-3-99; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Availability of a Finding of No Significant Impact for the Sergeant Major Creek Watershed in Roger Mills County, Oklahoma

AGENCY: Natural Resources Conservation Service (NRCS) in Oklahoma. U.S. Department of Agriculture.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR Part 1500); and the Natural Resources Conservation Service Regulations (7 CFR Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Sergeant Major Creek Watershed, Roger Mills County, Oklahoma.

FOR FURTHER INFORMATION CONTACT: Ronnie L. Clark, State Conservationist, Natural Resources Conservation Service, 100 USDA, Suite 206, Stillwater, Oklahoma 74074, (405) 742-1206.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Ronnie L. Clark, State Conservationist, has determined that the preparation and review of an

environmental impact statement is not needed for this project.

The project purposes are flood control and watershed protection. The planned works of improvement include the rehabilitation of two aging floodwater retarding structures and associated land treatment for sediment control.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Ronnie L. Clark. No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

Dated: May 27, 1999.

Ronnie L. Clark,

State Conservationist, Oklahoma.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.)

[FR Doc. 99-14102 Filed 6-3-99; 8:45 am]

BILLING CODE 3410-16-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List a commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: July 6, 1999.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202-4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603-7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41

U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodity and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.

2. The action will result in authorizing small entities to furnish the commodity and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodity and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodity and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodity

Skin Protectant, Plus
9999-00-NSH-0001
NPA: ACT, Corp., Daytona Beach, Florida

Services

Janitorial/Custodial, Veterans Administration
Outpatient Clinic, 2900 Veterans Way,
Melbourne, Florida

NPA: Brevard Achievement Center, Inc.,
Rockledge, Florida

Janitorial/Custodial, USDA Building 255E,
Sanford Airport, Sanford, Florida

NPA: ACT, Corp., Daytona Beach, Florida

Beverly L. Milkman,

Executive Director.

[FR Doc. 99-14204 Filed 6-3-99; 8:45 am]

BILLING CODE 6353-01-P

**COMMITTEE FOR PURCHASE FROM
PEOPLE WHO ARE BLIND OR
SEVERELY DISABLED**

**Procurement List; Additions and
Deletions**

AGENCY: Committee for Purchase From
People Who Are Blind or Severely
Disabled.

ACTION: Additions to and deletions from
the Procurement List

SUMMARY: This action adds to the
Procurement List services to be
furnished by nonprofit agencies
employing persons who are blind or
have other severe disabilities, and
deletes from the Procurement List
commodities previously furnished by
such agencies.

EFFECTIVE DATE: July 6, 1999

ADDRESSES: Committee for Purchase
From People Who Are Blind or Severely
Disabled, Crystal Gateway 3, Suite 310,
1215 Jefferson Davis Highway,
Arlington, Virginia 22202-4302.

FOR FURTHER INFORMATION CONTACT:
Beverly Milkman (703) 603-7740.

SUPPLEMENTARY INFORMATION: On
February 26, March 5, April 16 and 23,
1999, the Committee for Purchase From
People Who Are Blind or Severely
Disabled published notices (64 FR 9470,
10620, 18877 and 19976) of proposed
additions to and deletions from the
Procurement List:

Additions

After consideration of the material
presented to it concerning capability of
qualified nonprofit agencies to provide
the services and impact of the additions
on the current or most recent
contractors, the Committee has
determined that the services listed
below are suitable for procurement by
the Federal Government under 41 U.S.C.
46-48c and 41 CFR 51-2.4.

I certify that the following action will
not have a significant impact on a
substantial number of small entities.
The major factors considered for this
certification were:

1. The action will not result in any
additional reporting, recordkeeping or
other compliance requirements for small
entities other than the small
organizations that will furnish the
services to the Government.

2. The action will not have a severe
economic impact on current contractors
for the services.

3. The action will result in
authorizing small entities to furnish the
services to the Government.

4. There are no known regulatory
alternatives which would accomplish
the objectives of the Javits-Wagner-

O'Day Act (41 U.S.C. 46-48c) in
connection with the services proposed
for addition to the Procurement List.

Accordingly, the following services
are hereby added to the Procurement
List:

Base Supply Center
Fort Riley, Kansas
Base Supply Center
Naval Air Station
Kingsville, Texas
Janitorial/Custodial
Naval and Marine Corps Reserve Center
30 Woodward Avenue
New Haven, Connecticut
Janitorial/Custodial
Three Child Care Centers
Buildings 113, 4819/4820 and 52024
Headquarters III Corps and Fort Hood
Fort Hood, Texas
Janitorial/Custodial
Curlw Conservation Center
Colville National Forest
Curlw, Washington

This action does not affect current
contracts awarded prior to the effective
date of this addition or options that may
be exercised under those contracts.

Deletions

I certify that the following action will
not have a significant impact on a
substantial number of small entities.
The major factors considered for this
certification were:

1. The action may not result in any
additional reporting, recordkeeping or
other compliance requirements for small
entities.

2. The action will not have a severe
economic impact on future contractors
for the commodities.

3. The action may result in
authorizing small entities to furnish the
commodities to the Government.

4. There are no known regulatory
alternatives which would accomplish
the objectives of the Javits-Wagner-
O'Day Act (41 U.S.C. 46-48c) in
connection with the commodities
deleted from the Procurement List.

After consideration of the relevant
matter presented, the Committee has
determined that the commodities listed
below are no longer suitable for
procurement by the Federal Government
under 41 U.S.C. 46-48c and 41 CFR 51-
2.4.

Accordingly, the following
commodities are hereby deleted from
the Procurement List:

Gloves, Cloth, Cotton
8415-00-964-4615
8415-00-964-4925
8415-00-964-4760

Beverly L. Milkman,

Executive Director.

[FR Doc. 99-14205 Filed 6-3-99; 8:45 am]

BILLING CODE 6353-01-P

DEPARTMENT OF COMMERCE**Foreign-Trade Zones Board**

[Docket 5-98]

Foreign-Trade Zone 143—Sacramento, California, Withdrawal of Request for Manufacturing Authority on Behalf of Artesyn Solutions, Inc., Within FTZ 143

Notice is hereby given of the withdrawal of the application submitted by Artesyn Solutions, Inc. (Artesyn), operator of FTZ 143, requesting authority on behalf of Artesyn (formerly Zytec Services and Logistics) to manufacture and assemble computers and related electronic products and subassemblies. The application was originally filed on August 19, 1997, as A(32b1)-3-97 (62 FR 45394, 8/27/97). On January 21, 1998, the request was formally docketed as FTZ Doc. 5-98.

The withdrawal was requested by the applicant because of changed circumstances, and the case has been closed without prejudice.

Dated: May 21, 1999.

Dennis Puccinelli,*Acting Executive Secretary.*

[FR Doc. 99-14095 Filed 6-3-99; 8:45 am]

BILLING CODE 3510-05-M

DEPARTMENT OF COMMERCE**Foreign-Trade Zones Board**

[Docket 26-99]

Proposed Foreign-Trade Zone—Boundary County, Idaho, Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the County of Boundary, Idaho, to establish a general-purpose foreign-trade zone in Boundary County, Idaho, adjacent to the Eastport Customs port of entry. The application was submitted pursuant to the provisions of the FTZ Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on May 24, 1999. The applicant is authorized to make the proposal under section 67-4703A, Idaho Code.

The proposed zone consists of a 55-acre site located at the Reload Center (Eastport Industries, Inc.), end of County Road #95E (also known as Railroad Avenue), Eastport. The site includes a truck/rail intermodal reloading facility, as well as a warehouse yard. Eastport Industries, Inc., will be the operator of the zone.

The application indicates a need for foreign-trade zone services in the

Eastport area. Several firms have indicated an interest in using zone procedures for warehousing/distribution of lumber/forest products. Specific manufacturing approvals are not being sought at this time. Requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

As part of the investigation, the Commerce examiner will hold a public hearing on July 1, 1999, 1 p.m., at the Boundary County Co-operative Extension Service (meeting room), 6447 Kootenai Street, Bonners Ferry, Idaho 83805.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is August 3, 1999. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to August 18, 1999.

A copy of the application and accompanying exhibits will be available during this time for public inspection at the following locations:

Boundary County Library, 6370 Kootenai Street, Bonners Ferry, Idaho 83805

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th and Pennsylvania Avenue, NW, Washington, DC 20230

Dated: May 26, 1999.

Dennis Puccinelli,*Acting Executive Secretary.*

[FR Doc. 99-14096 Filed 6-3-99; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE**Foreign-Trade Zones Board**

[Docket 27-99]

Foreign-Trade Zone 216—Olympia, Washington Area Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board), by the Port of Olympia, Washington, grantee of Foreign-Trade Zone 216, requesting authority to expand its zone in the Olympia, Washington, area, adjacent to the Port of Olympia Customs port of entry. The application was submitted pursuant to

the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on May 26, 1999.

FTZ 216 was approved on August 16, 1996 (Board Order 836, 61 FR 45400, 8/29/96). The general-purpose zone project currently consists of 13 sites (3,244 acres) in four counties (Thurston, Lewis, Mason and Kitsap) in the South Puget Sound area: *Site 1* (283 acres)—Port of Olympia port terminal facility, Thurston County; *Site 2* (800 acres)—Olympia Airport/Industrial Park complex, Thurston County; *Site 3* (389 acres)—Marvin Road/Hawks Prairie industrial/business park, Thurston County; *Site 4* (109 acres)—Yelm Industrial Park, Thurston County; *Site 5* (165 acres)—Port of Centralia Industrial Park, Lewis County; *Site 6* (87 acres)—Chehalis Industrial Area, Lewis County; *Site 7* (269 acres)—Port of Chehalis Industrial Park, Lewis County; *Site 8* (39 acres)—Klein/South Prairie Industrial Park, Lewis County; *Site 9* (420 acres)—Sanderson Field within the Port of Shelton complex, Mason County; *Site 10* (130 acres)—Johns Prairie Industrial Park within the Port of Shelton complex, Mason County; *Site 11* (217 acres)—Port of Bremerton/Bremerton Airport South, Kitsap County; *Site 12* (312 acres)—Port of Bremerton/Olympic View Industrial Park, Kitsap County; and *Site 13* (24 acres)—warehouse facility (includes Darigold, Inc.), Lewis County.

The applicant is now requesting authority to expand one of its existing sites (Site 3) to include all of Commerce Place, a business park development within the 1,153-acre Meridian Campus Planned Community in the City of Lacey. The proposed area is contiguous to existing Site 3. The Business Park contains a total of 99 acres of which 23 acres are currently included in Site 3. Commerce Place also contains 108 acres of light industrial sites. The 184-acre expansion would increase the size of Site 3 to a total of 573 acres. No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is August 3, 1999. Rebuttal

comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to August 18, 1999.

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

Port of Olympia, 915 Washington Street NE, Olympia, WA 98501

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW, Washington, DC 20230

Dated: May 27, 1999.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99-14097 Filed 6-3-99; 8:45 am]

BILLING CODE 3510-DS-M

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 85-8A018]

Export Trade Certificate of Review

ACTION: Notice of issuance of an amended Export Trade Certificate of Review.

SUMMARY: The Department of Commerce has issued an amendment to the Export Trade Certificate of Review granted to U.S. Shippers Association ("USSA") on June 3, 1986. Notice of issuance of the original Certificate was published in the **Federal Register** on June 9, 1986 (51 FR 20873).

FOR FURTHER INFORMATION CONTACT: Morton Schnabel, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (1999).

The Office of Export Trading Company Affairs ("OETCA") is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

Export Trade Certificate of Review No. 85-00018, was originally issued to U.S. Shippers Association on June 3, 1986 (51 FR 20873, June 9, 1986), and subsequently amended on January 16, 1990 (55 FR 2543, January 25, 1990); November 13, 1990 (55 FR 48664, November 21, 1990); September 22, 1993 (58 FR 51061, September 30, 1993); June 28, 1994 (59 FR 34411, July 5, 1994); April 10, 1997 (62 FR 18586, April 16, 1997); and November 23, 1998 (63 FR 65752, November 30, 1998).

USSA's Export Trade Certificate of Review has been amended to:

1. Add the following entities as new "Members" of the Certificate within the meaning of § 325.2(1) of the Regulations (15 CFR 325.2(1)): Lyondell Chemical Worldwide, Inc., Newtown Square, PA (Controlling Entity: Lyondell Petrochemical Company, Houston, Texas); and Arch Chemicals, Inc., Norwalk, CT (Controlling Entity: None); and

2. Delete ARCO Chemical Company, Newtown Square, PA; and Olin Corporation, Norwalk, CT as "Members" of the Certificate.

A copy of the amended certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC. 20230.

Dated: May 28, 1999.

Morton Schnabel,

Director, Office of Export Trading Company Affairs.

[FR Doc. 99-14184 Filed 6-3-99; 8:45 am]

BILLING CODE 3510-DR-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052699D]

Fisheries of the Exclusive Economic Zone off Alaska; Groundfish of the Bering Sea and Aleutian Islands Management Area; Exempted Fishing Permit

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

ACTION: Issuance of an exempted fishing permit.

SUMMARY: NMFS announces the issuance of an exempted fishing permit (EFP) 99-02 to the Washington Sea Grant Program (WSGP). The EFP

authorizes the WSGP to conduct an experiment in the Bering Sea and Aleutian Islands Management Area (BSAI) that would test the effectiveness of seabird avoidance measures. NMFS could use results from the EFP to establish more effective regulatory measures to reduce incidental take of seabirds in these fisheries. This EFP is necessary to provide information not otherwise available through research or commercial fishing operations. The intended effect of this action is to promote the purposes and policies of the Magnuson-Stevens Fishery Conservation and Management Act.

ADDRESSES: Copies of the EFP and the Environmental Assessment (EA) prepared for the EFP are available from Lori Gravel, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: Kim S. Rivera, 907-586-7424.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Management Area authorizes the issuance of EFPs for fishing for groundfish in a manner that would otherwise be prohibited under existing regulations. The procedures for issuing EFPs are set out at 50 CFR 679.6 and 600.745.

On February 23, 1999, NMFS received an EFP application from WSGP to conduct an experiment to assess alternative seabird avoidance measures for hook-and-line gear fisheries off Alaska. NMFS published an announcement of receipt of the EFP application in the **Federal Register** on March 29, 1999 (64 FR 14885), describing the proposed experiment and its use in both the groundfish and Individual Fishing Quota (IFQ) fisheries. On March 22, 1999, NMFS received a second EFP application from WSGP. The second application would augment the first related EFP recently issued to WSGP and requests authorization for WSGP to test the effectiveness of seabird avoidance measures in the Bering Sea Pacific cod fishery outside of the open access and Community Development Quota (CDQ) fisheries. During its meeting in April 1999, the North Pacific Fishery Management Council recommended approval of both EFP applications submitted by the WSGP. NMFS announced the approval of the first EFP May 12, 1999, in the **Federal Register** (64 FR 25478).

WSGP will conduct the experiment under the second EFP as a part of its research project jointly funded by the U.S. Fish & Wildlife Service (USFWS)

and NMFS. WSGP will compare two seabird avoidance measures to a control (no measures) in the BSAI Pacific cod fishery. A second EFP is necessary because the WSGP's research project calls for testing seabird avoidance measures in different fisheries and different fishery operations. The first part of the research project is being conducted on smaller-sized vessels [less than 124 ft (37.8 m) length overall (LOA)] using hook-and-line gear in the IFQ Pacific halibut and sablefish fisheries. The second part of the research project will be conducted on larger catcher-processor vessels [longer than 124 ft LOA (37.8 m)] in the BSAI Pacific cod fishery. The first EFP authorizes the control treatments (no seabird avoidance measures) for both parts of the research project.

Owner/operators of vessels for the second part of the project were concerned that experimental operations would interfere with the highly competitive open access fishery, resulting in potential economic loss. Additionally, the CDQ fisheries are often conducted after the fall open access BSAI Pacific cod fishery, when some seabirds have left the area. Because two observers already are required on CDQ operations, a third observer would have been necessary to carry out the seabird experiment adequately. Many vessels could not have accommodated this additional observer. Therefore, WSGP submitted a second EFP application requesting that the second part of the experiment be allowed to occur at a time when fishing for BSAI Pacific cod is closed to directed fishing.

The purpose of this experiment is to assess the effectiveness of alternative seabird avoidance measures for hook-and-line fisheries off Alaska. The objectives of the WSGP experiment are to: (1) Work cooperatively with the fishing industry, NMFS, and the USFWS to select and then test the effectiveness of seabird avoidance measures in hook-and-line fisheries off Alaska; (2) characterize the species-specific behavioral interactions of seabirds with hook-and-line gear on actively fishing vessels, with and without seabird avoidance measures; (3) work cooperatively with the fishing industry, NMFS, and the USFWS to develop recommendations for revisions to existing seabird avoidance regulations and performance standards based on the results of this research; and (4) recommend future research and research protocols. Issuance of this EFP will provide information not otherwise available through research or commercial fishing operations.

WSGP designed, and NMFS reviewed, the experimental protocol for testing on larger-sized catcher-processor vessels (longer than 124 ft (37.8 m) LOA) in the BSAI. The protocol requires a minimum of 3 million deployed hooks and 150 observer days over 2 years to adequately address the efficacy of seabird avoidance measures relative to a control of no measure(s). To achieve this sample size objective, two vessels per year in the Pacific cod fishery will be required, with seabird observer coverage for a total of 40 days per year (approximately 2 trips). Two observers will work on each vessel and will sample between 65 to 80 percent of all hooks on each of the hauls, assuming a total hook retrieval observation rate of 40 percent. Two observers will sample 65 to 80 percent of all hooks on each of the hauls. To fully complete the experiment, WSGP estimates that a total of 1,652 metric tons (mt) of groundfish may be taken by the two vessels participating in the experiment. The experiment is scheduled to take place in the BSAI for approximately 40 to 50 days during July 1999 through October 1999, and for approximately 40 to 50 days during July 2000 through October 2000.

WSGP established an industry advisory committee in consultation with NMFS and the USFWS. This committee selected the participating vessels and the seabird avoidance measures to be tested. The participating vessels were selected in collaboration with the North Pacific Longline Association based on fishing experience, demonstrated leadership in the seabird bycatch issue, and willingness to cooperate in the experiment. The performance of seabird avoidance gear will be tested against a standard control gear. The control gear will be identical hook-and-line gear, although configured without the seabird avoidance gear. Fishing with experimental and control gear will be conducted with procedures and at sites similar to those used during the commercial fishery for Pacific cod in the BSAI.

The Regional Administrator approved the EFP application and has issued EFP 99-02 to the WSGP. The EFP authorizes the participation of two vessels per year in the experimental BSAI Pacific cod fishery. The EFP authorizes the harvest of 1,652 mt of groundfish during approximately 40 to 50 days in July 1999 through October 1999. The effective period for the EFP may be revised for other months in 1999 and 2000, pending agreement between the permit holder and the Administrator, Alaska Region, NMFS (Regional Administrator). No more than 1,306 mt of the authorized amount may be Pacific

cod. The EFP also authorizes, as prohibited species catch, no more than 17.2 mt of Pacific halibut bycatch mortality. NMFS will review the experimental work and, pending successful completion of the first year of the experiment in 1999, the same amount of groundfish harvest would be authorized during the same time period in 2000 for the second year of the experiment. Groundfish and halibut bycatch mortality associated with this experiment will not be deducted from total allowable catch and halibut bycatch allowances specified for the 1999 groundfish fisheries. This will not cause a conservation problem for groundfish species because estimated total removals under the EFP are very small compared to the overall TACs for these species and would not contribute in a meaningful way to approaching overfishing levels already considered in the EA for 1999 specifications.

Failure of the permit holder to comply with the terms and conditions of the EFP may be grounds for revocation, suspension, or modification of the EFP under 15 CFR part 904 with respect to any or all persons and vessels conducting activities under the EFP. Failure to comply with applicable laws also may result in sanctions imposed under those laws.

Classification

The Regional Administrator determined that fishing activities conducted under this action would not affect endangered and threatened species or critical habitat in any manner not considered in prior consultations on the groundfish fisheries. The USFWS has issued a section 10 permit to WSGP under the Endangered Species Act. Such a permit authorizes the incidental take of one short-tailed albatross in the unlikely event that one were taken during the course of the experiment.

This notice is exempt from review under E.O. 12866 and the Regulatory Flexibility Act (RFA) because prior notice and opportunity for public comment are not required for this notice. Therefore, the analytical requirements of the RFA are inapplicable.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 28, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99-14206 Filed 6-3-99; 8:45 am]

BILLING CODE 3510-22-F

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE**Proposed Information Collection; Comment Request**

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the "Corporation"), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed. Currently, the Corporation is soliciting comments concerning its request for approval of a survey form to collect data on project characteristics and accomplishments from AmeriCorps*VISTA projects that are managed by the Corporation. This information will be used by the Corporation to evaluate the nature and effectiveness of the program.

Copies of the proposed information collection request may be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

The Corporation is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, 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;
- Propose ways to enhance the quality, utility and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section by August 3, 1999.

ADDRESSES: Send comments to the Corporation for National and Community Service, Attn: Carol Hafford, Office of Evaluation, 1201 New York Avenue, NW., 9th floor, Washington, DC 20525.

FOR FURTHER INFORMATION CONTACT: Carol Hafford, (202) 606-5000, ext. 232.

SUPPLEMENTARY INFORMATION:**Background**

One of the missions of the Corporation is to "provide opportunities to engage in service that addresses the nation's unmet human, educational, environmental, and public safety needs" (42 U.S.C. 12501(b)). Through the AmeriCorps*VISTA (Volunteers in Service to America) program, the Corporation supports VISTA's 34 year mission to engage Americans in community service activities and build the capacity of low-income communities. AmeriCorps*VISTA activities address issues of poverty and poverty-related problems by generating private sector resources, encouraging volunteer service at the local level, and strengthening the capacity of local organizations and agencies to meet the needs of low-income communities.

VISTA is a full-time, full-year service program for men and women ages 18 and older. AmeriCorps*VISTA places federally funded national service participants in ongoing programs managed by public agencies or private, nonprofit organizations. AmeriCorps*VISTA members work within these agencies or organizations to help them expand services to people in economically disadvantaged communities. Members are involved in a wide variety of community-oriented efforts, such as developing literacy programs, organizing outreach programs in health care, training low-income people in business management, and establishing transitional housing programs for the homeless.

Since 1996, the Corporation has conducted an annual survey and collected data from AmeriCorps*VISTA projects to describe program accomplishments. These responses assist the Corporation in addressing policy and programming issues about AmeriCorps*VISTA and the projects it supports throughout the country.

Current Action

The Corporation seeks approval of a survey form to collect data from a sample of AmeriCorps*VISTA projects. The 1999 AmeriCorps*VISTA Project

Accomplishments Survey will be administered by mail and also through a computerized data tracking system. The survey will cover VISTA project activities and accomplishments during the 12-month period of October 1, 1998, through September 30, 1999. Approximately 1,250 projects will be surveyed, of which we expect 950 respondents. The survey will collect data on project characteristics and on specific AmeriCorps*VISTA activities and accomplishments in each of seven program emphasis areas and in organizational capacity building. Accomplishment data from the FY 1999 survey will be used to provide a report on AmeriCorps*VISTA accomplishments to the Congress in FY 2000 and to satisfy the Government and Performance and Results Act of 1993 requirements.

Type of Review: New approval.
Agency: Corporation for National and Community Service.

Title: AmeriCorps*VISTA 1999 Project Accomplishments Survey.

OMB Number: None.

Agency Number: None.

Affected Public: AmeriCorps*VISTA projects that have been active for at least nine months prior to September 30, 1999.

Total Respondents: Approximately 950.

Frequency: Annually.

Average Time Per Response: One hour.

Estimated Total Burden Hours: 950 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: June 1, 1999.

Thomas L. Bryant,
Associate General Counsel.

[FR Doc. 99-14203 Filed 6-3-99; 8:45 am]

BILLING CODE 6050-28-U

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: Application for Uniformed Services Identification Card—DEERS Enrollment; DD Form 1172; OMB Number 0704-0020

Type of Request: Revision.

Number of Respondents: 1,683,183.

Responses per Respondent: 1.

Annual Responses: 1,683,183.

Average Burden Per Response: 10 minutes.

Annual Burden Hours: 280,531.

Needs and Uses: This information collection requirement is necessary to authorize members of the Uniformed Services, their spouses and dependents, and other authorized individuals certain benefits and privileges. These privileges include health care, use of commissary, base exchange, and morale welfare, and recreation facilities. This information collection is needed to obtain the necessary data to determine eligibility to benefits and privileges, to provide eligible individuals with an authorization card (identification card) for benefits and privileges administered by the Uniformed Services, and to maintain a centralized database of eligible individuals. The information may also be used by the Uniformed Services, Military Departments, and the Defense Agencies to issue their non-benefit identification cards.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondents's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHD/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302.

Dated: May 28, 1999.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99-14181 Filed 6-3-99; 8:45 am]

BILLING CODE 5001-10-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting to Discuss Gulf War Illness Research

AGENCY: Special Oversight Board for Department of Defense Investigations of Gulf War Chemical and Biological Incidents, Department of Defense.

ACTION: Notice.

SUMMARY: The Board will conduct a four to six hour public meeting to receive a presentation on government-sponsored research dealing with possible neurological damage to Gulf War veterans that may have resulted from their service in Southwest Asia.

DATES: June 22, 1999.

ADDRESSES: Dynasty Room, Best Western Key Bridge Hotel, 1850 North Fort Myer Drive, Arlington, VA 22209.

FOR FURTHER INFORMATION CONTACT: Contact Mr. Roger Kaplan, Deputy Executive Director, Special Oversight Board, 1401 Wilson Blvd, Suite 401, Arlington, VA 22209, phone (703) 696-9470, fax (703) 696-4062, or via Email at Gulfsyn@osd.pentagon.mil.

SUPPLEMENTARY INFORMATION: The hearing is scheduled from 9:00 a.m. until no later than 4:00 p.m. EDT. Seating is limited and will be available on a first-come, first-served basis beginning at 8:45 a.m. CDT.

Dated: May 27, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99-14182 Filed 6-3-99; 8:45 am]

BILLING CODE 1001-10-M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Invention for Licensing; Government-Owned Invention

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The invention listed below is assigned to the United States Government as represented by the Secretary of the Navy and is available for licensing by the Department of the Navy.

U.S. Patent Application Serial No. 09/086,541 entitled "Onion Routing Network For Securely Moving Data Through Communication Networks," Navy Case No. 78,415.

ADDRESSES: Requests for copies of the patent application cited should be

directed to the Naval Research Laboratory, Code 3008.2, 4555 Overlook Avenue, SW, Washington, DC 20375-5320, and must include the Navy Case number.

FOR FURTHER INFORMATION CONTACT:

Catherine M. Cotell, Ph.D., Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW, Washington, DC 20375-5320, telephone (202) 767-7230.

Authority: 35 U.S.C. 207, 37 CFR part 404.

Dated: May 21, 1999.

Ralph W. Corey,

Commander, Judge Advocate General's Corps, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 99-14190 Filed 6-3-99; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive License; John Crane Marine USA

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to John Crane Marine USA a revocable, nonassignable, exclusive license in the United States to practice these Government-Owned inventions in the field of use of shipboard mechanical seals, rudder stock seals, fin stabilizer seals, bulkhead seals, bow thruster seals, and pump seals, as described in: U.S. Patent Number 5,025,849 entitled *Centrifugal Casting of Composites*.

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than August 3, 1999.

ADDRESSES: Written objections are to be filed with the Carderock Division, Naval Surface Warfare Center, Code 004, 9500 MacArthur Blvd., West Bethesda, MD 20817-5700.

FOR FURTHER INFORMATION CONTACT: Mr. Dick Bloomquist, Director, Technology Transfer, Carderock Division, Naval Surface Warfare Center, Code 0117, 9500 MacArthur Blvd., West Bethesda, MD 20817-5700, telephone (301) 227-4299.

Dated: May 21, 1999.

Ralph W. Corey,

Commander, Judge Advocate General's Corps, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 99-14191 Filed 6-3-99; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF EDUCATION**Notice of Proposed Information Collection Requests**

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 3, 1999.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202-4651, or should be electronically mailed to the internet address Pat_Sherrill@ed.gov, or should be faxed to 202-708-9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708-8196.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are

available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: May 28, 1999.

William E. Burrow,

Acting Leader, Information Management Group, Office of the Chief Information Officer.

Office of Student Financial Assistance Programs

Type of Review: Extension.

Title: Application to Participate in Federal Student Financial Aid Programs.

Frequency: On occasion.

Reporting and Recordkeeping Hour Burden:

Responses: 2,915.

Burden Hours: 20,245.

Abstract: The Higher Education Act (HEA) of 1965, as amended requires postsecondary institutions to complete and submit this application as a condition of eligibility for any of the Title IV student financial assistance programs and for the other postsecondary programs authorized by the HEA. An institution must submit the form (1) initially when it first seeks to become eligible for the Title IV programs; (2) when its program participation agreement expires (recertification); (3) when it changes ownership, merges, or changes from a "profit" to a "non-profit" institution; (4) to be reinstated to participate in the Title IV programs, (5) to notify the Department when it makes certain changes, e.g. name or address and (5) it wishes to have a new program (outside its current scope) or new location approved for Title IV purposes.

[FR Doc. 99-14127 Filed 6-3-99; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION**Submission for OMB Review; Comment Request**

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Information Management Group, Office

of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 6, 1999.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, N.W., Room 10235, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202-4651, or should be electronically mailed to the internet address Pat_Sherrill@ed.gov, or should be faxed to 202-708-9346.

FOR FURTHER INFORMATION CONTACT:

Patrick J. Sherrill (202) 708-8196.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or

Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: May 28, 1999.

William E. Burrow,

Acting Leader, Information Management Group, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: Revision.

Title: Integrated Postsecondary Education Data System (IPEDS), including Web-Based Collection on Pricing of Postsecondary Education.

Frequency: On occasion.

Affected Public: Business or other for-profit; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 10,000.

Burden Hours: 277,809.

Abstract: IPEDS is a system of surveys designed to collect basic data from approximately 10,000 postsecondary institutions in the United States. The IPEDS provides information on numbers of students enrolled, degrees completed, other awards earned, dollars expended, and staff employed at postsecondary institutions. The amendments to the Higher Education Act of 1998, Part C, Sec. 131, require the National Center for Education Statistics to provide cost and pricing information from postsecondary institutions. As a consequence in 1999 the IPEDS is proposing piloting a web-based data collection for this information in addition to the paper forms previously cleared.

Office of Educational Research and Improvement

Type of Review: Revision.

Title: NCES Quick Response Information System.

Frequency: On occasion.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 10,161.

Burden Hours: 7,621.

Abstract: The Quick Response Information System (QRIS) is comprised of two types of surveys, one oriented towards elementary and secondary school and library issues, the Fast Response Surveys (FRSS) and the second intended to address issues in postsecondary education, the Postsecondary Education Quick Information System Surveys (PEQIS). All the surveys conducted under the

QRIS are required to inform for current policy issues for which there are no other timely and/or appropriate data available. In recent years surveys have been conducted on topics as diverse as distance education in postsecondary education, services for students with disabilities in postsecondary education, advanced telecommunications in the elementary and secondary schools, summer programs for migrant students, and teacher quality.

[FR Doc. 99-14126 Filed 6-3-99; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99-536-000]

Jupiter Energy Corporation; Notice of Application for Blanket Certificate

May 28, 1999.

Take notice that on May 26, 1999, Jupiter Energy Corporation (Jupiter), 14141 Southwest Freeway, Sugarland, Texas 77478, filed in Docket No. CP99-536-000 an application pursuant to Section 7(c) of the Natural Gas Act (NGA) requesting a blanket certificate of public convenience and necessity and permission and approval to abandon, authorizing Jupiter to engage in any of the activities specified in Subpart F of Part 157 of the Commission's Regulations, as may be amended from time to time, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at <http://www.ferc.fed.us/online/htm> (call 202-208-2222 for assistance).

It is stated that Jupiter is an interstate pipeline as determined by the Commission in name Docket 35 FPC 1091 (1962). Jupiter states that it is engaged in the business of transporting natural gas from federal waters offshore Louisiana, Vermillion Block No. 39, approximately 11 miles to an interconnection with facilities owned by Tennessee Gas Pipeline Company. Jupiter asserts that it has a transportation tariff on file with the Commission and that it has no outstanding blanket certificate nor a budget-type certificate.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 18, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a petition to intervene or a protest in

accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate actions to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, and if the Commission on its own review of the matter finds that the abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provide for, unless otherwise advised, it will be unnecessary for Jupiter to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99-14171 Filed 6-3-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER99-2322-000, ER99-2341-000, ER99-2337-000, ER99-2311-000, ER99-2324-000, ER99-2330-000, ER99-2342-000, ER99-2354-000, ER99-2369-000, ER99-2387-000, ER99-2506-000, (Not consolidated)]

MEP Investments, L.L.C. et al.; Notice of Issuance of Order

May 28, 1999.

MEP Investments, L.L.C., Hardee Power Partners Limited, FPL Energy Services, Inc., Carolina Power & Light Company, Monroe Power Company, FirstEnergy, Corp., Tampa Electric Company, Florida Keys Electric Cooperative Association, Inc., Alliance for Cooperative Energy Services Power Marketing LLC, KeySpan-Ravenwood,

Inc., and Deseret Generation & Transmission Cooperative (hereafter, "the Applicants") filed with the Commission rate schedules in the above-captioned proceedings, respectively, under which the Applicants will engage in wholesale electric power and energy transactions at market-based rates, and for certain waivers and authorizations. In particular, certain of the Applicants may also have requested in their respective applications that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by the Applicants. On May 27, 1999, the Commission issued an order that accepted the rate schedules for sales of capacity and energy at market-based rates (Order), in the above-docketed proceedings.

The Commission's May 27, 1999 Order granted, for those Applicants that sought such approval, their request for blanket approval under Part 34, subject to the conditions found in Appendix B in Ordering Paragraphs (2), (3), and (5):

(2) 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 the Applicants 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.

(3) Absent a request to be heard within the period set forth in Ordering Paragraph (2) above, if the Applicants have requested such authorization, the Applicants are 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 the Applicants, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(5) 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 the Applicants' 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 June 28, 1999.

Copies of the full text of the Order are available from the Commission's Public

Reference Branch, 888 First Street, NE, Washington, DC 20426.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99-14118 Filed 6-3-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99-535-000]

Natural Gas Pipeline Company of America; Notice of Application

May 28, 1999.

Take notice that on May 25, 1999, Natural Gas Pipeline Company of America (Natural), 747 East 22nd Street, Lombard, Illinois 60148 filed an application with the Commission in Docket No. CP99-535-000 pursuant to Section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon by sale to MidCon Texas Pipeline Operator, Inc. (MidCon Texas), an affiliated intrastate pipeline, various laterals, meters, and tap facilities located in Brazoria, Galveston, Matagorda, and Wharton Counties, Texas, and authorized in various dockets, all as more fully set forth in the application which is open to the public for inspection. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

Cumulatively, Natural proposes to abandon a total of approximately 147 miles of pipeline laterals (South Texas Laterals) and appurtenant tap and measurement facilities. The primary facilities are the 12-inch diameter Chocolate Bayou and the 24-inch Old Ocean laterals. Natural states that it proposes to transfer these facilities to MidCon Texas for their cumulative net book value as of the closing date specified in its assets sale agreement with MidCon Texas.

Natural states that these facilities were originally constructed as a means of receiving gas purchased from various producers for Natural's system supply to support Natural's merchant function. Natural's merchant function terminated effective December 1, 1993. Consequently, Natural states that it no longer needs the said facilities to receive its own gas supply and no longer has any gas purchase obligations regarding these facilities. Moreover, Natural states that the transportation value to Natural of the above facilities has been greatly reduced.

Natural states that it has contacted the only two shippers with active firm

transportation contracts under Rate Schedule FTS of Natural's FERC Gas Tariff with primary points on the facilities to be abandoned, and that neither shipper has expressed any opposition to the proposed transfer. Natural further states that shippers with interruptible transportation agreements under Natural's Rate Schedule ITS of its FERC Gas Tariff are entitled to use all points in Natural's Electronic Catalog of Receipt and Delivery Points (Catalog of Points). Upon transfer of the facilities at issue here, Natural states that it would simply delete the existing receipt points from its Catalog of Points and add the new point of interconnection between MidCon Texas' newly acquired facilities and Natural's mainline system.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 18, 1999, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Natural to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99-14175 Filed 6-3-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER99-2326-000 and EL99-68-000]

Pacific Gas and Electric Company; Notice of Initiation of Proceeding and Refund Effective Date

May 28, 1999.

Take notice that on May 27, 1999, the Commission issued an order in the above-indicated dockets initiating a proceeding in Docket No. EL99-68-000 under section 206 of the Federal Power Act.

The refund effective date in Docket No. EL99-68-000 will be 60 days after publication of this notice in the **Federal Register**.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99-14119 Filed 6-3-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2659-011]

PacifiCorp; Notice of Site Visit

May 28, 1999.

Take notice that Commission staff will visit the site of the Powerdale Hydroelectric Project (FERC Project No. 2659) located on the Hood River in the town of Hood River, Oregon from 9:00 a.m. to 1:00 p.m. on Thursday, June 17, 1999, to view the project area and facilities. All interested individuals, organizations, and agencies are invited to accompany Commission staff on this site visit. Participants will meet at the parking lot near the project powerhouse.

For further information contact Bob Easton at (202) 219-2782.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99-14172 Filed 6-3-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG99-15-000]

PG&E Gas Transmission-Northwest; Notice of Filing

May 28, 1999.

Take notice that PG&E Gas Transmission-Northwest (PG&E-NW) filed revised standards of conduct on April 1, 1999. PG&E-NW states that it is incorporating Standard L (to be codified at 18 CFR 161.3(1) which was adopted by the Commission in Order No. 599.¹

Any person desiring to be heard or to protest the 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 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before June 14, 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. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99-14174 Filed 6-3-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER16-2573-001, et al.]

Southern Company Services, Inc.; et al.

Before Commissioners: James J. Hoecker, Chairman; Vicky A. Bailey, William L. Massey, Linda Breathitt, and Curt Hébert, Jr.

Southern Company Services, Inc.

Docket Nos. ER96-2573-001]

*Independent Power Marketers*¹

Abacus Group Ltd.

¹ Order No. 599, Reporting Interstate Natural Gas Pipeline Marketing Affiliates on the Internet, 84 FERC ¶61, 108 (1998).

² The Commission's Office of Electric Power Regulation maintains a list of companies with

Docket No. ER98-4240-000
AC Power Corp.

Docket No. ER97-2867-000
ACN Power Inc.

Docket No. ER98-4685-000
Advantage Energy

Docket No. ER97-4186-000
AIE Energy Services, Inc.

Docket No. ER98-3164-000
Alliance Energy Services Partnership

Docket No. ER99-1945-000
Alliance Power Marketing, Inc.

Docket No. ER96-1818-000
Alliance Strategies

Docket No. ER95-1381-000
A'Lones Group, Inc.

Docket No. ER97-512-000
Alpha Energy Corporation

Docket No. ER97-4730-000
Alternate Power Source Inc.

Docket No. ER96-1145-000
Amerada Hess Corporation

Docket No. ER97-2153-000
American Energy Trading, Inc.

Docket No. ER97-360-000
American Home Energy Corp.

Docket No. ER98-1903-000
American Power Exchange, Inc.

Docket No. ER94-1578-000
American Power Reserve Marketing

Company

Docket No. ER97-1428-000
American Premier Energy Corp.

Docket No. ER98-3451-000
Amoco Energy Trading Corporation

Docket No. ER95-1359-000
AMVEST Coal Sales, Inc.

Docket No. ER97-464-000
AMVEST Power, Inc.

Docket No. ER97-2045-000
Apra Energy Group Inc.

Docket No. ER97-1643-000
Anker Power Services, Inc.

Docket No. ER97-3788-000
Applied Resources Integrated Services, Inc.

Docket No. ER97-2604-000
Ashton Energy Corporation

Docket No. ER94-1246-000
Astra Power, LLC

Docket No. ER98-3378-000
Atlanta Gas Light Services, Inc.

Docket No. ER97-542-000
Atlantic Energy Technologies, Inc.

Docket No. ER97-2132-000
Audit Pro Incorporated

Docket No. ER95-878-000
Aurora Power Resources, Inc.

Docket No. ER98-573-000
Black Brook Energy Company

Docket No. ER97-1676-000
Bollinger Energy Corp.

Docket No. ER98-1821-000
Bonneville Fuels Management Corp.

Docket No. ER96-659-000
Boyd Rosene and Associates, Inc.

market-based rates on the Commission's Internet

site (www.ferc.fed.us/electric/PwrMkt/pwrmtk.htm).

The list of companies in the caption, and the breakdown of the companies by category ("Independent Power Marketers," "Affiliated Power Marketers," etc.) in the caption, are based on this list.

The breakdown of the companies by category in the caption is solely for the convenience of the reader, and the category titles are not intended to be substantive determination of the appropriate categorization of the companies. Also see *infra* n.3.

- Docket No. ER95-1572-000
Brennan Power Inc.
Docket No. ER97-1630-000
Btu Power Corporation
Docket No. ER96-1283-000
Burlington Resources Trading, Inc.
Docket No. ER96-3112-000
Business Discount Plan, Inc.
Docket No. ER99-581-000
California Polar Power Brokers, LLC
Docket No. ER98-701-000
California Power Services
Docket No. ER97-3525-000
Calpine Power Services Company
Docket No. ER94-1545-000
C.C. Pace Energy Services
Docket No. ER94-1181-000
CHI Power Marketing, Inc.
Docket No. ER96-2640-000
Chicago Electric Trading, L.L.C.
Docket No. ER90-225-000
Cielo Power Market, L.P.
Docket No. ER99-964-000
Citizens Power Sales
Docket No. ER94-1685-000
Citizens Power & Light Corporation
Docket No. ER89-401-000
CL Power Sales (1-5), L.L.C.
Docket No. ER95-892-000
CL Power Sales (6-10), L.L.C.
Docket No. ER96-2652-000
CL Power Sales 11, L.L.C.
Docket No. ER99-894-000
CL Power Sales 12, L.L.C.
Docket No. ER99-893-000
CL Power Sales 13, L.L.C.
Docket No. ER99-892-000
CL Power Sales 14, L.L.C.
Docket No. ER99-891-000
CL Power Sales 15, L.L.C.
Docket No. ER99-890-000
Clean Air Capital Markets Corporation
Docket No. ER97-4434-000
CNB/Olympic GAs Services
Docket No. ER95-964-000
CNG Power Services Corporation
Docket No. ER94-1554-000
CNG Retail Services Corporation
Docket No. ER97-1845-000
Coastal Electric Services Company
Docket No. ER94-1450-000
CoEnergy Trading Company
Docket No. ER96-1040-000
Cogentrix Energy Power Marketing, Inc.
Docket No. ER95-1739-000
Colonial Energy, Inc.
Docket No. ER97-1968-000
Columbia Energy Power Marketing Corp.
Docket No. ER97-3667-000
Commodore Gas & Electric, Inc.
Docket No. ER99-1890-000
Commonwealth Energy Corporation
Docket No. ER97-4253-000
Community Electric Power Corporation
Docket No. ER97-2792-000
Competisys LLC
Docket No. ER98-1790-000
Competitive Utility Services Corp.
Docket No. ER97-1932-000
ConAgra Energy Services, Inc.
Docket No. ER95-1751-000
Conoco Power Marketing Inc.
Docket No. ER95-1441-000
Conti Metals, Inc.
Docket No. ER96-2083-000
Cook Inlet Energy Supply Limited
Partnership
- Docket No. ER96-1410-000
Coral Power, L.L.C.
Docket No. ER96-25-000
CPS Capital, Ltd.
Docket No. ER96-1798-000
Cumberland Power, Inc.
Docket No. ER96-2624-000
Current Energy, Inc.
Docket No. ER98-102-000
CXY Energy Marketing (USA) Inc.
Docket No. ER99-1858-000
DC Tie, Inc.
Docket No. ER91-435-000
Direct Access Management, LP
Docket No. ER96-924-000
Direct Electric Inc.
Docket No. ER94-1161-000
Dynegy Power Services, Inc.
Docket No. ER94-1612-000
Eagle Gas Marketing Company
Docket No. ER96-1503-000
Eastern Pacific Energy
Docket No. ER98-1829-000
Eclipse Energy, Inc.
Docket No. ER94-1099-000
Econnergy Energy Co., Inc.
Docket No. ER98-2553-000
ECONnergy PA, Inc.
Docket No. ER99-1837-000
El Paso Power Services Company
Docket No. ER95-428-000
Electech, Inc.
Docket No. ER95-1399-000
Electrade Corporation
Docket No. ER94-1478-000
Electric Clearinghouse, Inc.
Docket No. ER94-968-000
Electric Lite, Inc.
Docket No. ER97-4427-000
Electrical Associates Power Marketing Inc.
Docket No. ER97-4173-000
Electrion, Incorporated
Docket No. ER98-3171-000
EMC Gas Transmission Company
Docket No. ER96-2320-000
EnerConnect, Inc.
Docket No. ER96-1424-000
Energy Clearinghouse Corp.
Docket No. ER98-2020-000
Energy Dynamics, Inc.
Docket No. ER97-3089-000
Energy International Power Marketing Corp.
Docket No. ER98-2059-000
Energy Marketing Services, Inc.
Docket No. ER96-734-000
Energy PM, Inc.
Docket No. ER98-2918-000
Energy Resource Management Corp.
Docket No. ER96-358-000
Energy Resource Marketing, Inc.
Docket No. ER94-1580-000
Energy Sales Network, Inc.
Docket No. ER98-753-000
Energy Services, Inc.
Docket No. ER95-1021-000
Energy Transfer Group, L.L.C.
Docket No. ER96-280-000
Energy Unlimited, Inc.
Docket No. ER98-1622-000
Energy 2000
Docket No. ER97-2771-000
EnergyChoice, L.L.C.
Docket No. ER96-827-000
EnergyOnline, Inc.
Docket No. ER96-138-000
EnergyTek, Inc.
- Docket No. ER96-1781-000
Energy2, Inc.
Docket No. ER96-3086-000
Enerserve, L.C.
Docket No. ER96-182-000
EnerZ Corporation
Docket No. ER96-3064-000
Engage Energy US, L.P.
Docket No. ER97-654-000
Englehard Power Marketing, Inc.
Docket No. ER94-1690-000
Engineered Energy Systems Corp.
Docket No. ER96-1731-000
Enjet, Inc.
Docket No. ER99-2061-000
ENMAR Corp.
Docket No. ER99-254-000
Enpower, Inc.
Docket No. ER95-1752-000
Environmental Resources Trust, Inc.
Docket No. ER98-3233-000
Equinox Energy, L.L.C.
Docket No. ER98-1486-000
Equitable Energy, LLC
Docket No. ER98-2367-000
Equitable Power Services Company
Docket No. ER94-1539-000
ERI Services, Inc.
Docket No. ER97-2638-000
Exact Power Co., Inc.
Docket No. ER97-382-000
Excel Energy Services, Inc.
Docket No. ER94-1488-000
Family Fiber Corporation
Docket No. ER96-1631-000
Federal Energy Sales
Docket No. ER96-918-000
Fina Energy Services Company
Docket No. ER97-2413-000
First Choice Energy
Docket No. ER98-2181-000
First Power, L.L.C.
Docket No. ER97-3580-000
Fortistar Power Marketing, LLC
Docket No. ER98-3393-000
Friendly Power Company LLC
Docket No. ER97-3815-000
The Furst Group, Inc.
Docket No. ER98-2423-000
Gateway Energy, Inc.
Docket No. ER95-1049-000
Gateway Energy Marketing
Docket No. ER96-795-000
GDK Corporation
Docket No. ER96-1735-000
GED Gas Services, L.L.C.
Docket No. ER95-1583-000
Gelber Group, Inc.
Docket No. ER96-1933-000
Global Energy and Technology, Inc.
Docket No. ER97-3416-000
Global Energy Service, L.L.C.
Docket No. ER97-1177-000
Global Petroleum Corporation
Docket No. ER96-359-000
Golden Valley Power Company
Docket No. ER98-4334-000
Granger Energy, L.L.C.
Docket No. ER97-4240-000
Great Western Power Cooperatives Company
Docket No. ER98-1722-000
The Green Power Connection
Docket No. ER97-3888-000
Growth Unlimited Investments, Inc.
Docket No. ER96-1774-000
Gulfstream Energy, LLC

- Docket No. ER94-1597-000
Hafslund Energy Trading, L.L.C.
Docket No. ER98-2535-000
Hartford Power Sales, L.L.C.
Docket No. ER95-393-000
High Island Marketing, Inc.
Docket No. ER97-4787-000
Hinson Power Company
Docket No. ER95-1314-000
Howard Energy Marketing, Inc.
Docket No. ER95-252-000
Howell Power Systems, Inc.
Docket No. ER94-178-000
Hubbard Power & Light, Inc.
Docket No. ER96-2583-000
ICC Energy Corporation
Docket No. ER96-1819-000
ICPM, Inc.
Docket No. ER95-640-000
IGI Resources, Inc.
Docket No. ER95-1034-000
Industrial Gas & Electric Services Co.
Docket No. ER95-257-000
Infenergy Services, LLC
Docket No. ER98-3478-000
Infinite Energy, Inc.
Docket No. ER97-3923-000
Inland Pacific Resources Inc.
Docket No. ER96-2144-000
International Energy Ventures, Inc.
Docket No. ER98-4264-000
International Utility Consultants, Inc.
Docket No. ER96-594-000
J. Anthony & Associates Ltd
Docket No. ER95-784-000
J. Aron & Company
Docket No. ER95-34-000
J.D. Enterprises
Docket No. ER96-2435-000
J.L. Walker & Associates
Docket No. ER95-1261-000
JMF Power Marketing
Docket No. ER98-3433-000
JPower Inc.
Docket No. ER95-1421-000
K & K Resources, Inc.
Docket No. ER98-3006-000
Kamps Propane, Inc.
Docket No. ER98-1148-000
Kaztex Energy Ventures, Inc.
Docket No. ER95-295-000
Keystone Energy Services, Inc.
Docket No. ER97-3053-000
Kibler Energy Ltd.
Docket No. ER96-1119-000
Kimball Power Company
Docket No. ER95-232-000
KinEr-G Power Marketing, Inc.
Docket No. ER96-1139-000
KN Services, Inc.
Docket No. ER95-869-000
Koch Energy Trading, Inc.
Docket No. ER95-218-000
Kohler Co.
Docket No. ER95-1018-000
K Power Company, Inc.
Docket No. ER95-792-000
Lakeside Energy Services, LLC
Docket No. ER99-505-000
Lamar Power Partners, L.P.
Docket No. ER99-2097-000
Lamda Energy Marketing Corp.
Docket No. ER94-1672-000
The Legacy Group, Inc.
Docket No. ER99-1719-000
Lisco, Inc.
Docket No. ER96-1406-000
LS Power Marketing, LLC
Docket No. ER96-1947-000
MAC Power Marketing, L.L.C.
Docket No. ER98-575-000
The Mack Services Group
Docket No. ER99-1750-000
Manner Technologies, L.L.C.
Docket No. ER97-135-000
MEG Marketing, LLC
Docket No. ER99-2284-000
Merchant Energy of the Americas, Inc.
Docket No. ER98-1055-000
Merrill Lynch Capital Services, Inc.
Docket No. ER99-830-000
Metro Energy Group, L.L.C.
Docket No. ER99-801-000
Micah Tech Industries, Inc.
Docket No. ER98-1221-000
Michigan Gas Exchange, LLC
Docket No. ER99-1156-000
Mid American Natural Resources, Inc.
Docket No. ER95-1423-000
Mid-American Resources, Inc.
Docket No. ER95-78-000
Mid-Power Service Corporation
Docket No. ER97-4257-000
MIECO Inc.
Docket No. ER98-51-000
Millenium Energy Corporation
Docket No. ER98-174-000
Monterey Consulting Associates, Inc.
Docket No. ER98-2143-000
Morgan Stanley Capital Group Inc.
Docket No. ER94-1384-000
Multi-Energies USA Inc.
Docket No. ER96-203-000
Murphy Oil USA
Docket No. ER97-610-000
NAP Trading and Marketing, Inc.
Docket No. ER95-1278-000
National Fuel Resources, Inc.
Docket No. ER95-1374-000
National Power Exchange Corporation
Docket No. ER94-1593-000
National Power Marketing Company, L.L.C.
Docket No. ER96-2942-000
New Jersey Natural Energy Company
Docket No. ER96-2627-000
New Millenium Energy Corp.
Docket No. ER97-2681-000
NFR Power, Inc.
Docket No. ER96-1122-000
NGTS Energy Services
Docket No. ER96-2982-000
Niagara Energy & Steam Co., Inc.
Docket No. ER97-1414-000
Nicole Energy Services
Docket No. ER98-2683-000
NICRO energy Mgmt. Services Company
Docket No. ER97-1816-000
Nine Energy Services, L.L.C.
Docket No. ER98-1915-000
Nordic Electric, LLC
Docket No. ER96-127-000
North American Energy Conservation, Inc.
Docket No. ER94-152-000
North American Energy, Inc.
Docket No. ER98-242-000
North American Power Brokers, Inc.
Docket No. ER96-1156-000
North Atlantic Utilities, Inc.
Docket No. ER97-1716-000
North Star Power Marketing, L.L.C.
Docket No. ER98-622-000
Northeast Electricity Inc.
Docket No. ER98-3048-000
Northeast Energy Services, Inc.
Docket No. ER97-4347-000
Northrop Grumman Corporation
Docket No. ER96-2957-000
Northwest Natural Gas Company
Docket No. ER97-683-000
Novarco Ltd.
Docket No. ER98-4139-000
NP Energy Inc.
Docket No. ER97-1315-000
NUI Energy Brokers, Inc.
Docket No. ER96-2580-000
NXIS, LLC
Docket No. ER97-778-000
Ocean Energy Services, Inc.
Docket No. ER96-588-000
Oceanside Energy, Inc.
Docket No. ER97-181-000
Omni Energy
Docket No. ER98-3344-000
Oneok Power Marketing Company
Docket No. ER98-3897-000
Pacific Energy & Development Corp.
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PanCanadian Energy Services, LP
Docket No. ER90-168-000
Panda Power Corporation
Docket No. ER98-447-000
Panda Guadalupe Power Marketing, LLC
Docket No. ER98-3901-000
Peak Energy, Inc.
Docket No. ER95-379-000
Pelican Energy Management, Inc.
Docket No. ER98-3084-000
Penobscot Bay Energy Co. LLC
Docket No. ER97-2875-000
People's Electric Corporation
Docket No. ER98-3719-000
People's Utility Corp.
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PG Energy Power Plus
Docket No. ER98-1953-000
Phibro Inc.
Docket No. ER95-430-000
Philadelphia Gas Works
Docket No. ER98-124-000
Poco Marketing LTD
Docket No. ER97-2198-000
Poco Petroleum, Inc.
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Polaris Electric Power Co., Inc.
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Power Access Management
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Power Clearinghouse Inc.
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The Power Company of America, L.P.
Docket No. ER95-111-000
Power Exchange Corporation
Docket No. ER95-72-000
Power Fuels, Inc.
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Power Providers, Inc.
Docket No. ER96-2303-000
Power Systems Group, Inc.
Docket No. ER97-3187-000
PowerCom Corporation
Docket No. ER97-4364-000
Powerline Controls, Inc.
Docket No. ER96-1754-000
PowerMark, LLC
Docket No. ER96-332-000
PowerNet Corporation
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PowerSource Corp.

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PowerTec International, L.L.C.
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Prairie Winds Energy, Inc.
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Preferred Energy Services, Inc.
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Premier Enterprises, LLC.
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Progas Power, Inc.
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ProLiance Energy, LLC.
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Proven Alternatives Inc.
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PS Energy Group, Inc.
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P&T Power Company
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Quantum Energy Resources, Inc.
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Quark Power, L.L.C.
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Questar Energy Trading Company
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Rainbow Energy Marketing Corporation
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Rainbow Power USA LLC
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Reliable Energy, Inc.
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Resource Energy Services Company
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Revelation Energy Resources Corp.
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River City Energy, Inc.
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Rocky Mountain Natural Gas & Electric LLC
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Ruffin Energy Services, Inc.
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Russell Energy Sales Company
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Salem Electric, Inc.
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Salko Energy Services, Inc.
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Sandia Energy Resources Company
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SDS Petroleum Products, Inc.
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SE Holdings, L.L.C.
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Seagull Power Services, Inc.
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SEMCOR, Inc.
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Shamrock Trading LLC
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Shell Energy Services Company, LLC
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Sigma Energy, Inc.
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Sithe Power Marketing, Inc.
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Sky Gen Energy Marketing L.L.C.
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Sonat Power Marketing Inc.
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Sonat Power Marketing L.P.
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South Jersey Energy Company
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SouthEastern Energy Resources, Inc.
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SouthWestern Power Marketers, Inc.
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Sparc, LLC
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Stalwart Power Company
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Starghill Energy Corp.
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Statoil Energy Services, Inc.
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Statoil Energy Trading, Inc.
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Strategic Power Management, Inc.
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StratErgy, Inc.
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Sunoco Power Marketing, L.L.C.
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SuperSystems, Inc.
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Symmetry Device Research, Inc.
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TC Power Solutions
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Tenaska Power Services Co.
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Tennessee Power Co.
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TerraWatt, Inc.
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Texas-Ohio Power Marketing, Inc.
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TexPar Energy, Inc.
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Thicksten Grimm Burgum, Inc.
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Torco Energy Marketing, Inc.
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Tosco Power, Inc.
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TransCurrent, L.L.C.
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Trident Energy Marketing, Inc.
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United American Energy Corp.
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United Regional Energy LLC
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Unocal Corporation
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U.S. Power & Light, Inc.
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UTIL. Power Marketing, Inc.
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UtiliSys Corporation
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Utility Management Corp.
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The Utility-Trade Corp.
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Vanpower, Inc.
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VTEC Energy, Inc.
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Washington Gas Energy Services, Inc.
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Watt Works
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Westcoast Power Marketing, Inc.
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Western Energy Marketers, Inc.
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Western Power Providers, Inc.
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Wickford Energy Marketing, L.C.
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Wicor Energy Services, Inc.
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Williams Energy Marketing & Trading Co.
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Woodruff Energy
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XERXE Group
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Yankee Energy Marketing Company
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3E Technologies, Inc.
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Aquila Energy Marketing Corp.
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Bangor Energy Resale, Inc.
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British Columbia Power Exchange Corp.
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Cargill-Alliant, L.L.C.
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Central Hudson Enterprise Corporation
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CET Marketing L.P.
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CinCap IV, LLC
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CinCap V, LLC

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Cinergy Capital & Trading, Inc.
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CLECO Energy, L.L.C.
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Clinton Energy Management Services, Inc.
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CMS Marketing, Services and Trading Co.
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Connectiv Energy Supply, Inc.
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Consolidated Edison Energy, Inc.
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Consolidated Edison Solutions, Inc.
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Constellation Energy Source, Inc.
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Constellation Power Sources, Inc.
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CSW Energy Services, Inc.
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CU Power Canada Ltd.
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DePere Energy Marketing, Inc.
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DPL Energy, Inc.
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Duke Energy Marketing Corporation
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Duke/Louis Dreyfus, L.L.C.
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Energy Masters International, Inc.
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Enova Energy, Inc.
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Enron Energy Services, Inc.
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Enron Power Marketing, Inc.
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Enserch Energy Services, Inc.
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Enserco Energy, Inc.
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Entergy Power Marketing Corporation
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First Energy Trading & Power Marketing, Inc.
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FPL Energy Power Marketing, Inc.
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GPU Advanced Resources, Inc.
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Griffin Energy Marketing, L.L.C.
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Horizon Energy Company
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H.Q. Energy Services (U.S.) Inc.
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Illinova Energy Partners, Inc.
Docket No. ER94-1475-000
Industrial Energy Applications, Inc.
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Inventory Management & Distribution Co., Inc.
Docket No. ER97-4116-000
InterCoast Power Marketing Company
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LG&E Energy Marketing Inc.
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Montana Power Trading & Marketing Company
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NESI Power Marketing, Inc.
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NEV California, L.L.C.
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NEV Midwest, L.L.C.
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New Energy Partners, LLC
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New Energy Ventures, Inc.
Docket No. ER97-4636-000
Niagara Mohawk Energy Marketing, Inc.
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Northern/AES Energy LLC
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NRG Power Marketing Inc.
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NYSEG Solutions, Inc.
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OGE Energy Resources, Inc.
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PacifiCorp Power Marketing, Inc.
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PEC Energy Marketing Inc.
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PG&E Energy Trading Power, L.P.
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PPM Three LLC
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PPM Four LLC
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PPM Five LLC
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PPM Six LLC
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Primary Power Marketing, LLC
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Progress Power Marketing, Inc.
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PSEG Energy Technologies Inc.
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QST Energy Trading Inc.
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R. Hadler and Company, Inc.
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Reliant Energy Services, Inc.
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SCANNA Energy Marketing, Inc.
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Select Energy, Inc.
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Sempra Energy Trading Corp.
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SIGCORP Energy Services, L.L.C.
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Southern Company Energy Marketing L.P.
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Southern Energy California
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Southern Energy New England, LLC
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Southern Energy Retail Trading & Marketing, Inc.
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Southern Energy Trading & Marketing, Inc.
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Spokane Energy, LLC
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TECO EnergySource, Inc.
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TransAlta Energy Marketing (US) Inc.
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UGI Power Supply, Inc.
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Unicom Power Marketing, Inc.
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Union Electric Development Corporation
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Unitil Resources, Inc.
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WPS Energy Services, Inc. and WPA Power Development, Inc.
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XENERGY
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Affiliated Power Producers
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AES Creative Resources, L.P. and AES Eastern Energy, L.P.
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AES Huntington Beach, L.L.C.
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AES Redondo Beach, L.L.C.
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AmerGen Energy Company, L.L.C.
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Arthur Kill Power, L.L.C.
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AYP Energy, Inc.
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Bridgeport Energy LLC
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Cabrillo Power I, L.L.C.
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Carr Street Generating Station, L.P.
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CH Resources, Inc.
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CinCac VI, L.L.C.
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Commonwealth Chesapeake Company, L.L.C.
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Cordova Energy Company, L.L.C.

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De Pere Energy, L.L.C.
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Duke Energy Morro Bay, L.L.C.
Docket No. ER98-2681-000
Duke Energy Moss Landing, L.L.C.
Docket No. ER98-2680-000
Duke Energy New Smyrna Beach Power Co.
Ltd., LLP
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Duke Energy Oakland, L.L.C.
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Duke Energy South Bay, L.L.C.
Docket No. ER99-1785-000
Dunkirk Power, L.L.C.
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El Dorado Energy, LLC
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El Segundo Power, L.L.C.
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Elwood Energy, L.L.C.
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EME Homer City Generation, L.P.
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Energy East South Glens Falls, LLC
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Entergy Nucler Generating Company
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ESI Vansycle Partners, L.P.
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FPL Energy AVEC LLC
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FPL Energy Maine Hydro LLC
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FPL Energy Mason LLC
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FPL Energy Wyman LLC
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FPL Energy Wyman IV LLC
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Grayling Generation Station, L.P.
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Hawkeye Power Partners, L.L.C.
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Huntley Power, L.L.C.
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Kincaid Generation LLC
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Koch Power Louisiana, L.L.C.
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Lake Benton Power Partners, LLC
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Lake Benton Power Partners II, LLC
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Lakewood Cogeneration L.P.
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LG&E Capital Corp.
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LG&E Westmoreland Renssalaer
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Long Beach Generation, L.L.C.
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Medical Area Total Energy Plant, Inc.
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Millenium Power Partners, LP
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Minnesota Agri-Power, LLC
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Mobile Energy Services Company, L.L.C.
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Monmouth Energy, Inc.
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NGE Generation, Inc.
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PanEnergy Lake Charles Generation, Inc.
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PDI Canada, Inc.
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PDI New England, Inc.
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Penobscot Hydro, LLC
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Pittsfield Generating Company, L.P.
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Reliant Energy Coolwater, L.L.C.
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Reliant Energy Ellwood, L.L.C.
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Reliant Energy Etiwanda, L.L.C.
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Reliant Energy Ormond Beach, L.L.C.
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Rockingham Power, L.L.C.
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Rocky Road Power L.L.C.
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Somerset Power L.L.C.
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Southern Energy Bowline, L.L.C.
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Southern Energy Canal, L.L.C.
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Southern Energy Delta, L.L.C.
Docket No. ER99-1842-000
Southern Energy Kendall, L.L.C.
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Southern Energy Lovett, L.L.C.
Docket No. ER99-2043-000
Southern Energy NY-GEN, L.L.C.
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Southern Energy Potrero, L.L.C.
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Southern Energy Wisconsin, L.L.C.
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Storm Lake Power Partners I, L.L.C.
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Storm Lake Power Partners II, L.L.C.
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Storm Lake Power Partners II, L.L.C.
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Tenaska Frontier Partners, Ltd.
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USGen New England
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West Georgia Company L.P.
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West Texas Wind Energy Partners, L.L.C.
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Western Kentucky Energy Corp.
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Wisvest-Connecticut, L.L.C.
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WKE Station Two, Inc.
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Automated Power Exchange
- Docket No. ER98-1033-000
Boralex Stratton Energy Inc.
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Brooklyn Navy Yard Cogeneration Partners,
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Cadillac Renewable Energy
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Canadian Niagara Power Company
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Choctaw Generation Limited Partnership
Docket No. ER98-3774-000
Cobisa-Person Limited Partnership
Docket No. ER98-2498-000
Cogen America Parlin Inc.
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Cogen Energy Technologies
Docket No. ER98-4423-000
Commonwealth Atlantic Limited Partnership
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Consolidated Water Power Company
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Dartmouth Power Associates L.P.
Docket No. ER96-149-000
Dighton Power Associates L.P.
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Edgar Electric Cooperative Association
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GEN-SYS Energy
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Geysers Power Company
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Golden Spread Electric Cooperative
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Great Bay Power Corporation
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GS Electric Generating Cooperative, Inc.
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Indeck Pepperell Power Associates, Inc.
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Logan Generating Company, L.P.
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Lowell Cogeneration Company L.P.
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LSP Energy Limited Partnership
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Midwest Energy, Inc.
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Milford Power L.P.
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Mountainview Power Company
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Northeast Empire Limited Partnership #1
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Northeast Empire Limited Partnership #2
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Old Dominion Electric Cooperative
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Oxbow Power Marketing, Inc.
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Pacific Northwest Generating Cooperative
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Riverside Canal Power Company
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SCC-L2, L.L.C.
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SCC-L3, L.L.C.
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Seneca Power Partners, L.P.

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 Sithe New England Holdings L.L.C.
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 Sterling Power Partners, L.P.
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 Sunlaw Cogeneration Partners, L.P.
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 UAE Lowell Power, L.L.C.
 Docket No. ER99-1744-000
 Westchester Resco Company, L.P.
 Docket No. ER98-3030-000
 Williams Generating Company—Hazelton
 Docket No. ER97-4587-000
 Wolverine Power Supply Cooperative, Inc.
 Docket No. ER98-411-000

Order Denying Rehearing, Revising Reporting Requirements for Power Marketers and Power Producers with Market-Based Rate Authorization, Staying Effect of the Revised Reporting Requirements, and Establishing Procedures

Issued May 27, 1999.

On October 25, 1996, in Docket No. EL96-2573-001, Southern Company Services, Inc. (Southern) filed a request for rehearing of the Commission's letter order issued on September 25, 1996.² Southern requests the Commission to revise the requirement that traditional public utilities with market-based rate authority must file service agreements for long-term (longer than one year in duration) transactions within 30 days after commencement of service. Southern asks the Commission to allow such public utilities instead to report all transactions, long-term as well as short-term, in quarterly transaction summaries, as power marketers (non-traditional public utilities, without ownership, operation or control of generation or transmission facilities) currently are permitted to do.³

² Southern Company Services, Inc., 76 FERC ¶ 61,321 (1996) (September 25 Order). The September 25 Order denied confidential treatment of a rate schedule attached to a service agreement filed by Southern as agent for Georgia Power Company. While commenting (at 3) that it "continue to believe that the Commission should allow rate schedules to be filed on a confidential basis," Southern does not request rehearing of the September 25 Order's denial of confidential treatment.

³ For purposes of this order, "traditional public utilities" means public utilities that own, operate or control generation and/or transmission facilities. The Commission consistently has required such public utilities seeking blanket, open-ended market-based rate authorization—even those without a franchised service territory or captive ratepayers—to file service agreements for long-term transactions within 30 days after the date of commencement of service. See, e.g., Cataula Generating Company, L.P., 79 FERC ¶ 61,261 at 62,134 (1997); Kincaid Generation, L.L.C., 78 FERC ¶ 61,082 at 61,300-01 (1997). Any reference in this order to "power marketers" means public utilities without ownership, operation or control over generation and/or transmission facilities, i.e., independent power marketers and affiliated power marketers.

As discussed below, we will deny Southern's request for rehearing. We agree with Southern, however, that the Commission's goal of ensuring a competitive marketplace will be furthered by ending the current disparity between the reporting requirements for long-term contracts applicable to traditional public utilities selling at market-based rates and the reporting requirements applicable to power marketers. Accordingly, we are revising the reporting requirements for long-term contracts applicable to power marketers to be consistent with the reporting requirements applicable to traditional public utilities with market-based rates. Specifically, with respect to any long-term transaction agreed to by a power marketer after 30 days from the date of issuance of a final order in this proceeding, the power marketer must file a service agreement with the Commission within 30 days after service commences, rather than merely reporting transactions thereunder in its quarterly transaction summaries. We are also eliminating the requirement that power marketers file informational reports on their purchases.

We will also grant party status to all of the companies listed in the caption, and will entertain late motions to intervene filed by any other interested persons, so that they have the opportunity to seek rehearing regarding the change in policy announced herein. Further, we will delay the effectiveness of our new policy until 30 days after the issuance of a final order in this proceeding, when we will have acted upon any requests for rehearing. In the event no party requests rehearing of this order, then this order would be the final order in this proceeding. Power marketers will *not* be required to file long-term transactions that were agreed to or consummated prior to the effective date of this policy change.

Discussion

In an earlier proceeding involving Southern, we instituted, at Southern's behest, the practice of permitting traditional public utilities transacting under market-based rate authority to employ abbreviated reporting requirements for short-term (one year or

In addition to the categories of "Independent Power Marketers" and "Affiliated Power Marketers," the caption of this order also lists companies under the categories of "Affiliated Power Producers" and "Other Utilities with Market-Based Rates" based on the list on the Commission's Internet site. Because these two categories may include utilities that may be, for some period of time, only power marketers, we have included them in the caption as well.

less in duration) transactions.⁴ Specifically, we stated that all such traditional public utilities would thereafter be allowed to report short-term transactions on a summary, quarterly basis.⁵ Southern in that proceeding—requested the abbreviated filing requirements only with respect to short-term transactions. For long-term transactions, it proposed to file separate service agreements, under umbrella agreements already on file, within 30 days after commencement of service. Southern asserted, and we agreed, that short-term transactions should be treated differently, because they frequently are not the subject of separate written agreements and may be negotiated orally and documented only by log entries.⁶

Now, on rehearing of the September 25 Order, Southern challenges the filing requirements for long-term market-based rate transactions that Southern itself proposed in *Southern I* for traditional public utilities. Southern now argues that continuing the disparity between filing requirements for long-term market-based rate transactions applicable to traditional public utilities and those applicable to power marketers is inconsistent with the Commission's goal of ensuring a level playing field in a competitive marketplace. We agree.

We do not agree, however, that the appropriate remedy is to relax the reporting requirements applicable to traditional public utilities for long-term market-based rate transactions. Rather, we believe that, as Southern argued in the *Southern I* proceeding, different reporting requirements are appropriate for short-term and long-term transactions. Therefore, just as power marketers and traditional public utilities currently have the same reporting requirements for short-term transactions (i.e., quarterly summaries), we conclude that they also should have the same reporting requirements for long-term transactions (i.e., filing of service agreements within 30 days after commencement of service). We discuss below our rationale for adopting reporting requirements based not on the type of seller involved, but rather on the type of transaction involved.

We initially emphasize that we are not imposing new filing requirements on power marketers. The policy change

⁴ See Southern Company Services, Inc., 75 FERC ¶ 61,130, *clarified on other grounds*, 75 FERC ¶ 61,353 (1996) (*Southern I*).

⁵ Southern proposed semi-annual transaction summaries, but we required the summaries to be filed quarterly, to accord with the requirements applicable to power marketers. See *id.*, 75 FERC at 61,444.

⁶ See *id.*

we announce herein reflects our decision to rescind, on a prospective basis, the waiver that we have generally granted to power marketers of the requirement to file long-term transaction agreements.⁷ To provide those power marketers and their customers with appropriate notice of this policy change, we have included in the caption of this order the docket numbers for those power—marketers for whom we previously granted waiver of the requirement to file long-term transaction agreements. We also emphasize that this policy will apply only on a prospective basis, 30 days after the issuance of a final order in this proceeding.

The current general practice of sellers in the industry, both traditional public utilities and power marketers, is to engage in short-term transactions that frequently are not the subject of separate written agreements. To require traditional utilities and power marketers to prepare, negotiate and file a written agreement for every short-term transaction would seriously diminish the flexibility and efficiency of the short-term market and burden the resources of both the reporting parties and the Commission. We continue to believe, therefore, that our policy of allowing all short-term market-based rate transactions to be reported in quarterly summaries correctly balances the goal of an efficient and competitive marketplace with the Commission's responsibility to ensure that such transactions comply with the requirements of the Federal Power Act (FPA).⁸

For long-term transactions, on the other hand, a different balance is appropriate. Long-term transactions are almost always the subject of separate written agreements and do not normally involve the same time-sensitive pressures as short-term competitive

markets. Thus, to require all entities engaging in long-term transactions to file written agreements for such transactions, within 30 days of the date service commences, in our judgment will neither impede flexibility and efficiency in the long-term market nor unduly burden the resources of the reporting parties and the Commission. Moreover, we see no reason to continue allowing power marketers a more relaxed reporting requirement for long-term transactions than that applicable to traditional utilities. Power marketers, like any other public utility, are subject to the requirement under section 205(c) of the FPA to file with the Commission for public inspection all rates, charges, classifications and practices, as well as any contracts that affect or relate thereto.⁹ As noted above, we continue to believe that quarterly transactional summaries are, on balance, appropriate under section 205(c) for short-term transactions—which, in our experience, constitute the bulk of power marketers' jurisdictional activities. To the extent, however, that power marketers are engaged in long-term transactions, we will require them, like other public utilities selling at market-based rates, to file the actual long-term agreements with the Commission rather than merely report the transactions in quarterly summaries.

Accordingly, with respect to any long-term transaction (*i.e.*, longer than one year) agreed to or consummated by a power marketer after 30 days from the date of issuance of a final order in this proceeding, a service agreement must be filed within 30 days after commencement of service. To ensure clear identification of filings, and in order to facilitate the orderly maintenance of the Commission's files and public access to the documents, long-term transaction service agreements should not be filed together with short-term transaction summaries.¹⁰ We will rescind, on a prospective basis, the waiver previously granted to power marketers of the requirement to file long-term transaction agreements with the Commission.

Our new policy will apply prospectively, but it will apply to existing, as well as new, power marketers. In view of the fact that we are announcing a new policy at the rehearing stage of this proceeding, we

have listed the affected power marketers, and the dockets in which they were granted market-based rate authorization, in the caption of this order, and we are directing the Secretary to publish this order in the **Federal Register**. Further, as a matter of administrative convenience, all of the companies listed in the caption are hereby made parties to this proceeding. With respect to other interested persons, we believe that it is appropriate to make an exception to our practice of not permitting late interventions for the purpose of filings requests for rehearing. Accordingly, we will entertain late motions to intervene in this proceeding for the purpose of filing requests for rehearing of this order.¹¹ Further, we will delay the effectiveness of the new reporting requirements announced herein pending Commission action on the requests for rehearing of this order and the issuance of a final order in this proceeding.

As noted, the affected companies are listed in the caption of this order for purposes of providing appropriate notice. While the Commission has made a diligent effort to ensure that all affected power marketers are included in the caption of this order, it is possible that some affected power marketers are not listed. However, this policy change will apply to all power marketers, regardless of their inclusion in the caption.¹²

It is not necessary for entities moving to intervene and/or requesting rehearing to list all of the dockets listed in the caption. Instead, in order to facilitate the processing of pleadings, for any person filing a late motion to intervene and/or a request for rehearing of this order, the caption of its pleading should refer only to "Southern Company Services, Inc., Docket No. ER96-2573-001" and the case-specific market-based rate docket number(s) with which it is concerned, if any. Further, as previously noted, it is possible that not all affected power marketers are included in the caption of this order. Any power marketer with market-based rate authorization not listed in the caption (or its customers) may also file a late motion to intervene and request for rehearing of this order.

⁷ Sec 28 CFR 35.1(a) (1998), which, in pertinent part, requires every public utility to file rate schedules "setting forth all rates and charges for any transmission or sale of electric energy subject to the jurisdiction of this Commission, the classifications, practices, rules and regulations affecting such rates and charges and all contracts which in any manner affect or relate to such rates, charges, classifications, services, rules, regulations or practices, as required by section 205(c) of the Federal Power Act * * *."

⁸ See, e.g., LG&E Power Marketing Inc., 68 FERC ¶ 61,247 at 62,124 (explaining that the quarterly filing requirement for marketers is necessary to ensure compliance with the FPA, to allow the Commission to evaluate the reasonableness of the rates and to provide for ongoing monitoring of the marketer's ability to exercise market power), *modified on other grounds*, 69 FERC ¶ 61,153 (1994); Enron Power Marketing, Inc., 66 FERC ¶ 61,244 at 61,598 (1994) (noting that the quarterly filings allow the Commission to monitor the marketer's adherence to the standards that allow it to sell at market-based rates).

⁹ Enron Power Marketing, Inc., 65 FERC ¶ 61,305 at 62,406 (1993), *order on reh'g*, 66 FERC ¶ 61,244 (1994); National Electric Associates Limited Partnership, 50 FERC ¶ 61,378 at 62,157 n.15 (1990).

¹⁰ See Consolidated Edison of New York, Inc., 78 FERC ¶ 61,298 at 62,286; *Southern I*, 75 FERC at 61,444-45.

¹¹ We strongly encourage those parties with common interests to file joint requests for rehearing, to the degree possible.

¹² In the event that a power marketer that is affected by this order is not listed in the caption of this order, it should inform the Commission of that fact, including the docket number in which it was granted market-based rate authority.

The Commission Orders

(A) Southern's request for rehearing of the September 25 Order is hereby denied.

(B) Previously-granted waivers of the requirement to file long-term (longer than one year in duration) transaction agreements are hereby rescinded on a prospective basis, effective 30 days after the issuance of a final order in this proceeding, as discussed in the body of this order.

(C) Pursuant to Ordering Paragraph (B), the reporting requirements applicable to power marketers for long-term (longer than one year in duration) transactions are hereby revised to match those applicable to traditional public utilities, effective 30 days after the issuance of a final order in this proceeding, as discussed in the body of this order.

(D) The entities listed in the caption of this order are hereby made parties to this proceeding.

(E) The Secretary shall promptly publish a copy of this order in the **Federal Register**.

By the Commission. Commissioner Bailey concurred with a separate statement attached.

Linwood A. Watson, Jr.,
Acting Secretary.

Bailey, Commissioner, *concurring*

I strongly support this order to the extent it equalizes the reporting requirements for both marketers and traditional utilities which have Commission authorization to sell power at market-based rates.

I have previously questioned the rationale, if any, for different reporting requirements for different types of sellers with market-based power sales authority.¹ I can see no reason, in a post-Order No. 888 world of increased competition and nondiscriminatory access to transmission service, to treat marketers any differently than traditional utilities for purposes of reporting their power sales transactions. I have been concerned that the disparity in reporting requirements could somehow confer a competitive advantage on those power sellers with a lesser reporting obligation and, perhaps, without the same obligation to disclose commercially sensitive information. Today's order removes that disparity.

I am less certain as to the desirability of the Commission's means to remove the disparity in reporting requirements. The Commission chooses to *increase* the reporting requirements applicable to power marketers by obligating them to file for Commission review all long-term power sales agreements (which now need only be reflected in quarterly transaction summaries). In my opinion, the better approach might be to

decrease the reporting requirements applicable to traditional utilities by allowing them to reflect their long-term transactions in the quarterly reports they currently are allowed to file for all short-term transactions.

Today's order explains why power marketers should not be particularly burdened by the new filing requirement, since long-term agreements typically are reduced to writing anyway. Today's order does not explain, however, how the filing (as opposed to the quarterly reporting) of long-term agreements by marketers and traditional utilities alike will materially help the Commission in its monitoring of competitive markets and in its responsibility to ensure that all wholesale power rates are just and reasonable.

I suspect the benefit, from the Commission's perspective, in the filing of long-term power sales agreements lies in the belief that the such filing will convey more and better information (on price, terms and conditions) than that reflected in the quarterly reports the Commission receives. If, so, I question whether the better approach is not to add to the filing requirements of power marketers, but rather to standardize and improve the quantity and quality of information reflected in the quarterly reports they submit.

Even if there is no general obligation to file long-term agreements, the Commission presumably would continue to require their filing to the extent they reflect a transaction among affiliates.² Moreover, since, as the order explains, the quarterly reporting requirement for short-term transactions is based on a discretionary waiver of the section 205 notice and filing requirement, the Commission could rescind that waiver, and require the filing of any agreement, at any time—such as upon the filing of a customer complaint. (This is analogous to the Commission's commitment to rescind any waiver of the Order No. 888 (open access tariff) and 889 (OASIS and separation of functions) requirements upon the filing of a customer complaint³).

It may be useful to consider this issue in a more global context. The Commission might want to consider that type of information it (and the public) needs from the sellers of power at market-based rates at the same time it considers other reporting and filing improvements—for example, at the time it considers revisions to the FERC Form 1 reporting requirements applicable to all public utilities.

And I am reluctant to insist upon generic improvements to Commission reporting and filing requirements in the context of our action on a single request for rehearing filed

² The Commission has long required power marketers with market-based rate authorization to commit in their tariffs not to sell power to or purchase power from an affiliated traditional utility, and vice versa, unless the Commission first approves such a transaction in a separate rate filing under section 205 of the FPA. *Cf., e.g.,* Detroit Edison Company, 80 FERC ¶ 61,348 (1997); GPU Advanced Resources, Inc., 81 FERC ¶ 61,335 (1997).

³ See Central Minnesota Municipal Power Agency, 79 FERC ¶ 61,260 at 61,127 (1997); Easton Utilities Commission, *et al.*, 83 FERC ¶ 61,334 (1998).

almost three years ago by a single utility in a particular adjudication. Today's order, recognizing the Commission's adoption of new policy, grants party status to power marketers, which might otherwise be caught off-guard, for the purpose of seeking rehearing of this rehearing order. I welcome any comment as to whether the Commission should employ a different method for equalizing the reporting and filing requirements applicable to power marketers and traditional utilities.

Vicky A. Bailey,
Commissioner.

[FR Doc 99-14120 Filed 6-3-99; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98-645-000]

Trunkline Gas Company; Notice of Informal Technical Conference

May 28, 1999.

The Federal Energy Regulatory Commission (Commission) will convene an informal staff technical conference on June 28, 1999, at 2:00 p.m., in Room 3M3, of the Commission's offices at 888 First Street, N.E., Washington, D.C., to discuss Trunkline's answers to staff's data requests in the above-captioned proceeding. The conference is open to all interested persons.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 99-14176 Filed 6-3-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99-102-000]

Wyoming Interstate Company, Ltd.; Notice of Availability of the Environmental Assessment for the Proposed Medicine Bow Lateral Project

May 28, 1999.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) that discusses the environmental impacts of the Medicine Bow Lateral Project proposed in the above-referenced docket. The proposed project would include the construction and operation of approximately 149 miles of 24-inch-diameter pipeline and 7,170 horsepower (hp) of compression.

¹ See *Clarksdale Public Utilities Commission v. Energy Services, Inc.*, 85 FERC ¶ 61,268 at 62,079-80 (1998) concurring statement.

The EA was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

Wyoming Interstate Company Ltd. (WIC) proposes to build new pipeline and compression facilities to increase the transportation capacity of its current system in Colorado and Wyoming. The new facilities would enable WIC to transport an additional 269 million cubic feet of natural gas per day from the Powder River Basin. Specifically, WIC seeks Commission authority to construct and operate the following facilities:

- 149 miles of 24-inch-diameter pipeline extending from WIC's existing mainline in Weld County, Colorado, to Converse County, Wyoming, where it would interconnect with nonjurisdictional gathering facilities;
- A new compressor station in Converse County, Wyoming, which would consist of one turbine-driven, centrifugal compressor unit rated at 7,170 hp;
- Two new meter stations in Converse County, Wyoming; and
- A new check meter and side valve at the interconnection with WIC's mainline in Weld County, Colorado.

The EA has been placed in the public files of the FERC. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, N.E., Room 2A, Washington, DC 20426, (202) 208-1371.

Copies of the EA have been mailed to Federal, state and local agencies, public interest groups, landowners, local newspapers and libraries, and parties to this proceeding.

Any person wishing to comment on the EA may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that we receive your comments before the date specified below. Please carefully follow the instructions to ensure that your comments are received in time and properly recorded.

- Send two copies of your comments to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Room 1A, Washington, D.C. 20426.

- Label one copy of the comments for the attention of the Environmental Review and Compliance Branch, PR11.1;

- Reference Docket No. CP99-102-000; and

- Mail your comments so that they will be received in Washington, DC on or before June 28, 1999.

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by section 395.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention. You do not need intervenor status to have your environmental comments considered.

Additional information about the proposed project is available from Mr. Paul McKee of the Commission's Office of External Affairs at (202) 208-1088 or on the FERC website (www.ferc.fed.us) using the "RIMS" link to information in this docket number. Click on the "RIMS" link, select "Docket #" from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208-2222. Similarly, the "CIPS" link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the "CIPS" link, select "Docket #" from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208-2474.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99-14173 Filed 6-3-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP87-203-007]

CNG Transmission Corporation; Notice of Intent To Prepare an Environmental Assessment for the Proposed CNG Tioga Expansion Project and Request for Comments on Environmental Issues

May 28, 1999.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an

environmental assessment (EA) that will discuss the environmental impacts of CNG Transmission Corporation's (CNG) proposal to modify the active storage field boundary, to authorize a protective boundary, and to convert certain observation wells to storage wells at CNG's Tioga Storage Complex in Tioga County, Pennsylvania.

CNG requests authority to operate four storage wells which were previously drilled as observation wells and converted to storage wells. In addition, CNG requests authorization to convert and operate two additional observation wells to storage wells. CNG would also construct 0.1 mile of 6-inch-diameter and 0.2 mile of 4-inch-diameter pipeline to connect these two wells to existing storage field pipeline facilities. CNG states that neither the certificated capacity nor the certified deliverability of the Tioga Storage Complex would be increased by the conversion of these wells. This EA on the CNG Tioga Expansion Project¹ will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to abandon, construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law. A fact sheet addressing a number of typically asked questions, including the use of eminent domain, is attached to this notice as appendix 1.²

Summary of the Proposed Project

CNG seeks authorization for the following:

- Operate four storage wells (well Nos. TW-209, TW-707, TW-708, and TW-800) which were previously drilled as observation wells and converted to storage wells.

¹ CNG Transmission Corporation's application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

² The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, N.E., Washington, D.C. 20426, or call (202) 208-1371. Copies of the appendices were sent to all those receiving this notice in the mail.

- Convert and operate observation well Nos. TW-605 and TW-403 as storage wells.
- Construction of 536 feet of 6-inch-diameter (LN-2465-S) and 1,117 feet of 4-inch-diameter pipeline (LN-2464-S) to connect well Nos. TW-605 and TW-403 to existing gas storage pipeline facilities.

The location of the project facilities is shown in appendix 2.

Land Requirements for Construction

Construction of the proposed facilities would require about 66.2 acres of land. Following construction, about 18.8 acres would be maintained as permanent pipeline right-of-way and about 20.0 acres would be required for new well sites and aboveground facilities. The remaining 27.4 acres of land would be restored and allowed to revert to its former use.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this "scoping." The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils.
- Water resources, fisheries, and wetlands.
- Vegetation and wildlife.
- Endangered and threatened species.
- Public safety.
- Land use.
- Cultural resources.
- Air quality and noise.
- Hazardous waste.

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section on pages 4 and 5 of this notice.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by CNG. This preliminary list of issues may be changed based on your comments and our analysis.

- A total of about 18.9 acres of forest would be disturbed.
- The project may affect 2 wetlands.
- Blasting may be required in some areas.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations/routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send two copies of your letter to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., N.E., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of the Environmental Review and Compliance Branch, PR-11.2;
- Reference Docket No. CP87-203-007; and
- Mail your comments so that they will be received in Washington, DC on or before June 28, 1999.

If you do not want to send comments at this time but still want to remain on our mailing list, please return the Information Request (appendix 4). If you do not return the Information Request, you will be taken off the mailing list.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an "intervenor." Intervenor play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 3). Only intervenors have the right to seek rehearing of the Commission's decision. You do not need intervenor status to have your environmental comments considered.

Additional information about the proposed project is available from Mr. Paul McKee of the Commission's Office of External Affairs at (202) 208-1088 or on the FERC website at <http://www.ferc.fed.us/online/rims.htm> (please call (202) 208-2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99-14177 Filed 6-3-99; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6354-2]

Agency Information Collection Activities: Comment Request; See List of ICRs Planned To Be Submitted in Section A

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following 19 continuing Information Collection Requests (ICR) to the Office of Management and Budget (OMB). Before submitting the ICRs to OMB for

review and approval, EPA is soliciting comments on specific aspects of the information collections as described at the beginning of Supplementary Information.

DATES: Comments must be submitted on or before August 3, 1999.

ADDRESSES: US Environmental Protection Agency, 401 M Street SW, Office of Compliance, Mail Code 2223A, Washington, DC 20460. A hard copy of an ICR may be obtained without charge by calling the identified information contact individual for each ICR in section B of the Supplementary Information.

FOR FURTHER INFORMATION CONTACT: For specific information on the individual ICRs see section B of the Supplementary Information.

SUPPLEMENTARY INFORMATION:

For All ICRs

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are displayed in 40 CFR part 9.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information;

(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 automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of 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.

A. List of ICRs Planned To Be Submitted

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 19 continuing Information Collection Requests (ICR) to the Office of Management and Budget (OMB):

(1) NSPS subpart D, Fossil Fuel Fired Steam Generators; EPA ICR Number 1052, and OMB Control Number 2060-0026, expires September 30, 1999.

(2) NSPS subpart Da, Electric Utility Steam Generating Units; EPA ICR Number 1053, and OMB Control Number 2060-0023, expires September 30, 1999.

(3) NSPS subpart Db, Industrial-Commercial-Institutional Steam Generating Units; EPA ICR Number 1088, and OMB Control Number 2060-0072, expires August 31, 1999.

(4) NSPS subpart I, Hot Mix Asphalt; EPA ICR Number 1127, and OMB Control Number 2060-0083, expires September 30, 1999.

(5) NSPS subpart BB, Kraft Pulp Mills; EPA ICR Number 1055, and OMB Control Number 2060-0021, expires September 30, 1999.

(6) NSPS subpart DD, Grain Elevators; EPA ICR Number 1130, and OMB Control Number 2060-0082, expires November 30, 1999.

(7) NSPS subpart HH, Lime Manufacturing; EPA ICR Number 1167, and OMB Control Number 2060-0063, expires August 31, 1999.

(8) NSPS subpart RR, Pressure Sensitive Tape and Label; EPA ICR Number 0658, and OMB Control Number 2060-0004, expires September 30, 1999.

(9) NSPS subpart SS, Surface Coating of Large Appliances; EPA ICR Number 0659, and OMB Control Number 2060-0108, expires October 31, 1999.

(10) NSPS subpart TT, Metal Coil Surface Coating; EPA ICR Number 0660, and OMB Control Number 2060-0107, expires October 31, 1999.

(11) NSPS subpart WW, Beverage Can Surface Coating; EPA ICR Number 0663, and OMB Control Number 2060-0001, expires September 30, 1999.

(12) NSPS subpart DDD, VOC Emissions from the Polymer Manufacturing Industry, EPA ICR Number 1150, and OMB Control Number 2060-0145, expires November 30, 1999.

(13) NSPS subpart GGG, Petroleum Refineries; EPA ICR Number 0983, and OMB Control Number 2060-0067, expires August 31, 1999.

(14) NSPS subpart HHH, Synthetic Fiber Production; EPA ICR Number 1156, and OMB Control Number 2060-0059, expires October 31, 1999.

(15) NSPS subparts III and NNN, SOCOMI Air Oxidation & Distillation; EPA ICR Number 0998, and OMB Control Number 2060-0197, expires August 31, 1999.

(16) NSPS subpart JJJ, Petroleum Dry Cleaners; EPA ICR Number 0997, and OMB Control Number 2060-0079, expires November 30, 1999.

(17) NSPS subpart RRR, SOCOMI Reactor Processes; EPA ICR Number 1178, and OMB Control Number 2060-0269, expires September 30, 1999.

(18) NESHAP subpart FF, Benzene Waste; EPA ICR Number 1541, and OMB Control Number 2060-0183, expires September 30, 1999.

(19) NESHAP subpart M, Asbestos; EPA ICR Number 0111, and OMB Control Number 2060-0101, expires September 30, 1999.

B. Contact Individuals for ICRs

(1) NSPS subpart D, Fossil Fuel Fired Steam Generators; Jordan Spooner, (202) 564-7058,

spooner.jordan@epamail.epa.gov, EPA ICR Number 1052, and OMB Control Number 2060-0026, expires September 30, 1999.

(2) NSPS subpart Da, Electric Utility Steam Generating Units; Jordan Spooner, (202) 564-7058, *spooner.jordan@epamail.epa.gov* EPA ICR Number 1053, and OMB Control Number 2060-0023, expires September 30, 1999.

(3) NSPS subpart Db, Industrial-Commercial-Institutional Steam Generating Units; Jordan Spooner, (202) 564-7058, *spooner.jordan@epamail.epa.gov*, EPA ICR Number 1088, and OMB Control Number 2060-0072, expires August 31, 1999.

(4) NSPS subpart I, Hot Mix Asphalt; Belinda Breidenbach, (202) 564-7022, *breidenbach.belinda@epamail.epa.gov*, EPA ICR Number 1127, and OMB Control Number 2060-0083, expires September 30, 1999.

(5) NSPS subpart BB, Kraft Pulp Mills; Seth Heminway, (202) 5564-7017, *heminway.seth@epamail.epa.gov*, EPA ICR Number 1055, and OMB Control Number 2060-0021, expires September 30, 1999.

(6) NSPS subpart DD, Grain Elevators; Ken Harmon, (202) 564-7049, *harmon.kenneth@epamail.epa.gov*, EPA ICR Number 1130, and OMB Control Number 2060-0082, expires November 30, 1999.

(7) NSPS subpart HH, Lime Manufacturing; Belinda Breidenbach, (202) 564-7022, *breidenbach.belinda@epamail.epa.gov*, EPA ICR Number 1167, and OMB

Control Number 2060-0063, expires August 31, 1999.

(8) NSPS subpart RR, Pressure Sensitive Tape and Label; Seth Heminway, (202) 5564-7017, heminway.seth@epamail.epa.gov, EPA ICR Number 0658, and OMB Control Number 2060-0004, expires September 30, 1999.

(9) NSPS subpart SS, Surface Coating of Large Appliances; Belinda Breidenbach, (202) 564-7022, breidenbach.belinda@epamail.epa.gov, EPA ICR Number 0659, and OMB Control Number 2060-0108, expires October 31, 1999.

(10) NSPS subpart TT, Metal Coil Surface Coating; Belinda Breidenbach, (202) 564-7022, breidenbach.belinda@epamail.epa.gov, EPA ICR Number 0660, and OMB Control Number 2060-0107, expires October 31, 1999.

(11) NSPS subpart WW, Beverage Can Surface Coating; Belinda Breidenbach, (202) 564-7022, breidenbach.belinda@epamail.epa.gov, EPA ICR Number 0663, and OMB Control Number 2060-0001, expires September 30, 1999.

(12) NSPS subpart DDD, VOC Emissions from the Polymer Manufacturing Industry, Sally Sasnett, (202) 564-7074 sasnett.sally@epamail.epa.gov EPA ICR Number 1150, and OMB Control Number 2060-0145, expires November 30, 1999.

(13) NSPS subpart GGG, Petroleum Refineries; Tom Ripp, (202) 564-7003, ripp.tom@epamail.epa.gov, EPA ICR Number 0983, and OMB Control Number 2060-0067, expires August 31, 1999.

(14) NSPS subpart HHH, Synthetic Fiber Production; Belinda Breidenbach, (202) 564-7022, breidenbach.belinda@epamail.epa.gov, EPA ICR Number 1156, and OMB Control Number 2060-0059, expires October 31, 1999.

(15) NSPS subparts III and NNN, SOCM I Air Oxidation & Distillation; Marcia Mia, (202) 564-7042, mia.marcia@epamail.epa.gov, EPA ICR Number 0998, and OMB Control Number 2060-0197, expires August 31, 1999.

(16) NSPS subpart JJJ, Petroleum Dry Cleaners; Joyce Chandler, (202) 564-7073, chandler.joyce@epamail.epa.gov, EPA ICR Number 0997, and OMB Control Number 2060-0079, expires November 30, 1999.

(17) NSPS subpart RRR, SOCM I Reactor Processes; Darlene Williams, (202) 564-7031, williams.darlene@epamail.epa.gov, EPA ICR Number 1178, and OMB Control

Number 2060-0269, expires September 30, 1999.

(18) NESHAP subpart FF, Benzene Waste; Rafael Sanchez, (202) 564-7028, sanchez.rafael@epamail.epa.gov, EPA ICR Number 1541, and OMB Control Number 2060-0183, expires September 30, 1999.

(19) NESHAP subpart M, Asbestos; Tom Ripp, (202) 564-7003, ripp.tom@epamail.epa.gov, EPA ICR Number 0111, and OMB Control Number 2060-0101, expires September 30, 1999.

C. Individual ICRs

(1) NSPS Subpart D, Fossil Fuel Fired Steam Generators; EPA ICR Number 1052, and OMB Control Number 2060-0026, Expires September 30, 1999

This standard applies to each fossil-fuel-fired steam generating unit of more than 73 MW heat input rate (250 million Btu per hour), that were constructed after August 17, 1971 and before September 18, 1978. Owners or operators must provide EPA or the delegated State regulatory authority with the following one-time-only reports (specified in 40 CFR 60.7): Notifications of the anticipated and actual date of start up, notification of the date of construction or reconstruction, notification of any physical or operational changes to an existing facility which may increase the emission rate of any regulated air pollutant, notification of the date upon which demonstration of the continuous monitoring system performance commences, notification of the date of the initial performance test, and results of the performance test. Owners and operators are also required to maintain records of the occurrence and duration of any start up, shutdown, or malfunction in the operation of an affected facility, or malfunction in the operation of the air pollution control device, or any periods during which the monitoring system is inoperative. Records shall be retained for at least two years.

In addition to reporting and recordkeeping requirements, facilities subject to this subpart must install, calibrate, maintain, and operate a continuous monitoring system (CMS) to monitor SO₂, NO_x and opacity (specified in 40 CFR 60.45), and must notify EPA or the State regulatory authority of the date upon which demonstration of the CMS commences. Owners or operators must submit quarterly reports indicating whether compliance was achieved, and their assessment of monitoring system performance (specified in 40 CFR 60.7).

Burden Statement: The Agency computed the burden for each of the recordkeeping and reporting requirements applicable to the industry. Where applicable, the Agency identified specific tasks and made assumptions, while being consistent with the concept of burden under the Paper Reduction Act. The estimates were based on the assumption that there would be no new affected facilities, because new utility boilers constructed after September 18, 1978 are subject to subpart Da, and boilers constructed after June 19, 1986 are subject to subpart Db. Therefore, the requirements for initial notifications and the performance test are not included. Approximately 660 sources are currently subject to the standard. It was also assumed each source operates 365 days per year.

For recordkeeping, it was estimated that for each source it would take 91.25 person-hours per year to check, maintain, and operate the continuous emission monitors. For reporting, it was estimated that for each source it would take 4 person-hours per year for the quarterly reports of excess emissions and monitoring system performance.

(2) NSPS Subpart Da, Electric Utility Steam Generating Units; EPA ICR Number 1053, and OMB Control Number 2060-0023, Expires September 30, 1999

This standard applies to each electric utility steam generating unit which is capable of combusting more than 73 MW (250 million Btu/hr) heat input of fossil fuel, and for which construction or modification is commenced after September 18, 1978. Owners or operators must provide EPA, or the delegated State regulatory authority with the following one-time-only reports: Notifications of the anticipated and actual date of start up, notification of the date of construction or reconstruction, notification of any physical or operational changes to an existing facility which may increase the emission rate of any regulated air pollutant, notification of the date upon which demonstration of the continuous monitoring system commences, notification of the date of the initial performance test, and results of the performance test. Owners and operators are also required to maintain records of the occurrence and duration of any start up, shutdown, or malfunction in the operation of an affected facility, or malfunction in the operation of the air pollution control device, or any periods during which the monitoring system is inoperative. Records shall be retained for at least two years.

In addition to reporting and recordkeeping requirements specified in 40 CFR 60.7, facilities subject to this subpart must install, calibrate, maintain, and operate a continuous monitoring system (CMS) to monitor SO₂, NO_x and opacity (specified in 40 CFR 60.7 and 40 CFR 60.47a), and must notify EPA or the State regulatory authority of the date upon which demonstration of the CMS performance commences (specified in 40 CFR 60.47a). Owners or operators must submit quarterly reports indicating whether compliance was achieved, and their assessment of monitoring system performance (specified in 40 CFR 60.49a).

Burden Statement: The Agency computed the burden for each of the recordkeeping and reporting requirements applicable to the industry. The estimates were based on the assumption that there would be seven new affected facilities each year, and there were an average of 103 sources in existence for the three years covered by the ICR. It was also assumed each source operates 365 days per year.

For each new source, it was estimated that it would take: One person-hour to read the instructions; 10.4 person-hours to write the initial notifications; and 290.8 person-hours to conduct the initial performance test and reference method 9 test (assuming that 20% of the tests must be repeated). For each source, it was estimated that it would take: 32 person-hours to write quarterly reports of excess emissions and monitoring system performance; and 182.5 person-hours to check, maintain, and operate continuous emission monitors.

(3) NSPS Subpart Db, Industrial-Commercial-Institutional Steam Generating Units; EPA ICR Number 1088, and OMB Control Number 2060-0072, Expires August 31, 1999

Affected facilities are each steam generating unit that commences construction, modification or reconstruction after June 19, 1984, and that has a heat input capacity from fuels combusted in the steam generating unit of greater than 29 MW (100 million Btu/hour). Owners or operators of the affected facilities described must make the following one-time-only reports: Notification of the date of construction or reconstruction; notification of the anticipated and actual dates of startup; notification of any physical or operational change to an existing facility which may increase the regulated pollutant emission rate; notification of demonstration of the continuous monitoring system (CMS); notification of the date of the initial performance test; and the results of the initial

performance test. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports and records are required, in general, of all sources subject to NSPS.

Burden Statement: The Agency computed the burden for each of the recordkeeping and reporting requirements applicable to the industry. Where applicable, the Agency identified specific tasks and made assumptions, while being consistent with the concept of burden under the Paper Reduction Act. The estimate was based on the assumption that there would be 58 new affected facilities each year, and that there were approximately 785 sources in existence for the three years covered by the ICR. The annual burden of reporting and recordkeeping requirements for facilities subject to subpart Db are summarized by the following information.

The reporting requirements are as follows: Read instructions (1 person-hour); initial performance test (330 person-hours); 24-hour test for gas units (250 person-hours); repeat of initial performance test (330 person-hours); repeat of 24-hour test for gas units (250 person-hours) (Assume 20% of tests are repeated); demonstration of CEMS: For SO₂ (150 person-hours), for PM (100 person-hours), for NO_x (350 person-hours); repeat demonstration of CEMS (Assume 20% repeat rate); annual compliance tests for NO_x (250 person-hours); Appendix F annual accuracy test: For SO₂ (146 person-hours), for NO_x (146 person-hours); Appendix F quarterly audit, SO₂: For in-situ (125 person-hours), for extractive (36 person-hours); Appendix F quarterly audit, NO_x: For in-situ (125 person-hours), for extractive (36 person-hours) (Assume that 25% of units have an in-situ CEMS).

Sources are required to write reports on: Notification of construction/reconstruction (2 person-hours), notification of anticipated startup (2 person-hours), notification of actual startup (2 person-hours), monitoring plan (4 person-hours), notification of initial performance test: For SO₂ (2 person-hours), for PM (2 person-hours), for NO_x (2 person-hours); report of initial performance test: For SO₂ (16 person-hours), for NO_x (16 person-hours); notification of CMS demonstration: For SO₂ (2 person-hours), for PM (2 person-hours), for NO_x (2 person-hours). Quarterly reports for SO₂ (16 person-hours); quarterly reports

for PM: Excess (16 person-hours), no excess (8 person-hours); quarterly reports for NO_x: CEMS compliance (16 person-hours), excess (16 person-hours), no excess (8 person-hours); Appendix F quarterly reports: For SO₂ (11 person-hours), for NO_x (11 person-hours). Recordkeeping requirements include the following: Maintaining records of startups, shutdowns, and malfunctions (1.5 person-hours); maintaining records of all measurements (1.5 person-hours).

(4) NSPS Subpart I, Hot Mix Asphalt; EPA ICR Number 1127, and OMB Control Number 2060-0083, Expires September 30, 1999

The New Source Performance Standards (NSPS) for hot mix asphalt facilities were proposed on June 11, 1973 and promulgated on July 25, 1977. These standards apply to each hot mix asphalt plant commencing construction, modification, or reconstruction after the date of proposal. The affected facility is each hot mix asphalt facility comprised only of any combination of the following: Dryers; systems for screening, handling, storing, and weighing hot aggregate; systems for loading, transferring, and storing mineral filler, systems for mixing hot asphalt; and the loading, transfer and storage systems associated with emission control systems.

Approximately 1280 sources are currently subject to the standard and it is estimated that an additional 60 sources per year will become subject to the standard in the next three years. Particulate matter is the pollutant regulated under this Subpart.

Owners or operators of the affected facilities described must make the following one-time only reports: Notification of the date of construction or reconstruction; notification of the anticipated and actual date of a start up; notification of any physical or operational change to an existing facility which may increase the regulated pollutant emission rate; notification of the date of the initial performance test; and results of the initial performance test including information necessary to determine the conditions of the performance test measurements and results, including particulate matter concentration and opacity. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shut down, or malfunction in the operation of an affected facility as well as the nature and cause of the malfunction (if known) and corrective measures taken.

Any owner or operator subject to the provisions of NSPS subpart I, shall maintain a file for a minimum of two

years following the date of such measurements, maintenance reports and records.

Burden Statement: The average annual burden to industry over the next three years from these recordkeeping and reporting requirements is estimated at 4611 person-hours. Initial performance test require approximately 24 person-hours. From experience with the regulations we assume 20% of the initial performance test will be repeated due to failure. The written notifications of construction, modification and notification of initial performance test require 2.0 hours each. Reference Method 9 tests require 4 hours each. It is estimated to take 1.5 hours per year per plant to record start-ups, shut-downs, and malfunctions.

(5) NSPS Subpart BB, Kraft Pulp Mills; EPA ICR Number 1055, and OMB Control Number 2060-0021, Expires September 30, 1999

This ICR contains recordkeeping and reporting requirements that are mandatory for compliance with subpart BB, New Source Performance Standards for Kraft Pulp Mills. In the Administrator's judgement, particulate matter and Total Reduced Sulfur (TRS) from kraft pulp mills cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Therefore, New Source Performance Standards have been promulgated for this source category as required under section 111 of the Clean Air Act.

The control of emissions of particulate matter and TRS requires not only the installation of properly designed equipment, but also the proper operation and maintenance of that equipment. These standards rely on the capture of pollutants vented to a control device. Owners or operators of kraft pulp mills subject to NSPS subpart BB are required to make initial notifications for construction, startup, and performance testing. They must also report the results of a performance test, and demonstration of a continuous monitoring system if applicable. After the initial recordkeeping and reporting requirements, semiannual excess emission reports are required. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or malfunction in the operation of the air pollution control device, or any periods during which the monitoring system is inoperative. These notifications, reports and records are required in general, of all sources subject to NSPS.

Burden Statement: There are 74 sources subject to the standards. It is estimated that 2 additional sources per year will become subject to the standard. The current ICR estimates average annual burden to the industry to be 16,237 person hours. The following is a breakdown of burden used in the ICR. Burden is calculated as two hours for respondents to write the reports for; notification of construction or reconstruction, notification of physical or operational changes, notification of anticipated startup, notification of actual startup, notification of initial performance test, notification of demonstration of CMS. Initial performance tests are allocated 370 burden hours. It is assumed that 20% of all affected facilities will have to repeat performance tests. The ICR allocates four hours for Method 9.

The recordkeeping burden is estimated to be 30 minutes to enter records of operating parameters. It is assumed that the plant will operate 350 days a year, therefore, this information will be recorded 350 times a year. Sources which have excess emissions are required to submit excess emission reports. These reports are allocated 16 burden hours with an average of 2 reports per year. There is no additional third party burden relevant to this ICR.

(6) NSPS Subpart DD, Grain Elevators; EPA ICR Number 1130, and OMB Control Number 2060-0082, Expires November 30, 1999

Grain terminal elevators and grain storage elevators as defined at 40 CFR 60.301(c) and (f). Potentially affected facilities include each truck unloading station, truck loading station, barge and ship unloading station, barge and ship loading station, railcar unloading station, railcar loading station, grain dryer, and all grain handling operations at any grain terminal elevator or any grain storage elevator. There are 66 sources subject to the standard. EPA expects the industry to grow at the rate of one additional source each year. The regulated pollutant is particulate matter.

The NSPS general provisions require owners or operators of the affected facilities subject to NSPS subpart DD to make the following one-time-only reports: Notification of the date of construction or reconstruction 40 CFR 60.7(a)(1), notification of the anticipated date of startup 40 CFR 60.7(a)(2), notification of actual date of startup 40 CFR 60.7(a)(3), notification of any physical or operational change to an existing facility that may increase the rate of emission of the regulated pollutant 40 CFR 60.7(a)(4), notification of the date of the initial performance

test 40 CFR 60.8(d). The results of the initial performance test, 40 CFR 60.8(a), including information necessary to determine the conditions of the performance test and performance test measurements and results, including particulate matter concentration and opacity must be reported. Records must be maintained of performance test results 40 CFR 60.7(c) for at least two years after the date of measurements 40 CFR 60.7(f), including performance test measurements, and all other information required by the general provisions in a form suitable for inspection. Records must be maintained of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, as well as the nature and cause of the malfunction (if known) and corrective measures taken, 40 CFR 60.7(b).

Subpart DD does not specify a retention time. In the general provisions, section 60.7(f) requires owners and operators to retain facility records for at least two years after the date of measurement.

Burden Statement: The estimated annual burden is calculated as one hour for the newly subject respondent to read the reporting requirements; 24 hours for the new respondent to perform the initial performance test, 4.8 hours annually to account for the estimated 20 percent of performance tests that must be repeated, 4 hours for the new respondent to perform the Method 9 tests, 0.8 hours annually to account for the estimated 20 percent of Method 9 tests that must be repeated, two hours to prepare and send the notification of construction/reconstruction of the newly-subject source, two hours to prepare and send notification of anticipated startup, two hours to prepare and send notification of actual startup, and two hours to prepare and send notification of the initial performance test. Together, these information collection activities required of the anticipated one new source annually amount to an average of 42.6 person hours. Additionally, EPA estimates that established sources will spend an average of an hour annually entering information regarding startups, shutdowns, and malfunctions.

(7) NSPS Subpart HH, Lime Manufacturing; EPA ICR Number 1167, and OMB Control Number 2060-0063, Expires August 31, 1999

The New Source Performance Standards (NSPS) for lime manufacturing plants were proposed on May 3, 1977 and promulgated on April 26, 1984. These standards apply to each rotary lime kiln used in lime

manufacturing, which commenced construction, modification or reconstruction after May 3, 1977. These standards do not apply to facilities used in the manufacture of lime at kraft pulp mills. Approximately 38 sources are currently subject to NSPS, subpart HH. It is estimated that an additional two sources per year will become subject to the standard in the next three years.

Particulate matter is the pollutant regulated under this subpart. The standards limit particulate emissions to 0.03 kilogram per megagram (0.60 lb/ton) of stone feed, and limit opacity to 15% when exiting from a dry emission control device.

Owners or operators of the affected facilities described must make the following one-time only reports: Notification of the date of construction and reconstruction; notification of the anticipated and actual dates of startup; notification of any physical or operational change to an existing facility which may increase the regulated pollutant emission rate; notification of the demonstration of the continuous monitoring system (CMS); notification of the date of the initial performance test; and results of the initial performance test. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports and records are required, in general, of all sources subject to NSPS.

Owners or operators of the rotary kilns using a control device with a multiple stack exhaust or roof monitor may instead monitor visible emissions at least once a day by a certified observer using Method 9. Owners or operators of affected facilities using a wet scrubber emission control device shall install, calibrate, maintain, and operate a continuous monitoring device which monitors the pressure loss of the gas stream through the scrubber, and a continuous monitoring device which monitors the scrubbing liquid supply pressure to the control device.

Semiannual excess emissions reports and monitoring system performance reports shall include all 6-minute periods during which the average opacity of the visible emissions from any lime kiln is greater than 15% or for wet scrubbers, any period in which the scrubber pressure drop is greater than 30% below the rate established during the performance test, and reports of visible emissions; the date and time of the exceedance or deviance; the nature and cause of the malfunction (if known)

and corrective measures taken; and identification of the time period during which the CMS was inoperative. This does not include zero and span checks nor typical repairs or adjustments.

Any owner or operator subject to the provisions of this part shall maintain a file for a minimum of two years following the date of such measurements, maintenance reports and records.

Burden Statement: The average annual burden to industry over the next three years from these recordkeeping and reporting requirements is estimated at 3,363.6 person-hours. The initial performance test requires approximately 280 person-hours. (Assuming 20% of the initial performance test will be repeated due to failure.) The Reference Method 9 test requires 4.0 hours. The written notifications of construction, modification, notification of initial performance test and demonstration of CMS require 2.0 person-hours each. Records of startups, shutdowns and malfunctions also require 2.0 hours to enter information. Excess emission reports require 8.0 person-hours.

(8) NSPS Subpart RR, Pressure Sensitive Tape and Label; EPA ICR Number 0658, and OMB Control Number 2060-0004, Expires September 30, 1999

This ICR contains recordkeeping and reporting requirements that are mandatory for compliance with subpart RR, New Source Performance Standards for facilities that manufacture pressure sensitive tape and labels. In the Administrator's judgement volatile organic compounds (VOC's) from this industry contribute to air pollution that may reasonably be anticipated to endanger public health and welfare. Therefore, this NSPS was promulgated under Clean Air Act (CAA) section 111 for this source category. EPA is granted the authority to require facilities to provide information concerning their air emissions under CAA sections 111(a) and 114(a).

Owners and operators of the affected facilities must make the following one time-only reports: Notification of the date of construction or reconstruction; notification of the anticipated and actual dates of initial start-up; notification of any physical change to an existing facility that may increase the regulated pollutant emission rate; notification of initial performance test and the results of the initial performance test. Owners or operators are also required to maintain records of the occurrence and duration of any start-up, shut-down or malfunction in the operation of an affected facility, or any period during which the monitoring

system is inoperative. These notifications, reports and records are required, in general, of all sources subject to NSPS.

Monitoring requirements specific to these coating operations consist of maintaining a calendar month record of all coatings used and their VOC content, the amount of solvent applied and recovered when a solvent recovery device is used, temperature of exhaust gases if thermal incineration is used, temperature of exhaust gases both upstream and downstream of the catalyst bed if catalytic incineration is used and an indication that a hood or enclosure device to capture fugitive emissions is operational. Any affected facility that inputs to the coating process 45 Mg of VOC or less per 12 month period is not subject to the emission limits of 40 CFR 60.442. However, the affected facility shall maintain a 12 month record of the amount of solvent applied in the coating at the facility. When thermal or catalytic incineration is performed, the owner or operator shall keep records of each three-hour period during which the incinerator temperature averaged more than 38 degrees Celsius below the temperature of the most recent performance test. Records of this information shall be kept at the source for a period of two years. The recordkeeping requirements for the surface coating industry of pressure sensitive tape and labels consist of the occurrence and duration of any start-up and malfunctions as described. They include the initial performance test results including information necessary to determine conditions of the performance test, and performance test measurements and results including, for affected facilities complying with the standard without the use of add-on controls, a weighted average of the mass of solvent used per mass of coating solids applied; the weighted average mass of VOC per mass of coating solids applied at facilities controlled by a solvent recovery device; and the weighted average mass of VOC per mass of coating solids applied being used at a facility controlled by a solvent destruction device; and the results of the monthly performance and records of operating parameters. Records of start-ups, shutdowns, and malfunctions should be noted as they occur. Any owner or operator subject to the provisions of this part shall maintain a file for these measurements, and retain the file for at least two years following the date of such measurements and records. The reporting requirements for this industry currently include the

initial notifications listed, the initial performance test results, quarterly reports of excess VOC emissions, and semiannual reports when no excess emissions are recorded. Semiannual monitoring system results shall include temperature variances of the control device, the date and time of the deviance, the nature and cause of the malfunction (if known) and corrective measures taken, and identification of the time period during which the continuous monitoring system was inoperative. Notifications inform the Agency or delegated authority about when a source becomes subject to the standard. The reviewing authority can then inspect the source to check if the pollution control devices are properly installed and operated. Performance test reports are needed as these are the Agency's record of a source's initial capability to comply with the emissions standard. The semiannual reports are used for problem identification, and a check on source operation and maintenance, and for compliance determinations. This collected information is used by the Agency to efficiently monitor industry compliance with NSPS. In the absence of collecting such information, continuous monitoring of compliance with the standards could be ensured only through continuous on-site inspections.

Burden Statement: The reporting requirements for this information collection consist of performance testing, notifications and VOC emission reporting. EPA estimates that each initial performance test will take 60 hours to complete and that 45 new or modified facilities will be required to conduct the tests each year and that about 20 percent will fail and have to re-test. In addition, there are monthly performance tests which take approximately 1 hour to conduct, for a total of 12 hours per year per facility. These are conducted to ensure that the pollution control systems are working. In terms of the notification requirements, EPA estimates that on average it takes two hours a piece to prepare the four different notifications for a new plant, notification of construction, anticipated start-up, actual start-up, initial performance test, and submission of the initial performance test. Each facility is required to report on a semiannual basis the amount of emissions that the facility emitted in excess of the emission standard. Assuming that a facility would submit one report a year for excess emissions in addition to the required semiannual emission report a facility would spend about 5 hours preparing each report for

a total of 10 hours per year. For those facilities using incineration (assume 80 percent of all facilities) to control emissions, exhaust gas temperature reports would be submitted semiannually and would take approximately 4 hours to prepare for a total of 8 hours per facility. The emissions recordkeeping takes approximately 15 minutes per day and assuming that the facility is operational for 250 days a year the time expended on this activity would be 62 hours and 30 minutes. An existing facility that is in compliance will spend about 92 hours and 30 minutes complying with the standard. A facility that is new or that has been modified will spend an additional 68 hours complying with the performance test and notifications for new facilities. EPA estimates that there were 350 affected facilities at the time of the previous ICR renewal. The total industry annual burden according to EPA's estimate is 54,921 hours.

(9) NSPS Subpart SS, Surface Coating of Large Appliances; EPA ICR Number 0659, and OMB Control Number 2060-0108, Expires October 31, 1999

The New Source Performance Standard (NSPS) for Large Appliance Surface Coating was proposed on December 24, 1980 and promulgated on October 27, 1982. The standards apply to each surface coating operation in a large appliance surface coating line commencing construction, modification or reconstruction after December 24, 1980. Approximately 294 sources are currently subject to the standard. It is estimated that an additional 26 sources per year will become subject to the standard in the next three years. Volatile organic compounds (VOCs) are the pollutants regulated under NSPS Subpart SS.

Owners or operators of the affected facilities described must make the following one-time only reports: Notification of the date of construction or reconstruction; notification of the anticipated and actual dates of a start up; notification of any physical or operational change to an existing facility which may increase the regulated pollutant emission rate; notification of the date of the initial performance test; and results of the initial performance test. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shut down, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports and records are required, in general, of all sources subject to NSPS.

Recordkeeping and reporting requirements include the performance test results including the type of coating used, and the VOC content. Subpart SS requires daily records of temperature if thermal incineration is used. For catalytic incineration daily records of gas stream temperature both upstream and downstream are required, or a daily record of the quantity of solvent recovered if a solvent recovery device is used. Monthly averages are calculated, and any affected facility shall report quarterly excess emissions or semiannual reports if no excess emissions occur.

Any owner or operator subject to the provisions of NSPS subpart SS, shall maintain at the source, for a period of at least two years, records of all data calculations used to determine monthly VOC emissions from each affected facility and to determine the monthly emissions limit, where applicable.

Burden Statement: There are currently 294 facilities currently subject to the standard. It is estimated that an additional 26 sources per year will become subject to the standard over the next three years of the ICR. It is assumed that there is no net growth in the number of facilities. New sources will replace existing sources. Initial performance and repeat performance tests require approximately 60 person-hours each. (Assuming 20% of the initial performance test will be repeated due to failure.) The initial notifications require 2 hours. Semiannual emissions reporting will require 5 hours. Temperature variance reports require 4 person-hours. Eighty percent of sources use incineration. Recordkeeping requirements of monthly performance test require one hour and 0.25 hours is needed to record operating parameters.

(10) NSPS Subpart TT, Metal Coil Surface Coating; EPA ICR Number 0660, and OMB Control Number 2060-0107, Expires October 31, 1999

The New Source Performance Standards (NSPS) for Metal Coil Surface Coating were proposed on January 5, 1981 and promulgated on November 1, 1982. The standards apply to the following facilities in Metal Coil Surface Coating operation: Each prime coat operation, each finish coat operation, and each prime and finish coat operation cured simultaneously where the finish coat is applied wet on wet over the prime coat and both coatings are cured simultaneously. These standards apply to metal coil surface coating facilities commencing construction, modification or reconstruction after January 5, 1981.

Approximately 143 sources are currently subject to the standard. It is estimated that an additional 6 sources per year will become subject to the standard in the next three years. Volatile organic compounds (VOCs) are the pollutants regulated under NSPS subpart TT.

Owners or operators of the affected facilities described must make the following one-time only reports: Notification of the date of construction or reconstruction; notification of the anticipated and actual dates of a start up; notification of any physical or operational change to an existing facility which may increase the regulated pollutant emission rate; notification of the date of the initial performance test; and results of the initial performance test. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shut down, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative.

Monitoring requirements specific to Metal Coil Surface Coating Operations requires the owner or operator to compute and record the average VOC content of coating applied during each calendar month for each affected facility. Initial compliance reports are required. There are specific recordkeeping requirements in section 60.465 depending on whether low VOC content coatings are used or higher VOC content coatings are used in conjunction with an emission control device. Where compliance is achieved through the use of low VOC-content coating without emission control devices or through the use of higher VOC-content coating in conjunction with emission control devices, each owner or operator shall include in the initial compliance report the weighted average of the VOC content of coatings used during the period of one calendar month for each affected facility. Values must be separated if the control device was used intermittently. Where compliance is achieved using an emission control device that destroys VOCs, each owner or operator shall include in the initial compliance report the overall VOC destruction rate used to attain compliance and the combustion temperature of the thermal incinerator or the gas temperature both upstream and downstream of the incinerator catalyst bed. Subpart TT also requires reports of incinerator temperature drop. Affected facilities shall report quarterly excess emissions or semiannual reports if no emissions occur. Any owner or operator subject to the provisions of NSPS subpart TT, shall maintain at the

source, for a period of at least two years, records of all data and calculations.

Burden Statement: There are 143 existing sources, and it is estimated that an additional 6 sources per year will become subject to the requirements. The initial performance test requires approximately 60 person-hours. It is assumed that 20% of the initial performance tests will be repeated due to failure. The initial notifications each require 2 hours. Semiannual emissions reporting will require about 5 hours and temperature variance reports require 4 person-hours. Recordkeeping requirements of monthly performance tests require one hour. To record the operating parameters requires 0.25 hours and it is assumed the plant operates 250 days a year.

(11) NSPS Subpart WW, Beverage Can Surface Coating; EPA ICR Number 0663, and OMB Control Number 2060-0001, Expires September 30, 1999

The New Source Performance Standards (NSPS) for Beverage Can Surface Coating were proposed on November 26, 1980 and promulgated on August 25, 1983. These standards apply to following affected facilities in the beverage can surface coating lines: each exterior base coat operation, each overvarnish coating operation, and each inside spray coating operation. These standards apply to coating facilities commencing construction, modification or reconstruction after the November 26, 1980.

Approximately 24 sources are currently subject to the standard. It is estimated that an additional 2 sources per year will become subject to the standard in the next three years. Volatile organic compounds (VOCs) are the pollutants regulated under NSPS subpart WW.

Owners or operators of the affected facilities described must make the following one-time only reports: Notification of the date of construction or reconstruction; notification of the anticipated and actual dates of a start up; notification of any physical or operational change to an existing facility which may increase the regulated pollutant emission rate; notification of the date of the initial performance test; and results of the initial performance test. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shut down, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative.

Monitoring requirements specific to Beverage Can Surface Coating Operations include monthly

performance tests to assure compliance with the performance standard for mass of VOCs per volume of coating solids. Additional monitoring is required only if a capture system and incineration are used. It is assumed 80% of sources use incineration. Owners or operators of the affected facilities using incineration are also required to install, calibrate, and maintain temperature measurement devices. If thermal incineration is used, the device shall be installed in the firebox. If catalytic incineration is used the devices shall be placed both upstream and downstream of the catalyst bed. The temperature must be continuously monitored and recorded.

Records must be maintained if the VOC content of coatings is below the specified limits. If one or more coatings used the volume weighted average of the total mass of VOC per volume of coating solids must be recorded. When thermal or catalytic incineration is performed, the owner shall keep records of each three-hour period during which the incinerator temperature averaged more than 28 degrees Celsius below the temperature of the most recent performance test at which destruction efficiency was determined. The owners or operators shall identify, record and submit quarterly reports of each instance in which the volume-weighted average of the total mass of VOCs per volume of coating solids exceeded the standard. If there are no exceedances reports shall be submitted semiannually.

Owners or operators are required to maintain a file of all measurements including the monitoring device, and performance testing measurements; all monitoring device calibration check adjustments and maintenance performed on these systems recorded in a permanent file, suitable for inspection and retained at the facility for a minimum period of two years.

Burden Statement: The average annual burden to industry over the next three years from these recordkeeping and reporting requirements is estimated at 3,092 person-hours. Initial performance test requires approximately 60 person-hours. Assume 20% of the initial performance tests will be repeated due to failure. The initial notifications each require 2.0 hours. Semiannual emissions reports require 5.0 hours and temperature variance reports 4.0 person-hours. Recordkeeping requirements of monthly performance tests require one hour. To record the operating parameters requires 0.25 hours and it is assumed the plant operates 365 days a year.

(12) NSPS Subpart DDD, VOC Emissions From the Polymer Manufacturing Industry, EPA ICR Number 1150, and OMB Control Number 2060-0145, Expires November 30, 1999

The standards apply to affected facilities involved in the manufacture of polypropylene, polystyrene, or poly (ethylene terephthalate) commencing construction, modification or reconstruction after January 10, 1989, depending on the process section.

Approximately 75 sources are currently subject to the standard and it is estimated that an additional 10 sources per year will become subject to the standard in the next three years. Volatile organic compounds (VOCs) are the pollutants regulated under this Subpart.

Owners or operators of the affected facilities must make the following one-time only reports: Notification of the date of construction or reconstruction; notification of the anticipated actual dates of startup; notification of any physical or operational change to an existing facility which may increase the regulated pollutant emission rate; notification of demonstration of the continuous monitoring system (CMS); notification of the date of the initial performance test; and results of the initial performance test. Owners and operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of the affected facility, or any period during which the monitoring system is inoperative.

In addition, owners/operators of the affected facilities are required to record periods of operation during which the performance standards are exceeded, results of flare pilot flame monitoring, all periods of operation of a boiler or process heater, and to continuously record the indication of any emission stream diverted away from the control device. In general, these records are required to be maintained for at least two years following the dates of such measurements or records.

Approximately one facility per year will conduct the initial performance test and it takes approximately 360 hours to conduct. It is estimated that approximately 20 percent of performance tests are repeated due to failure. Report writing including notifications of construction/modification, anticipated startup, and initial performance test takes approximately two hours per occurrence once a year for up to 10 respondents. Notification of actual startup takes approximately one hour once per year

for up to 10 respondents. (Assumes a growth rate of 10 facilities per year.) Semi-annual reports take approximately 3 hours twice per year for 75 respondents. Recordkeeping for operating parameters and exceedances take approximately 8 hours once per year and records of startup, shutdown or malfunction take 1.5 hours per occurrence per year for 75 respondents.

(13) NSPS Subpart GGG, Petroleum Refineries; EPA ICR Number 0983, and OMB Control Number 2060-0067, Expires August 31, 1999

Entities potentially affected by this action are process units at petroleum refineries that commenced construction, modification, or reconstruction after January 4, 1983. Affected process units include each group of equipment assembled to produce intermediate or final products from petroleum, unfinished petroleum derivatives, or other intermediates. Owners or operators of the affected facilities described must make the following one-time-only reports: notifications of the anticipated and actual date of startup, notification of the date of construction or reconstruction, notification of any physical or operational change to an existing facility which may increase the emission rate of any regulated air pollutant, notification of the date of the initial performance test, and results of the performance tests. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility. These notifications, reports and records are required in general, of all sources subject to NSPS.

NSPS GGG directs sources to comply with the requirements of NSPS VV. Semiannual reports are required to measure compliance with the standards of NSPS subpart VV. Monthly monitoring of equipment in VOC service shall take place as specified in subpart, VV section 60.485(b). If no leaks are detected for two successive months, monitoring may be performed once per quarter. If a leak is detected, the equipment shall be monitored monthly until a leak is not detected for two successive months. Also, leak location shall be recorded in a log, and this information shall be kept available for at least two years. Leaks shall be repaired within 15 days and the date of successful repair shall be recorded in the log.

Semiannual reports shall be submitted itemizing information for each month. All reports are to be sent to the delegated State or local authority. In the event that there is no such

delegated authority, the reports are sent directly to the EPA Regional office. Notifications are used to inform the agency or delegated authority when a source becomes subject to the standard. The reviewing authority may then inspect the source to check if the standard is being met. Performance test results are needed as these are the Agency's record of a sources initial capacity to meet the standard. The semiannual reports are used for problem identification, as a check on source operations and maintenance, and for compliance determinations.

In the Administrator's judgement, VOC emissions from process units cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Therefore, New Source Performance Standards have been promulgated for this source category as required under section 111 of the Clean Air Act.

The control of emissions of VOC from process units requires not only the installation of properly designed equipment, but also the proper operation and maintenance of that equipment so that emissions can be minimized. VOC emissions from process units are the result of equipment leaks. These standards rely on the maintenance of the equipment and adequate monitoring. To ensure compliance with these standards, adequate recordkeeping and reporting is necessary. In the absence of such information collection requirements, enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act and in accordance with any applicable permit.

Burden Statement: The Agency computed the burden for each of the recordkeeping and reporting requirements applicable to the industry. Where appropriate, the Agency identified specific tasks and made assumptions, while being consistent with the concept of burden under the Paper Work Reduction Act.

The estimate was based on the assumption that there would be three new affected facilities each year and that there was an average of 34 sources in existence at the start of the three years covered by the ICR. For the new sources, it was estimated that it would take: one hour to read the instructions, 8 person-hours to gather the information to write the initial reports and 28 person-hours to conduct the initial performance tests (assuming that 60% of the tests must be repeated). For all sources, it was estimated that it would take approximately 19 person-hours to fill out the excess emission reports, and

approximately 129 person-hours to enter information for records of operating parameters (assuming a source operates 365 days per year and that it takes 0.3 hours per occurrence).

(14) NSPS Subpart HHH, Synthetic Fiber Production; EPA ICR Number 1156, and OMB Control Number 2060-0059, Expires October 31, 1999

The New Source Performance Standards (NSPS) for subpart, HHH-Synthetic Fiber Production Facilities were proposed on November 23, 1982 and promulgated on April 5, 1984. These standards apply to each solvent spun synthetic fiber process that produces more than 500 megagrams of fiber per year that commenced construction after November 23, 1982. The provisions of this subpart do not apply to facilities that use the reaction spinning process to produce spandex fiber or the viscose process to produce rayon fiber, nor to facilities that commence modification but not reconstruction after November 23, 1982. Twenty eight sources are currently subject to the standard. It is estimated that an additional one source per year will become subject to the standard in the next three years. VOCs are the pollutants regulated under NSPS subpart HHH.

Owners or operators of the affected facilities must make the following one-time only reports: Notification of the date of construction or reconstruction; notification of the anticipated and actual date of a start up; notification of any physical or operational change to an existing facility which may increase the regulated pollutant emission rate; notification of the demonstration of the continuous monitoring system (CMS); notification of the date of the initial performance test; and results of the initial performance test. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shut down, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative.

Any owner or operator subject to the provisions of this part shall maintain a file for a minimum of two years following the date of such measurements, maintenance reports and records.

Burden Statement: The average annual burden to industry over the next three years from these recordkeeping and reporting requirements is estimated at 2448.65 person-hours. The initial performance test done by new sources requires approximately 72 person-hours per test. It is assumed that 20% of the initial performance test will be repeated

due to failure. Written notifications of construction, modification, notification of initial performance test and demonstration of CMS require 2.0 person-hours each test. Records of anticipated and actual startups, shutdowns and malfunctions require 2.0 hours each test to enter information. VOC emission reports require 8.0 person-hours. It is assumed that each affected facility must submit one quarterly report every other year, in addition to semiannual reports.

(15) NSPS Subparts III and NNN, SOCM I Air Oxidation and Distillation; EPA ICR Number 0998, and OMB Control Number 2060-0197, Expires August 31, 1999

This ICR contains recordkeeping and reporting requirements that are mandatory for compliance with 40 CFR 60.610, Subpart III, Standards of Performance for VOC Emissions from SOCM I Air Oxidation Unit Processes and 40 CFR 60.660, Subpart NNN, Standards of Performance for VOC from SOCM I Distillation Operations. This information is used by the Agency to identify sources subject to the standards and to insure that the best demonstrated technology is being properly applied. The standards require periodic recordkeeping to document process information relating to the sources' ability to meet the requirements of the standard and to note the operation conditions under which compliance was achieved.

In the Administrator's judgment, VOC emissions from SOCM I air oxidation unit processes and distillation operations cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Therefore, NSPS were promulgated for this source category.

Owners or operators of the affected facilities described must make the following one-time-only reports: Notification of the date of construction or reconstruction; notification of the anticipated and actual dates of startup; notification of any physical or operational change to an existing facility which may increase the regulated pollutant emission rate; notification of the date of the initial performance test; and the results of the initial performance test. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports and records are required, in general, of all sources subject to NSPS.

In addition, owners/operators of affected facilities are required to record periods of operation during which the performance boundaries are exceeded, results of flare pilot flame monitoring, all periods of operation of a boiler or process heater, and to continuously record the indication of vent stream flow to the control device. Records of startups, shutdowns, and malfunctions should be noted as they occur. Any owner or operator subject to the provisions of this part shall maintain a file of all of these records, and retain the file for at least two years following the date of such measurements and records.

The reporting requirements for this industry currently include the initial notifications listed, the initial performance test results, and semiannual reports. Semiannual reports shall include the following: All exceedances of parameter boundaries; all periods during which the vent stream is diverted from the control device or has no flow rate; all periods when the boiler or process heater was not operated; all periods in which the pilot flame of the flare was absent; and any recalculation of the TRE index value. All reports are sent to the delegated State or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA Regional Office. Notifications are used to inform the Agency or delegated authority when a source becomes subject to the standard. The reviewing authority may then inspect the source to check if the pollution control devices are properly installed and operated and the standard is being met. Performance test reports are needed as these are the Agency's records of a source's initial capability to comply with the emission standard, and note the operating conditions under which compliance was achieved. The semiannual reports are used for problem identification, as a check on source operation and maintenance, and for compliance determinations.

Burden Statement: The Agency computed the burden for each of the recordkeeping and reporting requirements applicable to the industry for the currently approved ICR. Where appropriate, the Agency identified specific tasks and made assumptions, while being consistent with the concept of burden under the Paperwork Reduction Act.

The burden estimates for NSPS subpart III: The estimate was based on the assumption that there would be 10 new affected facilities each year and that there would be an annual average of 75 affected facilities over each of the three years covered by the ICR. For new

sources, it was estimated that it would take: 1 person hour to read the instructions, 60 person hours to conduct the initial performance tests (assuming that 20% of the tests must be repeated), and 7 person hours to gather the information and write the initial reports. For all sources, it was estimated that it would take: 6 person hours to fill out semiannual reports and 84 person hours to enter information for records of operating parameters.

The burden estimates for NSPS subpart NNN: The estimate was based on the assumption that there would be 236 new affected facilities each year and that there would be an annual average of 1770 affected facilities over each of the three years covered by the ICR. For new sources, it was estimated that it would take: 1 person hour to read the instructions, 72 person hours to conduct the initial performance tests (assuming that 20% of the tests must be repeated), and approximately 7 person hours to gather the information and write the initial reports. For all sources, it was estimated that it would take: 6 person hours each to fill out semiannual reports and 84 person hours each to enter information for records of operating parameters.

(16) NSPS Subpart JJJ, Petroleum Dry Cleaners; EPA ICR Number 0997, and OMB Control Number 2060-0079, Expires November 30, 1999

The information collected is needed to determine which sources are subject to the regulation and whether these sources are in compliance with the standards. EPA is required to under section 111 of the Clean Air Act, as amended, to establish standard of performance for new stationary sources. Volatile organic compounds (VOC) are the pollutants regulated under this Subpart. The standards require that any affected petroleum dry cleaning dryer be a solvent recovery dryer.

Owners or operators of the affected facilities described must make the following one-time-only reports: notification of the date of construction or reconstruction; notification of the anticipated and actual dates of startup; notification of any physical or operational change to an existing facility which may increase the regulated pollutant emission rate; and the notification of the date of the initial performance test. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of the affected facility. These notifications, reports and records are required, in general, of all sources subject to NSPS. Notifications are used

to inform the Agency or delegated authority when a source becomes subject to the standard. Performance test records are needed as these are the Agency's record of a source's initial capability to comply with the emission standards.

Recordkeeping requirements specific to petroleum dry cleaners include only the performance test required under section 60.624. There are no reporting requirements specific to subpart JJJ. Under the General Provisions for NSPS under section 60.7, the owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility. These records are required of all sources subject to NSPS.

Burden Statement: The estimate was based on the assumption that there are approximately 270 sources currently subject to the standard, and it is estimated that an additional 18 sources per year will become subject to the standard in the next three years. For new sources it is estimated that it takes a respondent 82.4 person hours for recordkeeping and reporting. This is based upon 69 person-hours for reporting, which includes 61 hours for the initial performance test, reading instructions, and planning activities; two hours each for the notification reports (construction/modification, anticipated startup, actual startup, and initial performance test); and 1 person-hour for recording the performance test recordkeeping. It also assumes that 20% of the performance tests will required repeat tests. The frequency of these reports is once. The annual burden to industry is 1,483 person hours per year. 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.

(17) NSPS Subpart RRR, SOCM I Reactor Processes; EPA ICR Number 1178, and OMB Control Number 2060-0269, Expires September 30, 1999

Entities potentially affected by this action are those which are subject to the Standards of Performance of Volatile Organic Compound (VOC) emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes, subpart RRR with the exceptions listed in 40 CFR 60.760 (c). This ICR contains recordkeeping and reporting requirements that are mandatory for compliance with 40 CFR 60.700, subpart RRR, Standards of Performance for VOC Emissions from SOCM I Reactor Processes. This information is used by the Agency to

identify sources subject to the standards and to insure that the best demonstrated technology is being properly applied. The standards require periodic recordkeeping to document process information relating to the sources' ability to meet the requirements of the standard and to note the operation conditions under which compliance was achieved.

In the Administrator's judgment, VOC emissions from SOCM I reactor processes cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Therefore, NSPS were promulgated for this source category.

Owners or operators of the affected facilities described must make the following one-time-only reports: notification of the date of construction or reconstruction; notification of the anticipated and actual dates of startup; notification of any physical or operational change to an existing facility which may increase the regulated pollutant emission rate; notification of the date of the initial performance test; and the results of the initial performance test. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports and records are required, in general, of all sources subject to NSPS. In addition, owners/operators of affected facilities are required to record periods of operation during which the performance boundaries are exceeded, results of flare pilot flame monitoring, all periods of operation of a boiler or process heater, and to continuously record the indication of vent stream flow to the control device. Records of startups, shutdowns, and malfunctions should be noted as they occur. Any owner or operator subject to the provisions of this part shall maintain a file of all of these records, and retain the file for at least two years following the date of such measurements and records.

The reporting requirements for this industry currently include the initial notifications listed, the initial performance test results, and semiannual reports. Semiannual reports shall include the following: All exceedances of parameter boundaries; all periods during which the vent stream is diverted from the control device or has no flowrate; all periods when the boiler or process heater was not operated; all periods in which the pilot flame of the flare was absent; and

any recalculation of the TRE index value.

All reports are sent to the delegated State or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA Regional Office. Notifications are used to inform the Agency or delegated authority when a source becomes subject to the standard. The reviewing authority may then inspect the source to check if the pollution control devices are properly installed and operated and the standard is being met. Performance test reports are needed as these are the Agency's records of a source's initial capability to comply with the emission standard, and note the operating conditions under which compliance was achieved. The semiannual reports are used for problem identification, as a check on source operation and maintenance, and for compliance determinations.

Burden Statement: The Agency computed the burden for each of the recordkeeping and reporting requirements applicable to the industry for the currently approved ICR. Where appropriate, the Agency identified specific tasks and made assumptions, while being consistent with the concept of burden under the Paperwork Reduction Act.

The existing ICR (1996) burden estimates for NSPS Subpart RRR was based on the assumption that there would be 27 new affected facilities each year and that there would be an annual average of 203 affected facilities over each of the three years covered by the ICR. For new sources, it was estimated that it would take each affected facility: 1 hour to read the instructions, 426 person-hours to conduct the initial performance tests (assuming that 20% of the tests must be repeated), and 16 person-hours to gather the information and write the initial reports. For all sources, it was estimated that it would take each: 4-person hours to fill out semiannual reports and approximately 18 person-hours to enter information for records of operating parameters.

(18) NESHAP Subpart FF, Benzene Waste; EPA ICR Number 1541, and OMB Control Number 2060-0183, Expires September 30, 1999

The provisions of this subpart apply to owners and operators of chemical manufacturing plants, coke by-product recovery plants, and petroleum refineries. In addition, this subpart applies to owners and operators of hazardous waste treatment, storage, and disposal facilities that treat, store, or dispose of hazardous waste generated from the above facilities.

The calculation of total annual benzene (TAB) quantity in all aqueous waste streams determines whether a facility is subject to control requirements of the rule. A facility at or above the TAB threshold in the rule of 10 megagram per year (Mg/yr) is required to control each benzene waste stream at the facility or demonstrate that the waste stream meets a criterion in the rule for exemption from control. A facility with a TAB below 10 Mg/yr is only subject to the rule's reporting and recordkeeping provisions, unless the facility receives a waste from offsite that must be controlled to meet subpart FF in which case that waste must be controlled. A facility with a TAB less than 1 Mg/yr is only subject to maintain documentation of the quantity of benzene in the waste.

Owners or operators of the affected facilities described above must make the following one-time-only notices or reports: Notifications of anticipated and actual startup; notification of emission test, report following an emission test; notification of any physical/operational changes (i.e., modification) that could increase emissions, a monitoring system performance test; and a report following a monitoring system performance test. These notifications and reports are general provisions and required of all sources subject to any NESHAP.

Reporting requirements specific to benzene waste operations include submission, within 90 days after January 7, 1993 or by the initial startup for a new source, of an initial report that summarizes the regulatory status of each waste stream containing benzene. Each owner or operator who has no benzene onsite in wastes, products, byproducts, or intermediary shall submit an initial report that is a statement to this effect.

If the TAB quantity from facility waste is less than 1 Mg/yr, then the owner and operator shall submit a report that updates its regulatory status whenever there is a change in the process that may cause the TAB to increase. If the TAB is less than 10 Mg/yr but equal to or greater than 1 Mg/yr, then the owner or operator shall submit to a report that updates the regulatory status of each waste stream containing benzene. The report shall be submitted annually and whenever there is a change in the process generating the waste stream that could cause the total annual benzene quantity from facility waste to increase to 10 Mg/yr or more. If the information in the annual report is not changed in the following year, the owner or operator may submit a statement to that effect.

If the total annual benzene quantity from facility waste is equal to or greater

than 10 Mg/yr, then the owner or operator shall submit to the following reports:

(1) Within 90 days after January 7, 1993, or by the date of initial startup for a new source with an initial startup after the effective date, a certification that the equipment necessary to comply with these standards has been installed and that the required initial inspections or tests have been carried out in accordance with this subpart.

(2) Beginning on the date that the equipment necessary to comply with these standards has been certified, the owner or operator shall submit annually a report that updates the regulatory status of each stream.

(3) Beginning three months after the date that the equipment necessary to comply with these standards has been certified, the owner or operator shall submit quarterly a certification that all of the required inspections have been carried out in accordance with the requirements of this subpart.

(4) Beginning three months after the date that the equipment necessary to comply with these standards has been certified, the owner or operator shall submit a report quarterly that summarizes all the monitoring of operations.

(5) Beginning one year after the date that the equipment necessary to comply with these standards has been certified, the owner or operator shall submit annually a report that summarizes all inspections during which detectable emissions are measured or a problem (such as a broken seal, gap or other problem) that could result in benzene emissions is identified, including information about the repairs or corrective action taken.

Monitoring and record keeping requirements specific to benzene waste operations includes maintaining records that identify each waste stream at the facility subject to this subpart, and indicate whether the waste stream is controlled for benzene emissions in accordance with this subpart. In addition the owner or operator shall maintain the following records:

(1) For each waste stream not controlled for benzene emissions in accordance with this subpart, the records shall include all test results, measurements, calculations, and other documentation used to determine the following information for the waste stream: Waste stream identification, water content, whether or not the waste stream is a process wastewater stream, annual waste quantity, range of benzene concentrations, annual average flow-weighted benzene concentration, and annual benzene quantity.

(2) For each process wastewater stream not controlled for benzene emissions, the records shall include all measurements, calculations, and other documentation used to determine that the continuous flow of process wastewater is less than 0.02 liters per minute or the annual waste quantity of process wastewater is less than 10 Mg/yr.

(3) For each facility where process wastewater streams are controlled for

benzene emissions, the records shall include for each treated process wastewater stream all measurements, calculations, and other documentation used to determine the annual benzene quantity in the process wastewater stream exiting the treatment process.

(4) For each facility where wastewater streams are controlled for benzene emissions, the records shall include all measurements, calculations, and other documentation used to determine the annual benzene quantity in the wastewater streams exiting wastewater treatment systems at the facility.

(5) Owners or operators transferring waste off-site to another facility for treatment shall maintain documentation for each offsite waste shipment that includes the following information: date waste is shipped offsite, quantity of waste shipped offsite, name and address of the facility receiving the waste, and a copy of the notice sent with the waste shipment.

(6) An owner or operator of control equipment, shall maintain engineering design documentation for all control equipment installed on the waste management unit. The documentation shall be retained for the life of the control equipment.

Burden Statement: Most of the industry costs associated with the information collection activity in the standards are labor. The current average annual burden to industry from these record keeping and reporting requirements is estimated at 17,028 person-hours.

Based upon available information, it has been estimated that 395 facilities are subject to the standards and 140 of those are estimated to have more than 10 Mg/yr of benzene in the waste. In addition, the EPA estimates that these 140 facilities have a total of 2,819 waste streams per facility for which initial benzene concentration determination could be made. A total of 57 facilities are estimated to have more than 50 Mg/yr of benzene in their wastes and are expected to apply controls without applying for exceptions.

(19) NESHAP Subpart M, Asbestos; EPA ICR Number 0111, and OMB Control Number 2060-0101, Expires September 30, 1999

Owners or operators of the affected milling, manufacturing, fabricating, waste disposal, and waste conversion facilities described must make the following one-time-only reports: Notification of the date of construction or reconstruction; notification of the anticipated and actual dates of startup; notification of any physical or operational change to an existing facility which may increase the regulated pollutant emission rate. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or

malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Therefore, the recordkeeping requirements for the facilities mentioned above consist of the occurrence and duration of any startup and malfunction as described. They include the initial performance test results including information necessary to determine the conditions of the performance test, the performance test measurements and results, including monitoring each potential source of asbestos emissions for visible emissions to the outside air and inspecting air cleaning devices to ensure proper operation. Records of startups, shutdowns, and malfunctions should be noted as they occur. Any owner or operator subject to the provisions of this subpart shall maintain a file of these measurements for at least two years following the date of such measurements, maintenance reports, and records. The reporting requirements for this industry currently include the initial notifications listed, the initial performance test results, and quarterly reports of instances when visible emissions are observed at any time during the quarter.

Owners or operators of demolitions and renovations must notify EPA in advance of the initiation of any asbestos removal work. The notice provides information on the dates of operation, the nature of the removal operation, the quantity of asbestos, and controls to be used. The reviewing authority may then inspect the source to ensure compliance with the standard. Demolitions and renovations tend to be short projects, and it is difficult at best to determine compliance with the standard once the project has been completed. Therefore, it is important that the delegated authority be renotified as necessary when information in the original notification changes. Additionally, without renotification, the Agency or delegated authority may needlessly inspect a demolition or renovation site where the project has been delayed. The demolition and renovation standard requires that a representative (such as a foreman or management-level person) trained in the provisions of the standard be present at the facility. Evidence that the required training has been completed is required in order to ensure compliance with the provisions of the standard. The regulation requires asbestos removal contractors that claim exemption from the wetting provisions because of freezing temperatures to take temperature readings throughout the day and record the information. The

provisions require that all containers of asbestos waste be labeled including the name of the waste generator and the location of where the waste was generated. Owners or operators of demolitions and renovations are required to prepare and maintain, for at least two years, records of waste shipment as to its destination, the quantity of waste, the date of shipment, and to furnish a copy of the record to disposal site owners or operators. The regulation also requires that generators of asbestos waste attempt to reconcile instances in which a signed copy of the waste shipment record is not received from the disposal site and that the generator notify EPA if delivery to the disposal site cannot be confirmed.

Owners or operators of waste disposal sites are required to document all asbestos waste shipments that are received and send a copy of each record back to the generator. A record of the location and quantity of asbestos in the landfill is required as well as noting the presence and location of asbestos in the landfill property deed. Disposal site owners or operators have to report to EPA any discrepancies between the amount of waste designated on the waste shipment record and the amount actually received, as well as instances of improperly contained waste. Disposal sites are required to maintain records for at least two years. An owner or operator of an operation in which asbestos-containing materials are spray-applied must notify EPA in advance of the spraying operation. The notice provides information on the name and address of the owner or operator, location of the spraying operation, and procedure to be followed.

In the Administrator's judgement, asbestos emissions from the demolition or renovation of asbestos-containing structures; the disposal of asbestos waste; asbestos milling, manufacturing, and fabricating; the use of asbestos on roadways; the use of asbestos insulation and spray materials; and the conversion of asbestos-containing waste material into nonasbestos material cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Therefore, a NESHAP was promulgated under section 112 of the Clean Air Act for this source category. The control of emissions of asbestos from the regulated sources requires not only the installation of properly designed equipment, but also the operation and maintenance of that equipment and following specified work practices. These standards rely on the capture and reduction of asbestos emissions by air cleaning equipment and specified work

practices. Effective enforcement of the standard is particularly necessary in light of the hazardous nature of asbestos. In order to ensure compliance with the standards, adequate recordkeeping is necessary. In the absence of such information, enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act.

Burden Statement: The Agency computed the burden for each of the recordkeeping and reporting requirements applicable to the industry. Where appropriate the Agency identified specific tasks and made assumptions, while being consistent with the concept of burden under the Paper Work Reduction Act.

The estimate was based on the assumption that there was an average of 70,380 sources of demolitions or renovations per year (completed by approximately 6,900 contractors), and that 3,447 sources for milling, manufacturing, fabricating and waste disposal were subject to the standard. For demolitions and renovations, it was estimated that it would take 1 hour for each of the 6,900 respondents to read the instructions, 164,565 person-hours to write notifications (assuming that there are 12,420 renotifications at 0.25 person-hours per renotification) and excepted waste shipment record reports, 6.7 person-hours per respondent to record information and mark vehicles, and 12 person-hours per respondent to train supervisors. For milling, manufacturing, and fabricating, it was estimated that there was 430 respondents, and that it would take 1 person-hour each to read the instructions, 106.3 hours per respondent to record the information and mark vehicles, 3 person-hours per respondent to write the reports and develop the record system. For waste disposal, it was estimated that there were 3,017 respondents, and that it would take each respondent 1 hour to read the instructions, approximately 23 person-hours per respondent to create and gather the information, and 3.5 person-hours per respondent to write the reports.

Dated: May 27, 1999.

Bruce R. Weddle,

Acting Director, Office of Compliance.

[FR Doc. 99-14221 Filed 6-3-99; 8:45 am]

BILLING CODE 6560-50-U

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-6243-3]

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 May 24, 1999 Through May 28, 1999

Pursuant to 40 CFR 1506.9.

EIS No. 990171, FINAL EIS, RUS, MN, SD, Lincoln-Pipestone Rural Water (LPRW), Development and Expansion of Existing System North/Lyon County Phase and Northeast Phase Expansion Project, Yellow Medicine, Lincoln and Lyon Counties, MN and Deuel County, SD, Due: July 06, 1999, Contact: Mark S. Plank (202) 720-1649.

The above RUS EIS should have appeared in the 06/04/99 **Federal Register**. The 30-day Comment Period is Calculated from 06/04/99.

EIS No. 990173, DRAFT SUPPLEMENT, NRC, Generic EIS—License Renewal of Nuclear Plants for the Oconee Nuclear Station, Units 1, 2 and 3, Implementation, Oconee County, SC, Due: August 16, 1999, Contact: James H. Wilson (301) 415-1108.

The above NRC EIS should have appeared in the 05/28/99 **Federal Register**. The 45-day Comment Period is Calculated from 05/28/99.

EIS No. 990174, FINAL EIS, AFS, CA, Rock Creek Recreational Trails Management Plan, Implementation, Eldorado National Forest, Georgetown Ranger District, Eldorado County, CA, Due: July 06, 1999, Contact: Joe Krueger (530) 333-4312.

EIS No. 990175, FINAL EIS, EDA, PA, Lackawanna County New Business Park, Development and Operation, Funding Support from Economic Development Administration (EDA) under Title I, Site Lies Within Moosic Mountain Range, Straddling Jessup and Olyphant Boroughs, Lackawanna County, PA, Due: July 06, 1999, Contact: Edward Hummel (215) 597-6767.

EIS No. 990176, DRAFT EIS, AFS, ID, Long Prong Project, Timber Harvesting, Road Construction and Reconstruction, Boise National Forest, Cascade Ranger District, Valley

County, ID, Due: July 19, 1999, Contact: David D. Rittenhouse (208) 373-4100.

EIS No. 990177, DRAFT EIS, NPS, NB, Homestead National Monument of America, General Management Plan, Implementation, Gage County, NB, Due: July 19, 1999, Contact: Michael Madell (608) 264-5257.

EIS No. 990178, LEGISLATIVE FINAL EIS, AFS, CA, Tahoe National Forest and Portion of Plumas and EL Dorado National Forests, Implementation, Twenty-Two Westside Rivers for Suitability and inclusion in the National Wild and Scenic Rivers System, Wild and Scenic River Study, Placer, Nevada, Sierra, Plumas, EL Dorado and Yuba Counties, CA, Due: July 06, 1999, Contact: Phil Horning (530) 498-6210.

The U.S. Department of Agriculture's Forest Service and the U.S. Department of Interior's Bureau of Land Management are Joint Lead Agencies for this Project.

EIS No. 990179, FINAL EIS, NOA, MN, Minnesota's Lake Superior Coastal Program, Approval and Implementation, St. Louis and Cook Counties, MN, Due: July 06, 1999, Contact: Joseph A. Uravitch (301) 713-3155 ext. 195.

EIS No. 990180, FINAL EIS, NPS, LA, New Orleans Jazz National Historical Park, General Management Plan, Implementation, City of New Orleans, Parish of Orleans, LA, Due: July 06, 1999, Contact: Gayle Hazelwood (504) 589-4806 ext. 22.

EIS No. 990181, DRAFT EIS, FHW, MI, Boardman River Crossing Mobility Study, Improve the East-West Mobility across the Boardman River, COE Permit, Traverse City and Grand Traverse County, MI, Due: July 30, 1999, Contact: James A. Kirschensteiner (517) 377-1880.

EIS No. 990182, DRAFT EIS, JUS, AL, Center for Domestic Preparedness (CDP), Expand Training for State and Local Emergency First Responders, Located at Fort McClellan, Calhoun, Cleburne, Randolph, Clay, Talladega, St. Clair, Etowah and Cherokee Counties, AL, Due: July 19, 1999, Contact: LZ Johnson (256) 848-7043.

Dated: June 1, 1999.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 99-14224 Filed 6-3-99; 8:45 am]

BILLING CODE 6560-50-U

ENVIRONMENTAL PROTECTION AGENCY

(ER-FRL-6243-4)

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared May 10, 1999 through May 14, 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 9, 1999 (64 FR 17362).

Draft EISs

ERP No. D-FHW-E50292-FL Rating EC1, St. Augustine Bridge of Lions (SR AIA Rehabilitating or Replacing the Existing Two Lane Bridge, Crossing of the Matanzas River/Intracoastal Waterway, US Coast Guard Permit, NPDES and COE Nationwide Permits, St. Augustine, St. John County, FL.

Summary: EPA's review found that impacts were adequately described. Concern was raised over water quality degradation during the construction phase of the project.

ERP No. D-FHW-F40382-MN Rating EC2, Ayd Mill Road Corridor, Improvements from I-35 E to St. Anthony Avenue (I-94) 2.6 kilometer (1.6 miles), Funding, Ramsey County, City of Saint Paul, MN.

Summary: EPA expressed environmental concerns regarding (1) purpose and need statement, (2) contaminated sites remediation, and (3) treatment of storm water runoff. EPA requested that additional information be provided in the final document to address these concerns.

ERP No. D-FHW-K40235-CA Rating EC2, California Forest Highway 137, Improvements to Wentworth Springs Road and the Stumpy Meadows Reservoir Dam eastward (14.4 miles) to Ice House Road, Eldorado National Forest, El Dorado County, CA.

Summary: EPA expressed environmental concerns because the document did not reflect the consideration of pollution prevention measures. EPA recommended that the FEIS include such pollution prevention measures for the project's design, construction and maintenance, and that these measures be included in the record of decision.

Final EISs

ERP No. F-DOE-A09829-00 Spallation Neutron Source (SNS) Facility Construction and Operation, Implementation and Site Selection, Oak Ridge National Laboratory, Oak Ridge, TN; Argonne National Laboratory, Argonne, IL; Brookhaven National Laboratory, Upton, NY; and Los Alamos National Laboratory, Los Alamos, NM.

Summary: EPA's previous concerns have been resolved therefore EPA does not object to proceeding with detailed design work and site evaluation for this project. Should these studies produce significant new information or adverse environmental impacts, EPA will review DOE's supplemental EIS.

ERP No. F-FHW-K40227-CA I-880 Interchange at Dixon Landing Road Reconstruction Improvements, Funding and COE Section 404 Permit, Fremont, Milpitas, Alameda and Santa Clara Counties, CA.

Summary: EPA expressed continuing concerns with potential impacts to nearly 17 acres of wetlands and salt marsh harvest mouse habitat. EPA asked that FHWA's Record of Decision discuss whether opportunities may still exist to avoid and reduce adverse impacts to wetlands as project development proceeds, in keeping with Clean Water Act Section 404 requirements.

EPA recommended that several issues regarding mitigation for wetland impacts be included in the Record of Decision, including a 2:1 mitigation ratio for wetlands loss rather than the 1:1 ratio proposed in the EIS.

ERP No. F-FHW-L40197-OR Mount Hood Corridor Study, US 26 Rhododendron to OR-35 Junction, Improvements, Funding, Clackamas County, OR.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F-USA-F11034-IN Camp Atterbury Training Areas and Facilities Upgrading, Implementation, Bartholomew, Brown, Johnson, Marion and Shelby Counties, IN.

Summary: EPA has no objection to the proposed action but did encourage ongoing management of resources in the Integrated Natural Resource Management Plan (INRMP) and other resource management plans for Camp Atterbury.

Other

ERP No. LF-UAF-K11095-AZ Barry M. Goldwater Ranger (BMGR), Renewal of the Military Land Withdrawal, Yuma, Pima and Maricopa Counties, AZ.

Summary: EPA continues to object to the length of the withdrawal time

period. EPA recommended a new 10 year alternative be provided.

ERP No. LF-UAF-K11096-NV Nellis Air Force Range (NAFR), Renewal of the Land Withdrawal to Provide a Safe and Secure Location to Test Equipment and Train Military Personnel, Clark, Lincoln and Nye Counties, NV.

Summary: EPA continues to object to the excessively long proposed periods between public reviews of the land withdrawal (i.e. indefinitely or 25 years) of the roughly 3 million acre area. EPA recommended a new 10 year alternative be provided.

Dated: June 1, 1999.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 99-14225 Filed 6-3-99; 8:45 am]

BILLING CODE 6560-50-U

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6354-2]

Transport One Acid Spill Superfund Site, Mt. Vernon, Rockcastle County, KY, Notice of Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: Under section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Environmental Protection Agency (EPA) has proposed to settle claims for response costs at the Transport One Acid Spill Superfund Site (the "Site") located in Mt. Vernon, Rockcastle County, Kentucky with Chemtech Products, Inc. EPA will consider public comments on the proposed settlement for thirty days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region 4, Program Services Branch, Waste Management Division, 61 Forsyth Street, SW., Atlanta, Georgia 30303, (404) 562-8887.

Written comments may be submitted to Ms. Batchelor at the above address within 30 days of the date of publication.

Dated: May 6, 1999.

Franklin E. Hill,

Chief, Program Services Branch, Waste Management Division.

[FR Doc. 99-14219 Filed 6-3-99; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

May 26, 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(s), as required by the Paperwork Reduction Act of 1995, Pub. L. 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 August 6, 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 Judy Boley, Federal Communications Commission, Room 1-C804, 445 12th Street, SW, Washington, DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202-418-0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060-0515.

Title: Section 43.21(c), Miscellaneous Common Carrier Annual Letter Filing Requirement.

Form No.: N/A.

Type of Review: Reinstatement without change, of a previously approved collection for which approval has expired.

Respondents: Business or other for-profit.

Number of Respondents: 32.

Estimated Time Per Response: 1 hour.

Frequency of Response: Annual reporting requirement.

Total Annual Burden: 32 hours.

Total Annual Cost: N/A.

Needs and Uses: Pursuant to 47 CFR 43.21(c), each miscellaneous common carrier with operating revenues in excess of the indexed threshold as defined in 47 CFR 32.9000 must file a letter showing its operating revenues for that year and the value of its total communications plant at the end of that year. The letter must contain information pertaining to the carrier's revenues, expenses, net income, assets, liabilities and owners' equity. These letters must be filed by no later than April of the following year. Those miscellaneous common carriers with annual operating revenues that equal or surpass the indexed revenue threshold for the first time may file the letter up to one month after publication of the adjusted revenue threshold in the **Federal Register**, but in no event shall such carriers be required to file the letter prior to April 1.

The information is used by FCC staff members to regulate and monitor the telephone industry and by the public to analyze the industry. The information on revenue and total plant is compiled and published in the Commission's annual common carrier statistical publication and long distance market share report.

OMB Control No.: 3060-0636.

Title: Amendment of Parts 2 and 15, Equipment Authorization, Declaration of Compliance.

Form No.: N/A.

Type of Review: Reinstatement without change, of a previously approved collection for which approval has expired.

Respondents: Business or other for-profit.

Number of Respondents: 4,000.

Estimated Time Per Response: 19 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 76,000 hours.

Total Annual Cost: N/A.

Needs and Uses: Data collection will be used to investigate complaints of

harmful interference to radio communications and to verify manufacturer's or supplier's compliance with the rules. The information collected is essential to controlling potential interference to radio communications.

OMB Control No.: 3060-0655.

Title: Requests for Waiver of Regulatory Fees Predicated on Allegations of Financial Hardship (MD Docket No. 94-19).

Form No.: N/A.

Type of Review: Reinstatement without change, of a previously approved collection for which approval has expired.

Respondents: Individuals or households, businesses or other-for-profit.

Number of Respondents: 40.

Estimated Time Per Response: 1 hour.

Frequency of Response: On occasion reporting requirement, recordkeeping requirement.

Total Annual Burden: 40 hours.

Total Annual Cost: N/A.

Needs and Uses: The FCC implemented provisions contained in section 6003(a) of the Omnibus Budget Reconciliation Act of 1993, Pub. L. 103-66 and 103-121, which adds section 9 to the Communications Act. Section 9 authorizes the FCC to assess and collect annual regulatory fees to recover costs incurred in carrying out its enforcement, policy and rulemaking activities and its user information services. Licensees and permittees may request a waiver of those fees. A number of requests for waiver are based on grounds of financial hardship but lack sufficient documentation to support a finding that a waiver should be granted. As a result, the FCC in ruling on Petitions for Reconsideration in the FY 1994 fee proceeding, the FCC set forth the types of documentation it will rely on to determine if waivers should be granted because of financial hardship, in order to give guidance to parties requesting waivers. Where parties have filed insufficient information with their FY 194 waiver requests, the FCC will afford them an opportunity to perfect their waiver requests by making the showing. The information will be used by FCC staff to determine if a party is entitled to a waiver of its obligation to pay the annual regulatory fee. It will be filed annually, but only by those parties who request waivers of their obligations to pay the fee because of financial hardship.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99-14169 Filed 6-3-99; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted to OMB for Review and Approval

May 25, 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, Pub. L. 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 July 6, 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: 3060-0386.

Title: Section 73.1635, Special Temporary Authorizations (STA).

Form Number: N/A.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 1,645.

Estimated Time per Response: 1 to 4 hours.

Total annual burden: 2,245 hours.

Total annual costs: \$946,450.

Needs and Uses: Section 73.1635

allows licensees/permittees of broadcast stations to file for special temporary authority to operate broadcast stations at specified variances from station authorization, not to exceed 180 days. Data are used by FCC staff to ensure that such operation will not cause interference to other stations.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99-14168 Filed 6-3-99; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted to OMB for Review and Approval

May 25, 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, Pub. L. 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 July 6, 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: 3060-0867.

Title: Request for Waiver of Section 20.18(c) of the Commission's Rules Regarding Compatibility with Enhanced 911 Emergency Calling Systems.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 100.

Estimate Time Per Response: 20 hours (450 responses/yr.).

Frequency of Response:

Recordkeeping.

Total Annual Burden: 9,000 hours.

Total Annual Costs: None.

Needs and Uses: The various coordination, certification, and consent requirements will ensure licensee compliance with FCC rules and regulations, and ensure that licensees continue to fulfill their statutory responsibilities in accordance with the Communications Act of 1934, as amended. The requirements will also help to ensure that individuals who use TTY devices will be able to utilize such devices to make emergency 911 calls on digital wireless systems.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99-14170 Filed 6-3-99; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[DA99-1010]

Sunshine Act Meeting

May 28, 1999.

AGENCY: Federal Communications Commission.

EXTENSION OF DATE FOR CLOSING OF COMMENT FILING PERIOD FOR SUNSHINE ACT

HEARING: Notice of Extension from May 28, 1999 until June 28, 1999 of the Closing Date for Filing Comments pursuant to the Second Hearing In A Series of Hearings about Telephone Service For Indians On Reservations (64 FR 12809, March 15, 1999).

TIME AND DATE: The Hearing was held from 8:00 a.m. to 12:30 p.m. on March 23, 1999.

PLACE: The Hearing was held at the Gila River Indian Community at the Sprung facility, 5550 West Wild Horse Path, Chandler, Arizona.

STATUS: Chairman William Kennard, Commissioner Susan Ness, and Commissioner Harold Furchtgott-Roth presided over the hearing. Commissioner Gloria Tristani submitted a written statement.

MATTERS CONSIDERED AT THE MARCH 23, 1999 HEARING: Representatives of Indian tribes and of Indian-owned telephone companies operating on reservations, representatives of non-Indian telephone companies, executives from telecommunications service providers, representatives of the State of Arizona, and technology experts testified about the level of telephone service currently available on reservations. In addition, testimony addressed measures that tribes, telephone companies, telecommunications service providers, the FCC, and states can take to improve access to affordable telephone service on reservations. Specific issues included the cost of telephone service to remote, low-population areas; the availability of advanced services including E911 and Internet access on reservations; implementation of alternative technologies; right-of-way issues; and governmental and sovereignty issues. The hearing was open to the general public.

REASONS FOR EXTENSION OF CLOSING DATE OF PERIOD FOR FILING COMMENTS: First, members of the Native American community requested the extension. Second, the extension will facilitate the development of as extensive a record as possible.

FOR FURTHER INFORMATION CONTACT: Eric Jensen, at (202) 418-0990, e-mail ejensen@fcc.gov, of the Office of Communications Business Opportunities; Belford Lawson, at (202) 418-7264, e-mail blawson@fcc.gov, in that Office; and William Kehoe, at (202) 418-7122, e-mail bkehoe@fcc.gov, in the Common Carrier Bureau.

Federal Communications Commission.

Eric Jensen,

Deputy Director, Office of Communications Business Opportunities.

[FR Doc. 99-14251 Filed 6-2-99; 9:34 am]

BILLING CODE 6712-01-P

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 at 9:30 a.m. on Thursday, June 3, 1999, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, pursuant to sections 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider matters relating to the Corporation's corporate, insurance and supervisory activities.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, DC.

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: June 2, 1999.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 99-14292 Filed 6-2-99; 11:22 am]

BILLING CODE 6714-01-M

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE AND TIME: Wednesday, June 9, 1999 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: Thursday, June 10, 1999 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C. (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes. Administrative Matters.

PERSON TO CONTACT FOR INFORMATION:

Mr. Ron Harris, Press Officer, Telephone: (202) 694-1220.

Mary W. Dove,

Acting Secretary.

[FR Doc. 99-14378 Filed 6-2-99; 3:29 pm]

BILLING CODE 6715-01-M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 21, 1999.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. *KSB Bancorp, Inc. Employee Stock Ownership Plan*, Kingfield, Maine; to acquire additional voting shares of KSB Bancorp, Inc., Kingfield, Maine.

Board of Governors of the Federal Reserve System, May 28, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99-14136 Filed 6-3-99; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 99-13088) published on page 27990 of the issue for Monday, May 24, 1999.

Under the Federal Reserve Bank of Boston heading, the entry for Fleet Financial Group, Inc., Boston, Massachusetts, is revised to read as follows:

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. *Fleet Financial Group, Inc.*, Boston, Massachusetts; to acquire 100 percent of the voting shares of BankBoston Corporation, Boston, Massachusetts, and thereby indirectly acquire BankBoston, National Association, Boston, Massachusetts; BankBoston Maine, National Association, South Portland, Maine; and Bank of Boston - Florida, National Association, Boca Raton, Florida.

In connection with this application, Applicant also has applied to acquire all of BankBoston's direct and indirect nonbank subsidiaries, including BancBoston Robertson Stephens, Inc., Boston, Massachusetts, and thereby engage in underwriting bank ineligible securities, including equity securities and high yield debt, both through public offerings and private placements; providing advice in connection with mergers and acquisitions; brokerage activities; providing equity research to institutional and high net worth customers, pursuant to §§ 225.28(b)(1), (2), (6), (7) and (8) of Regulation Y, see *Bank of Boston Corp.*, 74 Fed. Res. Bull. 699 (1988); *Bank of Boston Corp.*, 83 Fed. Res. Bull. 42 (1997); *BankBoston Corp.*, 84 Fed. Res. Bull. 850 (1998); RIHT Life Insurance Company, Phoenix, Arizona, and thereby engage in reinsuring credit life and health insurance for borrowers of BankBoston, N.A. or its subsidiaries in connection with extensions of credit to such borrowers, pursuant to § 225.28(b)(11) of Regulation Y; BancBoston Leasing Investments, Inc., Boston, Massachusetts, and thereby engage in leasing personal and real property, pursuant to §§ 225.28(b)(3) and (12) of Regulation Y; BancBoston Investments, Inc., Boston, Massachusetts, and thereby engage in venture capital investments, including secured and unsecured lending and voting and nonvoting equity investments, pursuant to § 225.28(b)(1) of Regulation Y; Back Bay Capital Funding LLC, Wilmington, Delaware, and thereby engage in asset-based lending, pursuant to § 225.28(b)(1) of Regulation Y; BankBoston (NH), N.A., Nashua, New Hampshire, and thereby engage in certain credit card activities, pursuant to § 225.28(b)(1) of Regulation Y; Partners First Holdings LLC, Linthicum, Maryland, and thereby engage in credit card activities, pursuant to § 225.28(b)(1) of Regulation Y; Partners First Receivables LLC, Linthicum, Maryland, and thereby engage in credit card activities, pursuant to § 225.28(b)(1) of Regulation Y; Partners First Funding LLC, Linthicum, Maryland, and thereby engage in credit

card activities, pursuant to § 225.28(b)(1) of Regulation Y; and BancBoston Real Estate Capital Corporation, Boston, Massachusetts, and thereby engage in real estate lending and collateralized commercial lending, pursuant to § 225.28(b)(1) of Regulation Y.

Comments on this application must be received by June 23, 1999.

Board of Governors of the Federal Reserve System, May 28, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99-14134 Filed 6-3-99; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 1, 1999.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. *James River Bankshares, Inc.*, Suffolk, Virginia; to acquire 100 percent of the voting shares of State Bank of Remington, Inc., Remington, Virginia.

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. *Commerce Bancshares, Inc.*, Waukegan, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of Waukegan State Bank, Waukegan, Iowa.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *Peoples Bancorp, Inc.*, Lubbock, Texas, and Peoples Bancorp of Delaware, Inc., Dover, Delaware; to become bank holding companies by acquiring 100 percent of the voting shares of Lorenzo Bancshares, Inc., Lorenzo, Texas, and thereby indirectly acquire Lorenzo State Bank at Lorenzo, Lorenzo, Texas.

Board of Governors of the Federal Reserve System, May 28, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99-14135 Filed 6-3-99; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m., Wednesday, June 9, 1999.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202-452-3204.

SUPPLEMENTARY INFORMATION: You may call 202-452-3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at <http://www.federalreserve.gov> for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: June 2, 1999.
Robert deV. Frierson,
Associate Secretary of the Board.
 [FR Doc. 99-14293 Filed 6-6-99; 11:24 am]
 BILLING CODE 6210-01-P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m. (EDT), June 14, 1999.
PLACE: 4th Floor, Conference Room 4506, 1250 H Street, N.W., Washington, D.C.
STATUS: Open.
MATTERS TO BE CONSIDERED:
 1. Approval of the minutes of the May 10, 1999, Board member meeting.
 2. Thrift Savings Plan activity report by the Executive Director.

CONTACT PERSON FOR MORE INFORMATION:
 Thomas J. Trabucco, Director, Office of External Affairs, (202) 942-1640.

Dated: June 2, 1999.
Elizabeth S. Woodruff,
Secretary to the Board, Federal Retirement Thrift Investment Board.
 [FR Doc. 99-14379 Filed 6-2-99; 3:47 pm]
 BILLING CODE 6760-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires

persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION, 03/29/99-04/22/99

Transaction No.	Acquiring person	Acquired person	Acquired entities
Transactions Granted Early Termination, 03/29/99			
19991819	J.H. Whitney III, L.P.	MedSource Technologies, Inc	MedSource Technologies, Inc.
19991844	Terex Corporation	Amida Industries, Inc.	Amida Industries, Inc., a South Carolina corporation.
19991860	Stroh Companies, Inc., (The)	Minott Wessinger	McKenzie River Corporation.
19991875	Olivetti S.p.A.	Telecom Italia S.p.A.	Telecom Italia S.p.A.
19991877	Olivetti S.p.A.	Concentric Network Corporation	Concentric Network Corporation.
19991951	American Business Products, Inc	Tekkote Corp.	Tekkote Corp.
19991955	Cyrus A. Ansary	National City Corporation	National Processing Company.
19991967	Textron Inc.	First Union Corporation	LCI Corporation International, Inc.
19991968	Swiss Reinsurance Company	Royal & Sun Alliance Insurance Group plc.	Royal Maccabees Life Insurance Company.
19991973	RCBA Strategic Partners, L.P	HWH Capital Partners, L.P	SMC Holdings Corp.
19991974	Dycom Industries, Inc.	Ervin Cable Construction, Inc	Ervin Cable Construction, Inc.
19991978	Michael Foods, Inc.	John Kaneb	H.P. Hood Inc.
19991980	Kent Electronics Corporation	Vol H. Montgomery	SabreData, Inc.
19991987	AGCO Corporation	Roy E. and Donice E. Applequist, husband and wife.	Great Plains Manufacturing, Inc.
19991991	The Manitowoc Company, Inc	Kyees Aluminum, Inc.	Kyees Aluminum, Inc.
19991992	Danisco A/S	Cultor Corporation	Cultor Corporation.
19991993	Heritage Fund II, L.P.	Avista Corp.	Creative Solutions Group, Inc.
19991995	Aon Corporation	Presidium Holdings, Inc	Presidium Holdings, Inc.
19991996	Southcorp Limited	John C. Cushman III & Jeanine S. Cushman (husband and wife).	Cushman Winery Corporation.
19991998	Electra Investment Trust PLC	Allflex USA, Inc.	Allflex USA, Inc.
19992001	Amgen Inc.	Praecis Pharmaceuticals Incorporated.	Praecis Pharmaceuticals Incorporated.
19992002	AlliedSignal Inc.	Johnnie Lou LaRoche	LaRoche Industries Inc.
19992003	Union Carbide Corporation	Johnnie Lou LaRoche	LaRoche Industries Inc.
19992005	United American Energy Corp	National Power PLC	ANP Mecklenburg Cogeneration Company. TEVCO Cogeneration Company.
19992007	Philip J. D'Elia	Johnson Service Group PLC	Johnson Group, Inc.
19992008	Maverik Country Stores, Inc	Tosco Corporation	Circle K Stores, Inc.
19992011	Naomi C. Dempsey	Robert H. Dorst	Great Lakes Corrugated Corp.
19992013	Kasper A.S.L. Ltd.	Tomio Taki	Anne Klein Company LLC.
19992026	Francois Pinault	Brylane Inc., a Delaware corporation	Brylane Inc., a Delaware corporation.
19992029	PCMC Holdings, L.P.	Plum Creek Timber Company, Inc. ..	Plum Creek Timber Company, Inc
19992039	Burmah Castrol plc	James R. Pyne	REMET Corporation.
19992047	Summit Ventures V, L.P	Paul C. Steinwachs	EMED Co., Inc.
19992048	Summit Ventures V, L.P	Donald E. Steinwachs	EMED Co., Inc.
19992054	Bessemer Securities LLC	The Beacon Group III—Focus Value Fund, L.P.	Identify Group, Inc.
19992056	Whole Foods Market, Inc	Leo Kahn	Nature's Heartland, Inc.

TRANSACTIONS GRANTED EARLY TERMINATION, 03/29/99-04/22/99—Continued

Transaction No.	Acquiring person	Acquired person	Acquired entities
19992070	Arkansas Best Corporation	Treadco, Inc.	Treadco, Inc.
Transactions Granted Early Termination, 03/30/99			
19991797	Charles M. Lillis	MediaOne Gropu, Inc.	MediaOne Group, Inc.
19991849	BellSouth Corporation	TDS Voting Trust	United States Cellular Operating Corporation.
19991873	Baker Communications Fund, L.P ...	Ascend Communications, Inc.	S2 Systems, Inc.
19991906	Sempra Energy	KN Energy, Inc	KN Energy, Inc.
19991942	Stewart Enterprises, Inc	F. Peter Newcomer	D.W. Newcomer's Sons, Inc. and DWN Properties, Inc.
19991960	St. Luke's Episcopal Health System	MedPartners, Inc.	Caremark Inc., Caremark Resources Corporation.
19991961	Methodist Health Care System	MedPartners, Inc.	Caremark Inc., Caremark Resources Corporation.
19991969	Bell Atlantic Corporation	Bell Atlantic Corporation	Columbia Cellular Telephone Company.
19991994	National Computer Systems, Inc	Don H. Barden	NovaNet Learning, Inc.
19991997	General Electric Company	iVillage, Inc.	iVillage, Inc.
19992012	News Corporation Limited	David E. Shaw	Juno Online Services, Inc.
19992016	Deutsche Luthansa AG	Gerald W. Schwartz	Onex Food Services, Inc. Vereniging AEGON
19992019	Vereniging AEGON	Transamerica Corporation	Transamerica Corporation.
19992027	Larry Van Tyl	Boomershine Automotive Group, Inc.	Boomershine Colliston Centers of Gwinnett, Inc. Boomershine Ford, Inc. Bommershine Isuzu, Inc.
19992032	Heating Oil Partners, L.P	Alliance Energy Corp.	Alliance Energy Corp.
19992040	Stiching Administratiekantoor van aandelen Koninklijke.	Hagemeyer N.V.	MBC Foods, Inc., Fine Distributing, Inc., Direct Specialty.
19992055	Paul G. Allen	Go2Net, Inc.	Go2Net, Inc.
19992079	Sabratek Corporation	Ralin Medical, Inc.	LifeWatch, Inc.
19992080	Rain Medical, Inc.	Sabratek Corporation	Sabratek Corporation.
Transactions Granted Early Termination, 03/31/99			
19991793	World Color Press, Inc	Legg Mason Capital Partners, L.P ...	UP/Graphics, Inc.
19991833	Health Management Associates, Inc	The Lower Florida Keys Health System, Inc.	dePoo Hospital, Florida Keys Memorial Hospital.
19991896	Cendant Corporation	Apollo Investment Fund III, L.P	NRT Incorporated.
Transactions Granted Early Termination, 04/01/99			
19991785	Wilh. Werhahn	Nalco Chemical Company	Nalco Chemical Company.
19992060	American Plumbing & Mechanical, Inc.	David A. Croson	Franklin Fire Sprinkler Company. J.A. Croson Company.
19992077	Allianz Aktiengesellschaft	Orion Capital Corporation	Wm. H. McGee & Co., Inc.
Transactions Granted Early Termination, 04/02/99			
19991331	Reilly Industries, Inc	AlliedSignal Inc.	AlliedSignal Inc.
19991850	Sisters of St. Francis Health Services, Inc.	MedPartners, Inc.	MedPartners Physician Management, L.P.
19991894	Galaxy Telecom Investment, L.L.C.	Tele-Communications Inc. or AT&T Corporation.	Mississippi Cablevision, Inc.
19991927	Regis Corporation	Florence F. Francis	The Barbers, Hairstyling for Men & Women, Inc.
19991935	Aalberts Industries, N.V	Taprite-Fassco Mfg., Inc	Taprite-Fassco Mfg., Inc.
19991945	General Electric Company	Sumitomo Corporation	Phoenixcor, Inc.
19991946	Paul G. Allen	Morgan Stanley Capital Partners III, L.P.	Renaissance Media Group LLC.
19991970	GAMBRO AB	ZENECA Group PLC	Century Dialysis Corporation. Salick Health Care, Inc. USHAWL, Inc.
19991977	Marshalls Finance Limited	Arthur Hughes	Fulton Prebon Group Limited.
19991999	Textron Inc.	Andrew K. Rayburn	Flexalloy Inc.
19992000	Activated Communications Limited Partnership.	E. Burke Ross, Jr., Family Trust 1 ...	New Jersey Broadcasting Partners, L.P. II.
19992009	Fenway Partners Capital Fund, L.P	Joseph F. Umosella	Patriot Manufacturing, Inc.
19992010	Siemens Aktiengesellschaft (a German company).	Castle Networks, Inc.	Castle Networks, Inc.
19992030	Palace Sports & Entertainment, Inc	Arthur L. Williams, Jr.	ALW Sports Management, Inc. Tampa Bay Lightning, Limited Liability Company.
19992041	ABRY Broadcast Partners II, L.P	David S. Smith	Mission Broadcasting of Wichita Falls, Inc.
19992049	General Motors Corporation	John B.T. Campbell III and Anne Catherine Campbell.	Campbell Automotive Group, Inc.

TRANSACTIONS GRANTED EARLY TERMINATION, 03/29/99-04/22/99—Continued

Transaction No.	Acquiring person	Acquired person	Acquired entities
19992051	VS&A Communications Partners II, L.P.	William A. Patterson, Jr	International Travel Service, Inc.
19992071	Dover Corporation	Summit Ventures IV, L.P	Somero Enterprises, Inc.
19992075	Stewart Enterprises, Inc	Froedtert Memorial Lutheran Hospital Trust.	Wisconsin Memorial Park, Inc.
19992078	Gilead Sciences, Inc.	NeXstar Pharmaceuticals, Inc	NeXstar Pharmaceuticals, Inc.
19992084	Hooperston Foods, Inc	Pro-Fac Cooperative, Inc	Agrilink Foods, Inc.
19992085	Navigant International, Inc	Vincent E. Vitti	VTS Travel Enterprises, Inc.
19992086	Marketing Services Group, Inc	CMGI, Inc	CMG Direct Corporation.
19992094	CoreComm Limited	USN Communications, Inc. (Debtor-in-Possession).	USN Communications, Inc. (Debtor-in-Possession).
19992098	Activision, Inc.	Expert Software, Inc.	Expert Software, Inc.
19992099	ING Groep N.V.	PennCorp Financial Group, Inc.	CyberLink Development, Inc. Marketing One, Inc. UC Mortgage Corp. United Life & Annuity Insurance Company. United Variable Services, Inc.
19992101	Hughes Supply, Inc	Flori Corporation	Flori Corporation.
19992103	ACME Television Holdings, LLC	Lowell W. Paxson	Paxson Communications Corporation.
19992120	EMP Group, L.L.C	American Media, Inc.	American Media, Inc.
19992121	Cornerstone Equity Investors IV, LP	Equitrac Corporation	Equitrac Corporation
19992123	Sisters of Providence, Sacred Heart Province.	Hood River Memorial Hospital	Hood River Memorial Hospital
19992127	Assciated Food Store, Inc	Kenneth W. Macey and Robin A. Macey, husband and wife.	Macey's Inc., Macey's-Provo, LLC, Macey's-Clearfield, LLC.
19992131	Vestar Capital Partners III, L.P	Sheridan Healthcare, Inc	Sheridan Healthcare, Inc.
19992134	Cablevision Systems Corporation	Cablevision Systems Corporation	Madison Square Garden, L.P.
19992137	Catherine L. Hughes	Sinclair Telecable, Inc.	WCDX-FM, Mechanicsville, Virginia. WGCV-AM Petersburg, Virginia. WJRV-FM Richmond, Virginia. WPLZ-FM Petersburg, Virginia.

Transactions Granted Early Termination, 04/04/99

19992050	Paul G. Allen	Go2Net, Inc.	Go2Net, Inc.
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Transactions Granted Early Termination, 04/05/99

19991957	UGI Corporation	Unisource Worldwide, Inc	Unisource Worldwide, Inc.
19992042	General Electric Company	Value Vision International, Inc	Value Vision International, Inc.
19992052	ITT Industries, an Indiana corporation.	Earth Watch Incorporated	Earth Watch Incorporated, a Delaware corporation.
19992063	Compagnie Financiere Rupert	Caroline Arpels Daumen	Van Cleef & Arpels, Inc.
19992064	Compagnie Financiere Rupert	Eric Arpels	Van Cleef & Arpels, Inc.
19992092	EMCOR Group, Inc	Monumental Investment Corporation	Monumental Investment Corporation.
19992106	L. Ross Love	Clear Channel Communications, Inc	Clear Channel Broadcasting, Inc. Jacor Broadcasting of Louisville, Inc.
19992122	Andersen Corporation	Morgan Products Ltd	Morgan Products Ltd.
19992145	Sovereign Specialty Chemical, L.P ..	The Valspar Corporation	Valspar Flexible Packaging Coatings Business.
19992148	The ServiceMaster Company	American Residential Services, Inc ..	American Residential Services, Inc.

Transactions Granted Early Termination, 04/07/99

19992014	PP&L Resources, Inc	Bangor Hydro-Electric Company	Bangor Hydro-Electric Company.
19992067	A.M. Todd Group, Inc	William H. and Margaret E. Brevoort	East Earth Herb, Inc.
19992144	Kerr-McGee Corporation	Kerr-McGee Corporation	Sun Energy Partners, L.P.

Transactions Granted Early Termination, 04/08/99

19991072	Reed International P.L.C	Benjamin and Ann Lewin	Cell Press, Inc.
19991073	Elsevier NV	Benjamin and Ann Lewin	Cell Press, Inc.

Transactions Granted Early Termination, 04/09/99

19990666	Allied Waste Industries, Inc	Browning Ferris Industries, Inc	BFI Waste Systems of North America, Inc.
19990667	Browning Ferris Industries, Inc	Allied Waste Industries, Inc	Allied Waste Industries, Inc.
19991644	Chart Industries, Inc	MVE Investors, LLC	MVE Investors, LLC.
19991964	Reed International P.L.C	Benjamin and Ann Lewin	Cell Press, Inc.
19991965	Elsevier NV	Benjamin and Ann Lewin	Cell Press, Inc.
19991984	First Union Corporation	Fred Thomas Tattersall	Tattersall Advisory Group, Inc.
19992017	British Telecommunications plc	Corporation Impsa S.A	IMPSAT Corporation.
19992036	TRW Inc	Safeguard Scientifics, Inc	ClientLink, Inc.

TRANSACTIONS GRANTED EARLY TERMINATION, 03/29/99–04/22/99—Continued

Transaction No.	Acquiring person	Acquired person	Acquired entities
19992045	Chase Manhattan Corporation (The)	Mark Eric and Patricia A. Benjamin (husband and wife).	Benjamin Metals Company.
19992081	Western Wireless Corporation	Century Telephone Enterprises, Inc	Brownsville Cellular Telephone Company, Inc. McAllen Cellular Telephone Co., Inc.
19992093	Windward Capital Partners II, L.P	Bayer AG	Bayer Inc., a Canadian corporation.
19992130	Vincent Camuto	Jones Apparel Group, Inc	Jones Apparel Group, Inc.
19992141	Wind Point Partners III, L.P	MascoTech, Inc	BLD Products, Ltd. Hebco Products, Inc. International Brake Industries, Inc. Longman Enterprises, Inc. McGuane Industries, Inc. Mr. Bracket, Inc. Novo Products, Inc. Pylon Manufacturing Corp. SEMCO Energy Services, Inc.
19992142	MCN Energy Group Inc	SEMCO Energy, Inc	SEMCO Energy Services, Inc.
19992147	Foster & Gallagher, Inc	Donald L. Krumi	Gurney Seed & Nursery Corp.
19992149	Mistral International Finance A.G	Wagner Finckh GmbH	Wagner Systems Corporation.
19992150	Enron Corp	Philip Services Corp	Philip Utilities Management Corporation.
19992155	Cowles Publishing Company	Raycom Media, Inc	Federal Broadcasting Company.
19992156	Public Service Enterprise Group Inc	The Frank A. McBride Company	The Frank A. McBride Company.
19992164	WD-40 Company	Block Drug Company, Inc	Block Drug Company, Inc.
19992165	ZENECA Group PLC	Cima Labs, Inc	Cima Labs, Inc.
19992170	Alain Merieux	Silliker bioMerieux, Inc	Silliker bioMerieux, Inc.
19992172	Marlin Water Trust	Philip Services Corp	Philip Utilities Management Corporation.
19992174	Rollins, Inc	H.F. Johnson Distributing Trust f/b/o Samuel C. Johnson.	PRISM Integrated Sanitation Management, Inc. S.C. Johnson Commercial Markets, Inc. HTD Corporation.
19992178	MEDIQ Incorporated	HTD Corporation	HTD Corporation.
19992181	Group 1 Automotive, Inc	Frederick A. Nagher	Rodeo Chrysler-Plymouth, Inc.
19992183	Apollo Investment Fund IV, L.P	Building One Services Corporation ..	Building One Services Corporation.
19992186	KPMG LLP	Softline Consulting & Integrators, Inc	Softline Consulting & Integrators, Inc.
19992192	Gerald W. Schwartz	Windward Capital Associates, L.P ...	J.L. French Automotive Castings, Inc.
19992195	The National Grid Group pic	New England Electric System	New England Electric System.
19992206	SCI Systems, Inc	Hewlett-Packard Company	VeriFone Electronics Co. Ltd.
19992207	Swedish Match AB (publ)	General Cigar Holdings, Inc	General Cigar Co., Inc.
19992222	NORPAC Foods, Inc	Agripac, Inc	Agripac, Inc.
19992223	Ogden Corporation	Dawson Consolidated Holdings Limited.	Southbrook Corporation.
19992244	IXC Communications, Inc	Riva Bursten 1994 Trust u/a/d/ September 19, 1994.	Coastal Telecom Limited Company. Coastal Telecom Limited Liability Company (Tennessee). Coastal Telecom Limited Liability Company (Wisconsin). Coastal Telephone Services Limited Company.
19992245	IXC Communications, Inc	Andrew M. Bursten 1994 Trust u/a/d September 19, 1994.	Coastal Telecom Limited Company. Coastal Telecom Limited Liability Company (Tennessee). Coastal Telecom Limited Liability Company (Wisconsin). Costal Telephone Services Limited Company.
19992253	Gerald F. Bean	Republic Industries, Inc	Kendall Imports, LLC and G.F.B. Enterprises, LLC.

Transactions Granted Early Termination, 04/12/99

19991471	Lucent Technologies Inc	Ascend Communications, Inc.	Ascend Communications, Inc.
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Transactions Granted Early Termination, 04/13/99

19992061	Plains Resources Inc	USX Corporation	Scurlock Permian LLC.
19992074	Alcan Aluminum Limited	Atlantic Richfield Company	ARCO Aluminum, Inc.
19992097	Gerald W. Schwartz	Cabletron Systems, Inc.	Cabletron Systems, Inc.
19992161	Johnstown America Industries, Inc. ..	Fred D. Culbreath	Imperial Fabrication Company of Tennessee, Inc. Imperial Group, Inc., Fleet Design, Inc.
19992190	Apollo Investment Fund IV, L.P	Eos Partners, L.P.	Pacer International, Inc.
19992232	Triumph Partners III, L.P	C. Philip Rainwater	Benchmark Media, Inc.

TRANSACTIONS GRANTED EARLY TERMINATION, 03/29/99-04/22/99—Continued

Transaction No.	Acquiring person	Acquired person	Acquired entities
Transactions Granted Early Termination, 04/14/99			
19984336	Safeway, Inc.	Carr-Gottstein Foods Co.	Carr-Gottstein Foods Co.
19992119	CBC Companies, Inc.	First Data Corporation	Innovis Data Solutions, Inc.
19992129	Jones Apparel Group, Inc.	Nine West Group Inc.	Nine West Group Inc.
19992138	PixTech, Inc.	Micron Technology, Inc.	Micron Technology, Inc.
19992139	Micron Technology, Inc.	PixTech, Inc.	PixTech, Inc.
19992159	Hicks, Muse, Tate & Furst Equity Fund III, L.P.	Edward R. Price	PAGG Corporation.
19992189	Citigroup Inc.	Fund American Enterprises Holdings, Inc.	Source One Mortgage Services Corporation.
19992208	General Motors Corporation	J. Paul Reddam	DiTech Escrow Corporation. DiTech Funding Corporation.
19992210	Hilb, Rogal and Hamilton Company	Phoenix Home Life Mutual Insurance Company.	American Phoenix Corporation.
19992214	Complete Business Solutions, Inc. ...	Medaphis Corporation	Impact Innovations Group, Inc.
Transactions Granted Early Termination, 04/15/99			
19991986	Cottingham Trust (1996)	Billy Bert Meridith	Precision Machining, Inc., a Kansas corporation.
19992108	Tyco International Ltd.	Dexide, Inc.	Dexide, Inc.
19992118	Ontario Teachers' Pension Plan Board.	John Wiley & Sons, Inc.	John Wiley & Sons, Inc.
19992160	AMETEK, Inc.	Mark IV Industries, Inc.	Gulton-Statham Transducers, Inc.
19992191	Havas Advertising S.A	Patrick J. McGrath	Jordan McGrath Case & Partners Inc.
19992203	DLJ Merchant Banking Partner II, L.P.	PPI Holdings, Inc	PPI Holdings, Inc.
19992226	Gretag Imaging Holding AG	Didier Primat	Cymbolic Sciences, Inc.
19992237	George L. Argyros	Alan R. Trent	Chiuminata Concrete Concepts, Inc.
19992238	George L. Argyros	Edward Chiuminata	Chiuminata Concrete Concepts, Inc.
Transactions Granted Early Termination, 04/16/99			
19992204	John P. Barclay, Jr	Amsted Industries Inc	Amsted Industries Inc.
19992018	Verio Inc	America Online, Inc	CompServe Interactive Service, Inc.
19992211	The SKM Equity Fund II, L.P	V. Kirt Fiegel	AK Rubber Products Company, Inc.
19992212	Apollo Investment Fund IV, L.P	Neptune Orient Lines Limited	APL Land Transport Services, Inc.
19992217	Thomas R. Galloway, Sr	Ralph C. Wison, Jr	WEVV, Inc.
19992224	Paul G. Allen	Broadband Solutions, LLC	High Speed Access Corp.
19992239	Linsalata Capital Partners Fund III, L.P.	Ronald Berg	Alpha Shirt Co., Inc.
19992246	General Parts, Inc	The Parts Source, Inc., d/b/a Ace Auto Parts.	The Parts Source, Inc., d/b/a Ace Auto Parts.
19992255	BP Amoco p.l.c	Enron Corporation	Amoco/Enron Solar.
19992256	Heinz Durr and Heide Durr	ServiceMaster Company (The)	Premier Manufacturing Support Services Limited Partnership.
19992263	Fleming Companies, Inc	REBCO Foods, Inc	REBCO Foods, Inc.
19992264	Fleming Companies, Inc	Rebmart, d/b/a Food 4 Less	Rebmart, d/b/a Food 4 Less.
19992265	Duke Energy Corporation	Fox Paine Capital Fund, L.P	United American Energy Corp.
19992269	ACE Limited	Capital Re Corporation	Capital Re Corporation.
19992270	AHL Services, Inc	Lisa A. Smith	PIMMS Corporation. PIMMS LLC.
19992271	SOFTBANK Corp	Lowes Corporation	InsWeb Corporation.
19992272	Sun Microsystems, Inc	Naspers Limited	OpenTV, Inc.
19992274	Nortek, Inc	Caradon plc	Caradon Doors and Windows Inc., Caradon Limited.
Transactions Granted Early Termination, 04/19/99			
19992162	IWKA Aktiengesellschaft	Savair Products Co	Savair, Inc.
19992275	Providence Equity Partners III, LP	MGC Communications, Inc	MGC Communications, Inc.
19992277	Frederick J. Iseman	Analysis & Technology, Inc	Analysis & Technology, Inc.
19992278	The Fourth Viscount Rothermere	e data resources, Inc	e data resources, Inc.
19992282	ACE Limited	Rain and Hail Insurance Service, Inc	Rain and Hail Insurance Service, Inc.
19992287	The Allstate Corporation	Marc A. Chary	Kuranoff & Chary, Inc. d/b/a/ Southeastern Tape Distributors.
19992288	The Allstate Corporation	Steve Kuranoff	Kuranoff & Chary, Inc. d/b/a/ Southeastern Tape Distributors.
19992294	ABRY Broadcast Partners, II, L.P	Diane Sutter	Shooting Star Broadcasting/KTAB, L.P.
19992295	Pilgrim America Capital Corporation	Arthur E. Nicholas	Nicholas-Applegate Capital Management.
19992303	Enron Corp.	Sierra Well Service, Inc	Sierra Well Service, Inc.

TRANSACTIONS GRANTED EARLY TERMINATION, 03/29/99-04/22/99—Continued

Transaction No.	Acquiring person	Acquired person	Acquired entities
19992307	CBS Corporation	King World Productions, Inc	King World Productions, Inc.
Transaction Granted Early Termination, 04/20/99			
19991626	Electronic Data Systems Corporation	MCI WorldCom, Inc.	MCI Systemhouse Corp. SHL Systemhouse Co.
19991627	MCI WorldCom, Inc.	Electronic Data Systems Corporation	Electronic Data Systems Corporation.
19992053	Paul G. Allen	Peter A. Bordes	Greater Media Cablevision, Inc., Greater Media, Inc.
19992069	Novartis AG	Leslie L. Dan	Novopharm Ltd.
19992113	Leonard Tow	John J. Rigas	Adelphia Communications Corporation.
19992114	Trust created by Claire Tow, as Grantor.	John J. Rigas	Adelphia Communications Corporation.
19992115	Trust created by Leonard Tow, as Grantor.	John J. Rigas	Adelphia Communications Corporation.
19992116	John J. Rigas	Century Communications Corp.	Century Communications Corp. Citizens-Century Cable Television Venture.
19992128	The Allstate Corporation	Cambridge Communications Limited Partnership.	Cambridge Communications Limited Partnership.
19992153	The Charles River Partnership VIII, L.P.	CIENA Corporation	CIENA Corporation.
19992281	Morgan Stanley Dean Witter & Co ...	EarthWatch Incorporated	EarthWatch Incorporated.
19992306	MST Offshore Partners C.V	Letitia Corporation	High Voltage Engineering Corporation.
19992311	GKN plc	Fairview Sintered Metals, Inc	Fairview Sintered Metals, Inc.
Transaction Granted Early Termination, 04/21/99			
19991631	Rohm and Haas Company	Morton International Inc., an Indiana corporation.	Morton International Inc., an Indiana corporation.
19992107	Addus Healthcare, Inc. an Illinois Corporation.	Integrated Health Services, Inc.	Arcadia Services, Inc.
19992132	The Allstate Corporation	Pfingsten Executive Fund, L.P	Barjan Products, L.P.
19992158	PROVANT, Inc	Ralf Leszinski	Petrus 1961, Inc.
19992169	DBXYZ Cooperative, Inc	Danish Creamery Association	Danish Creamery Association.
19992261	ConAgra, Inc	William F. Morris III	Holly Ridge Foods, Inc.
19992289	Res-Care, Inc.	Vincent D. Pettinelli	PeopleServe, Inc.
19992290	Vincent D. Pettinelli	ResCare, Inc.	Res-Care, Inc.
Transactions Granted Early Termination, 04/22/99			
19990366	Clear Channel Communications, Inc	Jacor Communications, Inc	Jacor Communications, Inc.
19992083	Sterling Software, Inc	Interlink Computer Sciences, Inc	Interlink Computer Sciences, Inc.
19992143	Tomah Partners, L.P.	Royal Dutch Petroleum Company ...	Shell Chemical Company
19992146	AT&T Corp	Cable TV Fund 14-A, Ltd	Cable TV Fund 14-A, Ltd.
19992175	DBXYZ Cooperative, Inc	San Joaquin Valley Dairymen	San Joaquin Valley Dairymen.
19992180	J.W. Childs Equity Partners, II, L.P ..	Baptist Healthcare System, Inc	Alabama Dialysis Services, an Alabama general partnership.
19992218	Allied Waste Industries, Inc	Toby DeMicco, Jr	Mount Pleasant Sanitation, Inc., Mid Hudson Equipment, Inc. Valley Carting Corp., Hudson Waste Haulage, Inc.
19992219	Allied Waste Industries, Inc	James Hickey	Hudson Waste Haulage, Inc., Mount Pleasant Sanitation, Inc. Mid-Hudson Equipment, Inc.
19992268	Orbital Sciences Corporation	Spar Aerospace Limited	Spar Aerospace Limited.
19992280	The Chase Manhattan Corporation ..	Clayton, Dubilier & Rice Fund V Limited Partnership.	Kinko's Inc.
19992308	Cox Enterprises Inc	Clear Channel Communications, Inc	Clear Channel Broadcasting Licenses, Inc. Clear Channel Broadcasting, Inc.
19992309	Clear Channel Communications, Inc	Cox Enterprises, Inc	Cox Radio, Inc.
19992312	James Mersfelder	Automatic Data Processing, Inc	Automatic Data Processing, Inc.
19992313	John Slapp	Automatic Data Processing, Inc	Automatic Data Processing, Inc.
19992315	Veritas DGC Inc	Enertec Resources Services, Inc	Enertec Resources Services, Inc.
19992317	John C. Hampton	Charles Spence	Pacific Lumber & Shipping Co.
19992329	General Motors Corporation	Mellon Bank Corporation	Mellon Mortgage Company.

FOR FURTHER INFORMATION CONTACT:
Sandra M. Peay or Parcellena P.
Fielding, Contact Representatives,

Federal Trade Commission, Premerger
Notification Office, Competition, Room

303, Washington, DC 20580, (202) 326-
3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99-14188 Filed 6-3-99; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS).

Times And Dates: 9:00 a.m.—5:30 p.m., June 23, 1999; 9:00 a.m.—5:00 p.m., June 24, 1999.

Place: Conference Room 505A, Hubert H. Humphrey Building, 200 Independence Avenue S.W., Washington, D.C. 20201.

Status: Open.

Purpose: The meeting will focus on a variety of health data policy and privacy issues. Department officials will update the Committee on recent activities of the HHS Data Council and the status of HHS activities in implementing the administrative simplification provision of Pub. L. 104-191, the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The Committee also will be briefed on data issues in the Health Care Financing Administration and the Centers for Disease Control, a recent HHS-supported report from the National Academy of Sciences dealing with data and measurement issues in health performance measurement in the public sector, and Healthy People 2010 data issues.

Panel discussions are planned on data for measuring the quality of care, the role of demographic data in HIPAA administrative transactions, and developments in smart care technology in the health sector. In addition, Subcommittee breakout sessions and reports to the full Committee are planned.

All topics are tentative and subject to change. Please check the NCVHS web site, where a detailed agenda will be posted, prior to the meeting.

Contact person for more information: Substantive information as well as summaries of NCHS meetings and a roster of committee members may be obtained by visiting the NCVHS website (<http://aspe.os.dhhs.gov/ncvhs>) where an agenda for the meeting will be posted when available. Additional information may be obtained by calling James Scanlon, NCVHS Executive Staff Director, Office of the Assistant Secretary for Planning and Evaluation, DHHS, Room 440-D, Humphrey Building, 200 Independence Avenue SW, Washington, DC 20201, telephone (202) 690-7100, or Marjorie S. Greenberg, Executive Secretary, NCHVS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436-7050.

Note: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey Building by non-government employees. Thus, individuals without a government identification card may need to have the guard call for an escort to the meeting room.

Dated: May 28, 1999.

James Scanlon,

Director, Division of Data Policy.

[FR Doc. 99-14180 Filed 6-3-99; 8:45 am]

BILLING CODE 4151-04-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration, Title XIX, Part B, of the Public Health Service Act, as Amended Hereafter; Delegation of Authority

Notice is hereby given that I have delegated to the Administrator, Substance Abuse and Mental Health Services Administration, all of the authorities (except as provided below) vested in the Secretary of Health and Human Services under Title XIX, Part B, of the Public Health Service Act, as amended hereafter. This delegation includes the authority to make determinations that States have materially complied with the maintenance of effort requirements of sections 1915(b) and 1930 of the Act, but only when the State expenditure shortfall is 3% or less of the amounts required by law and the Administrator has considered all relevant factors in determining material compliance, such as (for example) whether the State has maintained service levels, the State's expenditure history, and the State's future funding commitment. This delegation excludes the authority to promulgate regulations, to submit reports to Congress, to take final action to withhold funds from States, to make determinations that the State has not materially complied with the maintenance of effort requirements whether or not the shortfall is 3% or less, and to act under the nondiscrimination provisions of the Act.

This delegation is effective upon date of signature. This delegation supersedes all previous delegations of these authorities. In addition, I hereby affirm and ratify any actions taken by the Administrator or the Administrator's subordinates which involved the exercise of the authority delegated prior to the effective date of the delegation.

Dated: May 25, 1999.

Donna E. Shalala,

Secretary.

[FR Doc. 99-14179 Filed 6-3-99; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Safety and Health Interventions in the Construction Industry

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Safety and Health Interventions in the Construction Industry, Program Announcement #99062, meeting.

Times and date: 8 a.m.—9 a.m., July 28, 1999 (Open). 9 a.m.—4:30 p.m., July 28, 1999 (Closed).

Place: Centers for Disease Control and Prevention, 1600 Clifton Rd., Atlanta, Ga., Building 2 Room B46.

Status: Portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Associate Director for Management and Operations, CDC, pursuant to Pub. L. 92-463.

Matters to be discussed: The meeting will include the review, discussion, and evaluation of applications received in response to Program Announcement #99062.

Contact person for more information: Price Connor, Ph.D., National Institute for Occupational Safety and Health, CDC, 1600 Clifton Road, NE, m/s D30 Atlanta, Georgia 30333. Telephone 404/639-2383, e-mail spc3@cdc.gov.

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: May 28, 1999.

John C. Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention CDC.

[FR Doc. 99-14143 Filed 6-3-99; 8:45 am]

BILLING CODE 4163-19-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Research on Young Worker Safety and Health Risks in Construction

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Research on Young Worker Safety and Health Risks in Construction, Program Announcement #99065, meeting.

Times and date: 8 a.m.-9 a.m., August 10, 1999 (Open). 9 a.m.-4:30 p.m., August 10, 1999 (Closed).

Place: Centers for Disease Control and Prevention, 1600 Clifton Rd., Atlanta, Ga., Building 16, Room 1107A.

Status: Portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Associate Director for Management and Operations, CDC, pursuant to Pub. L. 92-463.

Matters to be discussed: The meeting will include the review, discussion, and evaluation of applications received in response to Program Announcement #99065.

Contact person for more information: Price Connor, Ph.D., National Institute for Occupational Safety and Health, CDC, 1600 Clifton Road, NE, m/s D30 Atlanta, Georgia 30333. Telephone 404/639-2383, e-mail spc3@cdc.gov.

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: May 28, 1999.

John C. Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention CDC.

[FR Doc. 99-14144 Filed 6-3-99; 8:45 am]

BILLING CODE 4163-19-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N-1393]

Agency Information Collection Activities: Proposed Collection; Comment Request; State Petitions for Exemption from Preemption

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on reporting requirements contained in existing FDA regulations governing State petitions for exemption from preemption.

DATES: Submit written comments on the collection of information by August 3, 1999.

ADDRESSES: Submit written comments on the collection of information to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Peggy R. Schlosburg, Office of Information Resources Management (HFA-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-1223.

SUPPLEMENTARY INFORMATION: Under 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. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 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, including each proposed extension of an existing 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 comments 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 of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

State Petitions for Exemption From Preemption (21 CFR 100.1(d)) (OMB Control Number 0910-0277—Extension)

Under section 403A(b) of the Federal Food, Drug and Cosmetic Act (the act) (21 U.S.C. 343-1(b)), States may petition FDA for exemption from Federal preemption of State food labeling and standard of identity requirements. Section 100.1(d) (21 CFR 100.1(d)) sets forth the information a State is required to submit in such a petition. The information required under § 100.1(d) enables FDA to determine whether the State food labeling or standard of identity requirement comports with the statutory criteria for exemption from Federal preemption. FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN¹

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
100.1(d)	1	1	1	40	40

¹There are no capital costs or operating and maintenance costs associated with this collection of information.

The reporting burden for § 100.1(d) is insignificant because petitions for exemption from preemption are seldom submitted by States requesting the agency grant an exemption from preemption by labeling requirements based upon certain sections of the act. Over the last 3 years, FDA has not received any preemption petitions. Since the enactment of section 403A(b) of the act as part of the Nutrition Labeling and Education Act of 1990, FDA has received only eight petitions for seeking exemption from preemption. Although FDA believes that the burden will be insignificant, it believes these information collection provisions should be extended to provide for the potential future need of a State or local government to petition for an exemption from preemption under the provisions of section 403A(b) of the act.

Dated: May 22, 1999.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 99-14145 Filed 6-3-99; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food And Drug Administration

[Docket No. 99F-1581]

Witco Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Witco Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of imidazolium compounds,

2-(C₁₇ and C₁₇-unsaturated alkyl)-[2-(C₁₈ and C₁₈-unsaturated amido)ethyl]-4,5-dihydro-1-methyl, methyl sulfates as a debonding agent in the manufacture of paper intended for 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 9B4669) has been filed by Witco Corp., One American Lane, Greenwich, CT 06831-2559. The petition proposes to amend the food additive regulations in § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) and § 176.180 *Components of paper and paperboard in contact with dry food* (21 CFR 176.180) to provide for the safe use of imidazolium compounds, 2-(C₁₇ and C₁₇-unsaturated alkyl)-[2-(C₁₈ and C₁₈-unsaturated amido)ethyl]-4,5-dihydro-1-methyl, methyl sulfates as a debonding agent in the manufacture of paper intended for 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: May 20, 1999.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 99-14148 Filed 6-3-99; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[FDA 225-98-8003]

Agreed Minutes; Meeting Between the Food and Drug Administration and the Health Authorities of Switzerland

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice of agreed minutes between FDA and health authorities of Switzerland. The purpose of the agreed minutes is to continue and enhance cooperation in the fields of drugs, medical devices, and biological products consistent with FDA's framework for achieving mutual recognition of good manufacturing practices inspections.

DATES: The agreement became effective August 7, 1998.

FOR FURTHER INFORMATION CONTACT: Patrick Wilson, Office of International Affairs (HFG-1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-4480.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 20.108 (c), which states that all written agreements and understandings between FDA and others shall be published in the **Federal Register**, the agency is publishing notice of these agreed minutes.

Dated: May 27, 1999.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

BILLING CODE 4160-01-F

225-98-8003

MEETING BETWEEN SWISS AND UNITED STATES DELEGATIONS
ON REGULATORY COOPERATION

Agreed minutes

Delegations of officials of the United States and Switzerland met in Washington, D.C., on July 9, 1998, to discuss strengthening regulatory cooperation between the health authorities of both countries in the fields of drugs, medical devices, and biological products. The discussions were held in a very open and constructive atmosphere and led to the following common understanding.

Both countries are committed to safeguarding the public health, enhancing public health protection, and reducing the regulatory burden in commerce in safe, effective and good quality drugs, medical devices, and biological products. Switzerland and the U.S. agreed to continue and enhance cooperation in the fields of drugs, medical devices, and biological products between the U.S. Food and Drug Administration (FDA) and the Swiss health authorities (Intercantonal Office for the Control of Medicines and Federal Office of Public Health), consistent with FDA's framework for achieving mutual recognition of good manufacturing practices inspections. (This framework was made public on May 10, 1998, and is available on the internet on FDA's home page.)

In order to achieve the goal of enhanced regulatory cooperation, a working program should be established between both countries and should contain as a first step the following elements, subject to the availability of resources and with maximum use of information already available on the Internet home pages of the participating regulatory authorities:

- intensifying/formalizing information exchange, in particular in the field of adverse reactions, quality defects and product recalls;
- provide Swiss authorities with access to COMSTAT (FDA's Compliance Status Information System) and provide for FDA's access to any similar electronic information system maintained by Swiss authorities;
- consider ways to build confidence in the other country's regulatory program as a first step toward more reliance on each other's activities; the following projects will be pursued:

exchange of inspection findings (for instance form FDA-483) and inspection reports upon request;

use of joint inspections (for the purpose of observing each other's activities) and inspectional history, and

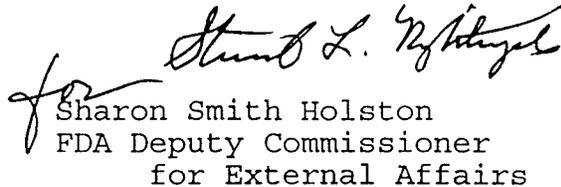
joint training of inspectors;

- promote the harmonization of technical requirements and auditing techniques;
- designation of contact points and definition of their respective tasks.

The plan is for a work plan to be agreed upon by the end of December 1998. Switzerland plans to forward a first proposal by the end of October.



Oscar Zosso, Ambassador
Head of Swiss Delegation



for Sharon Smith Holston
FDA Deputy Commissioner
for External Affairs

Washington, D.C.
August 7, 1998

[FR Doc. 99-14146 Filed 6-3-99; 8:45 am]
BILLING CODE 4160-01-C

**DEPARTMENT OF HEALTH AND
HUMAN SERVICES**

Food and Drug Administration

[Docket No. 99D-1540]

**Draft Guidance for Reviewers on
Evaluation of Human Pregnancy
Outcome Data; 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 reviewers entitled "Evaluation of Human Pregnancy Outcome Data." The draft guidance is intended to provide the FDA clinical reviewer with factors to consider when systematically evaluating pregnancy outcome data related to maternal drug exposure. The draft guidance will be discussed during the June 3, 1999, meeting of the Subcommittee of the Advisory Committee for Reproductive Health Drugs.

DATES: Written comments on the draft guidance document may be submitted by September 2, 1999. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Copies of this draft guidance for reviewers are available on the Internet at "<http://www.fda.gov/cder/guidance/index.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. 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; or the Office of Communication, Training and Manufacturers Assistance (HFM-40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448; "<http://www.fda.gov/cber/guidelines.htm>"; FAX: 1-888-CBERFAX or 301-827-3844; Mail: the Voice Information System at 800-835-4709 or 301-827-1800.

FOR FURTHER INFORMATION CONTACT:

Rose E. Cunningham, Center for Drug Evaluation and Research (HFD-6), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-594-5468; or

Toni M. Stifano, Center for Biologics Evaluation and Research (HFM-602), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448, 301-827-3028, or via e-mail at "stifano@cber.fda.gov".

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a draft guidance for reviewers entitled "Evaluation of Human Pregnancy Outcome Data."

As part of its evaluation of pregnancy labeling, in September 1997 the agency held a 21 CFR part 15 hearing on the current category requirements for pregnancy labeling (see 62 FR 41061, July 31, 1997). The agency sought comment on the practical utility, effects, and limitations of the pregnancy categories. The agency sought input on ways to address problems, including possible alternatives to the categories for communicating information on reproductive and developmental toxicity.

Subsequently, the agency has been working on the development of various

draft guidance documents, including the draft guidance for reviewers on "Evaluation of Human Pregnancy Outcome Data." This draft guidance document will be discussed during the June 3, 1999, meeting of the Subcommittee of the Advisory Committee for Reproductive Health Drugs (64 FR 23340, April 30, 1999).

This Level 1 draft guidance is being issued consistent with FDA's good guidance practices (62 FR 8961, February 27, 1997). The draft guidance represents the agency's current thinking on the evaluation of human pregnancy outcome data. 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 submit written comments on the draft guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The 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.

Dated: May 28, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy Coordination.

[FR Doc. 99-14149 Filed 6-3-99; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D-1541]

Draft Guidance for Industry on Establishing Pregnancy Registries; Availability

AGENCY: Food and Drug Administration, HHS

ACTION: Notice.

SUMMARY: The Food and Drug Administration is announcing the availability of a draft guidance for industry entitled "Establishing Pregnancy Registries." Pregnancy registries are recognized as one method of obtaining meaningful information on the risks associated with exposure to drugs or biologics during pregnancy. The draft guidance is intended to provide sponsors with guidance on establishing pregnancy registries that help ensure the quality and integrity of

registry data and adequately document registry research methods. The draft guidance will be discussed during the June 3, 1999, meeting of the Subcommittee of the Advisory Committee for Reproductive Health Drugs.

DATES: Written comments may be submitted on the draft guidance document by September 2, 1999. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Copies of this draft guidance for industry are available on the Internet at "<http://www.fda.gov/cder/guidance/index.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. 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; or Office of Communication, Training and Manufacturers Assistance (HFM-40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448; <http://www.fda.gov/cber/guidelines.htm>; Fax: 1-888-CBERFAX or 301-827-3844, Mail: the Voice Information System at 800-835-4709 or 301-827-1800.

FOR FURTHER INFORMATION CONTACT: Rose E. Cunningham, Center for Drug Evaluation and Research (HFD-6), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-594-5468; or Toni M. Stifano, Center for Biologics Evaluation and Research (HFM-602), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448, 301-827-3028, or via e-mail at "stifano@cber.fda.gov".

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a draft guidance for industry entitled "Establishing Pregnancy Registries."

As part of its evaluation of pregnancy labeling, in September 1997 the agency held a part 15 (21 CFR part 15) hearing on the current category requirements for pregnancy labeling (see 62 FR 41061, July 31, 1997). The agency sought comment on the practical utility, effects, and limitations of the pregnancy categories. The agency also sought input on ways to address problems, including possible alternatives to the categories for communicating information on reproductive and developmental toxicity.

Subsequently, the agency has been working on the development of various draft guidance documents, including the draft guidance for industry entitled "Establishing Pregnancy Registries." At the time of marketing approval, FDA may request sponsors to conduct certain post-marketing studies (phase 4) to provide data on the potential risks of the product in human pregnancy. Pregnancy registries are recognized as one method of obtaining information on risks associated with exposure to drugs or biologics during pregnancy.

The draft guidance is intended to provide sponsors with guidance on establishing pregnancy registries that help ensure the quality and integrity of registry data and adequately document registry research methods. The draft guidance focuses on registries designed to assess products for suspected or unknown risks to pregnancy outcomes. The registry design is not appropriate for products (e.g., tretinoin or thalidomide) where the goal is to monitor and evaluate programs intended to prevent pregnancy exposures.

The draft guidance will be discussed during the June 3, 1999, meeting of the Subcommittee of the Advisory Committee for Reproductive Health Drugs (64 FR 23340, April 30, 1999).

This draft guidance is being issued consistent with FDA's good guidance practices (62 FR 8961, February 27, 1997). The draft guidance represents the agency's current thinking on establishing pregnancy registries. 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 submit written comments on the draft guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The 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.

Dated: May 28, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy Coordination.

[FR Doc. 99-14151 Filed 6-3-99; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA-R-137]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection.

Title of Information Collection: Internal Revenue Service/Social Security Administration/Health Care Financing Administration Data Match and Supporting Regulations in 42 CFR Section 411.20-411.206.

Form No.: HCFA-R-137 (OMB# 0938-0565).

Use: The purpose of this collection is to save the Medicare program, money. MSP is essentially the same concept known in the private insurance industry as coordination of benefits, and refers to those situations where Medicare assumes a secondary payer role (private insurance being the primary payer) for covered services provided to a Medicare beneficiary. It is HCFA's responsibility to implement the various Medicare Secondary Payer (MSP) provisions.

Frequency: Annually.

Affected Public: Federal Government, Business or other for-profit, Not-for-profit institutions, Farms, State, and Local or Tribal Government.

Number of Respondents: 276,251.

Total Annual Responses: 276,251.

Total Annual Hours: 1,051,722.

To obtain copies of the supporting statement and any related forms for the

proposed paperwork collections referenced above, access HCFA's Web Site address at <http://www.hcfa.gov/regs/prdact95.htm>, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786-1326.

Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Dawn Willingham, Room N2-14-26, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

Dated: May 26, 1999.

John Parmigiani,

Manager, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99-14122 Filed 6-3-99; 8:45 am]

BILLING CODE 4120-03-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration [HCFA-1075-N]

Medicare Program; June 25, 1999 Public Meeting To Discuss the Payment Classification for Respiratory Assist Devices

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting regarding the appropriate durable medical equipment (DME) fee schedule payment category for respiratory assist devices (RADs) with bi-level pressure capability and with a backup rate feature. The meeting will provide an opportunity for physicians, suppliers, beneficiary advocates, and other interested parties to furnish information and raise issues about the payment classification for RADs. The meeting will address the following topics:

- Characteristics of the equipment.
- Whether the equipment needs

frequent and substantial servicing in order to avoid risk to the patient's health.

DATES: The meeting is scheduled for June 25, 1999 from 9:30 a.m. until 3:30 p.m., eastern daylight time.

ADDRESSES: The meeting will be held at the Health Care Financing

Administration headquarters, in the auditorium, 7500 Security Boulevard, Baltimore, Maryland 21244.

FOR FURTHER INFORMATION CONTACT: Joel Kaiser, (410) 786-4499, or Gloria Knight, (410) 786-4598.

SUPPLEMENTARY INFORMATION:

Background

We are announcing a public meeting to provide an opportunity for physicians, suppliers, beneficiary advocates and other interested parties to furnish information and raise issues regarding the appropriate DME payment category for RADs with bi-level pressure capability and with a backup rate feature. The public meeting provides an open forum for addressing these issues. We anticipate participation by physicians, manufacturers, suppliers, national associations representing manufacturers and suppliers, the press, and other members of the public with an interest in issues relating to Medicare payment for RADs. We intend to discuss the information we have gathered and the general direction that we are moving concerning these topics. The format of the meeting will include an overview on RAD payment and coding topics.

For more detailed information regarding the pending HCFA coding decision on RADs, you may access one of the following Durable Medical Equipment Regional Carrier websites for the June bulletin:

REGION A: www.medicare-link.com

REGION B: www.astar-federal.com

REGION C: www.pgba.com

REGION D: www.cignamedicare.com

We will allow short (10-20 minutes) presentations by the public and our staff on these topics. The meeting will conclude with an open dialog during which the public may raise issues related to the topics discussed.

Individuals interested in making a presentation at the meeting must contact Joel Kaiser at (410) 786-4499 or via e-mail at JKaiser@hcfa.gov or Gloria Knight at (410) 786-4598 or via e-mail at GKnight@hcfa.gov no later than June 18, 1999. Individuals must identify which of the two topics they want to discuss during their presentation. Only a limited number of individuals will be able to make presentations because of time constraints. In an effort to assure that all viewpoints are represented, we will notify participants who are selected to make a presentation. We will not assign presentation times until after June 18, 1999.

While the meeting is open to the public, attendance is limited to space available. Individuals must register in advance as described below.

Registration

The Office of Professional Relations will handle registration for the meeting. Individuals may register by sending a fax to the attention of Martha Dixon at (202) 401-7438. At the time of registration, please provide your name, address, telephone number, and fax number.

Confirmation of receipt of your fax will constitute confirmation of your registration. Meeting materials will be provided at the time of the meeting.

If you have questions regarding registration, please contact Martha Dixon at (202) 358-1420.

We will accept written comments, questions, or other materials specifically dealing with the issue of the appropriateness of the DME payment category for RADs with bi-level pressure capability and with a backup rate feature that are received no later than 5 p.m. on June 15, 1999. Written submissions must be sent to: Health Care Financing Administration, ATTN: Joel Kaiser, Room C5-06-27, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: May 27, 1999.
Nancy-Ann Min DeParle,
Administrator, Health Care Financing Administration.
 [FR Doc. 99-14140 Filed 6-3-99; 8:45 am]
BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301)-443-1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Application for Certification and Recertification as a Federally Qualified Health Center (FQHC) Look Alike, OMB No. 0915-0142—Revision

The Health Resources and Services Administration (HRSA) proposed to revise the application guide used by organizations applying for certification, or recertification as a Federally Qualified Health Center (FQHC) Look-Alike for purposes of cost-based reimbursement under the Medicaid and Medicare programs. The guide will be revised to reflect legislative, policy, and technical changes since May, 1997, the issuance date of the last guidance. Revisions will include reference to the Balanced Budget Act of 1997 which amended the statutory language pertaining to FQHC Look-Alikes to include the requirement that “an entity may not be owned, controlled, or operated by another entity”, and the interpretation and implementation policy documents issued by the HRSA.

Estimates of Burden are as follows:

Form	Number of respondents	Responses per respondent	Hours per respondent	Total hour burden
Application	26	1	100	2,600
Recertification	148	1	20	2,960
Total	174	5,560

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Wendy A. Taylor, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: May 28, 1999.

Jane Harrison,
Director, Division of Policy Review and Coordination.
 [FR Doc. 99-14230 Filed 6-3-99; 8:45 am]
BILLING CODE 4160-15-U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C., Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, PAR 99-019—Non-Mammalian Organisms as Models for Anti-Cancer Drug Discovery.

Date: June 22-23, 1999.

Time: 8:30 am to 3:00 pm.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Wilna A. Woods, PHD, Deputy Chief, Special Review, Referral and Research Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, Rockville, MD 20852, (301) 496-7903.

Name of Committee: National Cancer Institute Special Emphasis Panel, Non-Mammalian Organisms as Models for Anti-Cancer Drug Discovery.

Date: June 23, 1999.

Time: 3:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20853.

Contact Person: Wilna A. Woods, PHD, Deputy Chief, Special Review, Referral and Research Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, Rockville, MD 20852, (301) 496-7903.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 26, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99-14152 Filed 6-3-99; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C., Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Radiation Dosimetry for Epidemiologic Studies.

Date: June 7, 1999.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: 6130 Executive Blvd., 6th Floor, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Wilna A. Woods, PHD, Deputy Chief, Special Review, Referral and Research Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of

Health, Rockville, MD 20852, (301) 496-7903.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 26, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99-14153 Filed 6-3-99; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, The Sleep Heart Health Study—Data Coordinating Center.

Date: June 18, 1999.

Time: 3:00 p.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Valerie L. Prenger, PHD, Health Science Administrator, NIH, NHLBI, DEA, Review Branch, Rockledge Center II, 6701 Rockledge Drive, Suite 7198, Bethesda, MD 20892-7924, (301) 435-0297.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: May 27, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99-14157 Filed 6-3-99; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given to the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552(b)(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group, Population Research Subcommittee.

Date: June 15, 1999.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Square, 2000 N Street, NW, Washington, DC 20036.

Contact Person: Jon M. Ranhand, PhD, Health Scientist Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, 6100 Executive Blvd., Rm. 5E01, MSC 7510, Bethesda, MD 20892, (301) 435-6884.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Programs Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: May 27, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99-14155 Filed 6-3-99; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group, Maternal and Child Health Research Subcommittee.

Date: June 15, 1999.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites, Chevy Chase Pavilion, 4300 Military Rd., Wisconsin at Western Ave., Washington, DC 20015.

Contact Person: Gopal M. Bhatnagar, PhD, Scientific Review Administrator, National Institute of Child Health and Human Development, National Institutes of Health, PHS, DHHS, Bethesda, MD 20892.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: May 27, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99-14156 Filed 6-3-99; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as

amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Autoimmunity Centers of Excellence.

Date: June 28-29, 1999.

Time: 8:00 a.m. to 5:00 p.m..

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, Mirage I Room, 2101 Wisconsin Avenue, Washington, DC 20007.

Contact Person: Edward W. Schroder, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2156, 6700-B Rockledge Drive, MSC 7610, Bethesda, MD 20892-7610, 301-496-2550.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 27, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 99-14158 Filed 6-3-99; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant

applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: NIDR Special Grants Review Committee, Special Grants Review Committee.

Date: June 17-18, 1999.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: The Hyatt Regency Hotel, 100 Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: William J. Gartland, PHD, Scientific Review Administrator, National Institutes of Dental & Craniofacial Res., National Institutes of Health, PHS, DHHS, 45 Center Drive, Natcher Building, RM. 4AN44F, Bethesda, MD 20892.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: May 28, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99-14159 Filed 6-3-99; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, New Imaging Technologies for Autoimmune Diseases.

Date: July 16, 1999.

Time: 8:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, Maryland Room, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Anna Ramsey-Ewing, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2220, 6700-B Rockledge Drive, MSC 7610, Bethesda, MD 20892-7610, 301-496-2550.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 28, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 99-14160 Filed 6-3-99; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, "Compound Identification and Operations Support".

Date: June 24, 1999.

Time: 9:00 am to 5:00 pm.

Agenda: To review and evaluate contract proposals.

Place: Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892-9547, (301) 435-1439.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel,

"Administrative Coordinating Center for Clinical Trials Network".

Date: June 29, 1999.

Time: 9:00 am to 5:00 pm.

Agenda: To review and evaluate contract proposals.

Place: Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892-9547, (301) 435-1439.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientists Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: May 28, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 99-14161 Filed 6-3-99; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Initial Review Group, Medication Development Research Subcommittee.

Date: June 29, 1999.

Time: 9:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard Marriott, 2899 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Khursheed Asghar, Chief, Basic Sciences Review Branch, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 29089-2954, (301) 443-2620.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Medication Development.

Date: June 29, 1999.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard Marriott, 2899 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Mark Swieter, PhD, Health Scientist Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892-9547, (301) 435-1389.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: May 28, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 99-14162 Filed 6-3-99; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: June 4, 1999.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, Bethesda, MD 20814.

Contact Person: Sandy Warren, DMD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5134, MDC 7840, Bethesda, MD 20892, (301) 435-1019.

This notice is being published less than 15 days prior to the meeting due to the timing

limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: June 6, 1999.

Time: 8:00 am to 10:00 pm.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Michael Knecht, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6176, MSC 7892, Bethesda, MD 20892, (301) 435-1046.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: June 7-8, 1999.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: River Inn, 924 25th Street, NW, Washington, DC 20037.

Contact Person: Joseph Kimm, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178, MSC 7844, Bethesda, MD 20892, (301) 435-1249.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Endocrinology and Reproductive Sciences Initial Review Group, Reproductive Biology Study Section.

Date: June 7-8, 1999.

Time: 8:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Dennis Leszczynski, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170, MSC 7892, Bethesda, MD 20892, (301) 435-1044.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Endocrinology and Reproductive Sciences Initial Review Group, Reproductive Endocrinology Study Section.

Date: June 7-8, 1999.

Time: 8:30 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Hotel, 620 Perry Parkway, Gaithersburg, MD 20877.

Contact Person: Abubakar A. Shaikh, DVM, Phd, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6166, MSC 7892, Bethesda, MD 20892, (301) 435-1042.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Pathophysiological Sciences Initial Review Group, General Medicine A Subcommittee 2.

Date: June 7-8, 1999.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications

Place: Wyndham Bristol Hotel, 2430 Pennsylvania Ave, NW, Washington, DC 20037.

Contact Person: Mushtaq A. Khan, DVM, Phd, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7818, Bethesda, MD 20892, (301) 435-1778, khanm@drg.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: June 7, 1999.

Time: 1:00 pm to 4:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Nancy Lamontage, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4170, MSC 7806, Bethesda, MD 20892, (301) 435-1726.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1-SSS-W (21).

Date: June 7, 1999.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Dharam S. Dhindsa, DVM, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5126, MSC 7854, Bethesda, MD 20892, (301) 435-1174, dhindsad@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: June 7-9, 1999.

Time: 7:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Tarrytown Hilton, 455 South Broadway, New York, NY 10591.

Contact Person: Paul K. Strudler, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4100, MSC 7804, Bethesda, MD 20892, (301) 435-1716.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Health Promotion and Disease Prevention Initial Review Group, Alcohol and Toxicology Subcommittee 1.

Date: June 7-8, 1999.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Laurie L. Foudin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4122, MSC 7818, Bethesda, MD 20892, (301) 435-1779.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Initial Review Group, Visual Sciences C Study Section.

Date: June 8-9, 1999.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Doyle Hotel, 1500 New Hampshire Avenue, N.W., Washington, DC 20036.

Contact Person: Carole L. Jelsema, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5222, MSC 7850, Bethesda, MD 20892, (301) 435-1249, jelsemac@drg.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Cardiovascular Sciences Initial Review Group, Pathology A Study Section.

Date: June 8-9, 1999.

Time: 8:30 am to 2:30 pm.

Agenda: To review and evaluate grant applications.

Place: One Washington Circle, 1 Washington Circle, NW, Washington, DC 20037.

Contact Person: Larry Pinkus, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435-1214.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: June 8, 1999.

Time: 2:00 pm to 3:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Gerhard Ehrenspeck, PhD, Scientific Review Administrator Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5138, MSC 7840, Bethesda, MD 20892, (301) 435-1022, ehrenspeckg@nih.csr.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, MDCN-4.

Date: June 9–10, 1999.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: The Doyle Hotel, 1500 New Hampshire Avenue, N.W., Washington, DC 20036.

Contact Person: Mary Custer, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5102, MSC 7850, Bethesda, MD 20892, (301) 435-1164.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1PTHA 01S.

Date: June 9, 1999.

Time: 3:00 pm to 3:30 pm.

Agenda: To review and evaluate grant applications.

Place: One Washington Circle, 1 Washington Circle, NW, Washington, DC 20037 (Telephone Conference Call).

Contact Person: Larry Pinkus, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MCS 7802, Bethesda, MD 20892, (301) 435-1214.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.893, National Institutes of Health, HHS)

Dated: May 27, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99-14154 Filed 6-3-99; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA)

Meeting; SAMHSA Special Emphasis Panel II

Pursuant to Public Law 92-463, notice is hereby given of the following meeting of the SAMHSA Special Emphasis Panel II in June 1999.

A summary of the meeting and a roster of the members may be obtained from: Ms. Coral Sweeney, SAMHSA, Office of Policy and Program Coordination, Division of Extramural Activities, Policy, and Review, 5600 Fishers Lane, Room 17-89, Rockville, Maryland 20857. Telephone: 301-443-2998.

Substantive program information may be obtained from the individual named as Contact for the meeting listed below.

The meeting will include the review, discussion and evaluation of individual grant applications. These discussions could reveal personal information concerning individuals associated with the applications. Accordingly, this meeting is concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c) (6) and 5 U.S.C. App.2, section 10(d).

Committee Name: SAMHSA Special Emphasis Panel II (SEP I).

Meeting Dates: June 10, 1999.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Closed: June 10, 1999, 2:00 p.m.–adjournment.

Panel: FEMA—California.

Contact: Raquel Crider, Ph.D., Room 17-89, Parklawn Building, Telephone: 301-443-5063 and FAX: 301-443-3437.

Dated: May 26, 1999.

Coral Sweeney,

GTA, Substance Abuse and Mental Health Services Administration.

[FR Doc. 99-14229 Filed 6-3-99; 8:45 am]

BILLING CODE 4162-20-U

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4432-N-22]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7256, Department of Housing and Urban Development, 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 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to

HUD by Federal landholding agencies regarding unutilized and under utilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless v. Veterans Administration*, No. 88-2503-OG (D.C.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B-41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443-2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1-800-927-7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: ARMY: Mr. Jeff Holste, U.S. Army Center for Public Works, Installation Support Center, Facilities Management, 7701 Telegraph Road, Alexandria, VA 22315-3862; (703) 428-6318; GSA: Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW, Washington, DC 20405; (202) 501-0052; NAVY: Mr. Charles C. Cocks, Department of the Navy, Director, Real Estate Policy Division, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE, Suite 1000, Washington, DC 20374-5065; (202) 685-9200; (These are not toll-free numbers).

Dated: May 26, 1999.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 6/4/99

Suitable/Available Properties

Buildings (by State)

Arizona

Bldg. 90201

Fort Huachuca

Sierra Vista Co: Cochise AZ 85635-

Landholding Agency: Army

Property Number: 21199920182

Status: Unutilized

Comment: 25,503 sq. ft., presence of asbestos/lead paint, most recent use—laundry, off-site use only

Bldgs. 12521, 13572

Fort Huachuca

Sierra Vista Co: Cochise AZ 85635-

Landholding Agency: Army

Property Number: 21199920183

Status: Unutilized

Comment: 448 sq. ft. & 54 sq. ft., off-site use only

Illinois

Bldg. HP068

Sheridan Army Reserve

Complex

Sheridan Co: IL 60037-

Landholding Agency: Army

Property Number: 21199920184

Status: Unutilized

Comment: 735 sq. ft., most recent use—storage, off-site use only

Bldgs. HP109, 110, 111

Sheridan Army Reserve

Complex

Sheridan Co: IL 60037-

Landholding Agency: Army

Property Number: 21199920185

Status: Unutilized

Comment: 2210 sq. ft. each, most recent use—admin., off-site use only

Bldgs. HP113, 114

Sheridan Army Reserve

Complex

Sheridan Co: IL 60037-

Landholding Agency: Army

Property Number: 21199920186

Status: Unutilized

Comment: 2864 sq. ft. and 3458 sq. ft., most recent use—admin., off-site use only

Bldg. HP132

Sheridan Army Reserve

Complex

Sheridan Co: IL 60037-

Landholding Agency: Army

Property Number: 21199920187

Status: Unutilized

Comment: 2033 sq. ft., most recent use—admin., off-site use only

Bldg. HP133

Sheridan Army Reserve

Complex

Sheridan Co: IL 60037-

Landholding Agency: Army

Property Number: 21199920188

Status: Unutilized

Comment: 6299 sq. ft., most recent use—storage, off-site use only

Bldgs. HP432-439

Sheridan Army Reserve

Complex

Sheridan Co: IL 60037-

Landholding Agency: Army

Property Number: 21199920189

Status: Unutilized

Comment: 4845 sq. ft. each, presence of asbestos, most recent use—admin/storage, off-site use only

Bldgs. HP444, 448

Sheridan Army Reserve

Complex

Sheridan Co: IL 60037-

Landholding Agency: Army

Property Number: 21199920190

Status: Unutilized

Comment: 1742 sq. ft. and 2366 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldgs. HP459, 460

Sheridan Army Reserve

Complex

Sheridan Co: IL 60037-

Landholding Agency: Army

Property Number: 21199920191

Status: Unutilized

Comment: 4848 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldg. HP544

Sheridan Army Reserve

Complex

Sheridan Co: IL 60037-

Landholding Agency: Army

Property Number: 21199920192

Status: Unutilized

Comment: 3148 sq. ft., most recent use—admin., off-site use only

Bldgs. HP528, 538

Sheridan Army Reserve

Complex

Sheridan Co: IL 60037-

Landholding Agency: Army

Property Number: 21199920193

Status: Unutilized

Comment: 2269 sq. ft. and 3212 sq. ft., most recent use—office/garage, off-site use only

Bldg. HP553

Sheridan Army Reserve

Complex

Sheridan Co: IL 60037-

Landholding Agency: Army

Property Number: 21199920194

Status: Unutilized

Comment: 2793 sq. ft., most recent use—storage, off-site use only

Bldg. HP563

Sheridan Army Reserve

Complex

Sheridan Co: IL 60037-

Landholding Agency: Army

Property Number: 21199920195

Status: Unutilized

Comment: 3712 sq. ft., presence of asbestos, most recent use—office, off-site use only

Kansas

Bldg. P-218

Fort Riley

Ft. Riley Co: Geary KS 66442-

Landholding Agency: Army

Property Number: 21199920196

Status: Unutilized

Comment: 1992 sq. ft., most recent use—gas station

Bldg. P-220

Fort Riley

Ft. Riley Co: Geary KS 66442-

Landholding Agency: Army

Property Number: 21199920197

Status: Unutilized

Comment: 774 sq. ft., most recent use—warehouse

Bldg. P-146

Fort Leavenworth

Leavenworth Co: KS 66027-

Landholding Agency: Army

Property Number: 21199920198

Status: Unutilized

Comment: 196 sq. ft., most recent use—utility, off-site use only

Bldg. P-149

Fort Leavenworth

Leavenworth Co: KS 66027-

Landholding Agency: Army

Property Number: 21199920199

Status: Unutilized

Comment: 76 sq. ft., most recent use—utility, off-site use only

Bldg. P-150

Fort Leavenworth

Leavenworth Co: KS 66027-

Landholding Agency: Army

Property Number: 21199920200

Status: Unutilized
 Comment: 96 sq. ft., most recent use—utility, off-site use only
 Bldg. P-162
 Fort Leavenworth
 Leavenworth Co: KS 66027-
 Landholding Agency: Army
 Property Number: 21199920201
 Status: Unutilized
 Comment: 81 sq. ft., most recent use—utility, off-site use only
 Bldg. P-242
 Fort Leavenworth
 Leavenworth Co: KS 66027-
 Landholding Agency: Army
 Property Number: 21199920202
 Status: Unutilized
 Comment: 4680 sq. ft., most recent use—storage, off-site use only
 New York
 Bldg. P-87
 Fort Drum
 Ft. Drum Co: Jefferson NY 13602-
 Landholding Agency: Army
 Property Number: 21199920203
 Status: Unutilized
 Comment: 360 sq. ft., needs rehab, most recent use—admin., off-site use only
 Texas
 Bldg. 36
 Fort Hood
 Ft. Hood Co: Coryell TX 76544-
 Landholding Agency: Army
 Property Number: 21199920204
 Status: Unutilized
 Comment: 2250 sq. ft., needs repair, most recent use—ACS center, off-site use only
 Bldg. 37
 Fort Hood
 Ft. Hood Co: Coryell TX 76544-
 Landholding Agency: Army
 Property Number: 21199920205
 Status: Unutilized
 Comment: 2220 sq. ft., needs repair, most recent use—storage, off-site use only
 Bldg. 38
 Fort Hood
 Ft. Hood Co: Coryell TX 76544-
 Landholding Agency: Army
 Property Number: 21199920206
 Status: Unutilized
 Comment: 2700 sq. ft., needs repair, most recent use—gen. inst., off-site use only
 Bldg. 39
 Fort Hood
 Ft. Hood Co: Coryell TX 76544-
 Landholding Agency: Army
 Property Number: 21199920207
 Status: Unutilized
 Comment: 2220 sq. ft., needs repair, most recent use—storage, off-site use only
 Bldg. 41
 Fort Hood
 Ft. Hood Co: Coryell TX 76544-
 Landholding Agency: Army
 Property Number: 21199920208
 Status: Unutilized
 Comment: 1750 sq. ft., needs repair, most recent use—admin., off-site use only
 Bldgs. 43-44
 Fort Hood
 Ft. Hood Co: Coryell TX 76544-
 Landholding Agency: Army
 Property Number: 21199920209
 Status: Unutilized
 Comment: 2750 sq. ft., needs repair, most recent use—admin., off-site use only
 Bldgs. 209-212
 Fort Hood
 Ft. Hood Co: Coryell TX 76544-
 Landholding Agency: Army
 Property Number: 21199920210
 Status: Unutilized
 Comment: 8043 sq. ft., needs repair, most recent use—admin., off-site use only
 Bldg. 213
 Fort Hood
 Ft. Hood Co: Coryell TX 76544-
 Landholding Agency: Army
 Property Number: 21199920211
 Status: Unutilized
 Comment: 7670 sq. ft., needs repair, most recent use—operations, off-site use only
 Bldg. 919
 Fort Hood
 Ft. Hood Co: Coryell TX 76544-
 Landholding Agency: Army
 Property Number: 21199920212
 Status: Unutilized
 Comment: 11,800 sq. ft., needs repair, most recent use—Bde. Hq. Bldg., off-site use only
 Bldg. 923
 Fort Hood
 Ft. Hood Co: Coryell TX 76544-
 Landholding Agency: Army
 Property Number: 21199920213
 Status: Unutilized
 Comment: 4440 sq. ft., needs repair, most recent use—admin., off-site use only
 Bldg. 924
 Fort Hood
 Ft. Hood Co: Coryell TX 76544-
 Landholding Agency: Army
 Property Number: 21199920214
 Status: Unutilized
 Comment: 3500 sq. ft., needs repair, most recent use—admin., off-site use only
 Bldg. 2304
 Fort Hood
 Ft. Hood Co: Coryell TX 76544-
 Landholding Agency: Army
 Property Number: 21199920215
 Status: Unutilized
 Comment: 8043 sq. ft., needs repair, most recent use—Avn. Unit Ops., off-site use only
 Bldgs. 2306-2307
 Fort Hood
 Ft. Hood Co: Coryell TX 76544-
 Landholding Agency: Army
 Property Number: 21199920216
 Status: Unutilized
 Comment: 8043 sq. ft., needs repair, most recent use—health clinic, off-site use only
 Bldg. 3203
 Fort Hood
 Ft. Hood Co: Coryell TX 76544-
 Landholding Agency: Army
 Property Number: 21199920217
 Status: Unutilized
 Comment: 1680 sq. ft., needs repair, most recent use—car wash, off-site use only
 Bldgs. 3204-3205
 Fort Hood
 Ft. Hood Co: Coryell TX 76544-
 Landholding Agency: Army
 Property Number: 21199920218
 Status: Unutilized
 Comment: 64 sq. ft., needs repair, most recent use—storage, off-site use only
 Bldgs. 3949-3950
 Fort Hood
 Ft. Hood Co: Coryell TX 76544-
 Landholding Agency: Army
 Property Number: 21199920219
 Status: Unutilized
 Comment: 5310 sq. ft., needs repair, most recent use—Bn. Hq. Bldg., off-site use only
 Bldg. 3951
 Fort Hood
 Ft. Hood Co: Coryell TX 76544-
 Landholding Agency: Army
 Property Number: 21199920220
 Status: Unutilized
 Comment: 2500 sq. ft., needs repair, most recent use—admin., off-site use only
 Bldgs. 3952-3953
 Fort Hood
 Ft. Hood Co: Coryell TX 76544-
 Landholding Agency: Army
 Property Number: 21199920221
 Status: Unutilized
 Comment: 3100 sq. ft., needs repair, most recent use—admin., off-site use only
 Bldgs. 3954-3957
 Fort Hood
 Ft. Hood Co: Coryell TX 76544-
 Landholding Agency: Army
 Property Number: 21199920222
 Status: Unutilized
 Comment: 5310 sq. ft., needs repair, most recent use—admin., off-site use only
 Bldg. 3958
 Fort Hood
 Ft. Hood Co: Coryell TX 76544-
 Landholding Agency: Army
 Property Number: 21199920223
 Status: Unutilized
 Comment: 3241 sq. ft., needs repair, most recent use—admin., off-site use only
 Bldg. 3959
 Fort Hood
 Ft. Hood Co: Coryell TX 76544-
 Landholding Agency: Army
 Property Number: 21199920224
 Status: Unutilized
 Comment: 3373 sq. ft., needs repair, most recent use—admin., off-site use only
 Bldgs. 3960-3962
 Fort Hood
 Ft. Hood Co: Coryell TX 76544-
 Landholding Agency: Army
 Property Number: 21199920225
 Status: Unutilized
 Comment: 5310 sq. ft., needs repair, most recent use—admin., off-site use only
 Bldgs. 3964-3965
 Fort Hood
 Ft. Hood Co: Coryell TX 76544-
 Landholding Agency: Army
 Property Number: 21199920226
 Status: Unutilized
 Comment: 3100 sq. ft., needs repair, most recent use—Bn. Hq. Bldg., off-site use only
 Bldg. 3966
 Fort Hood
 Ft. Hood Co: Coryell TX 76544-
 Landholding Agency: Army
 Property Number: 21199920227
 Status: Unutilized

Comment: 2741 sq. ft., needs repair, most recent use—Co. Hq. Bldg., off-site use only

Bldgs. 3967–3969

Fort Hood

Ft. Hood Co: Coryell TX 76544–

Landholding Agency: Army

Property Number: 21199920228

Status: Unutilized

Comment: 5310 sq. ft., needs repair, most recent use—admin., off-site use only

Bldgs. 3970–3971

Fort Hood

Ft. Hood Co: Coryell TX 76544–

Landholding Agency: Army

Property Number: 21199920229

Status: Unutilized

Comment: 3241 sq. ft., needs repair, most recent use—admin., off-site use only

Washington

Bldg. U001B

Fort Lewis

Ft. Lewis Co: Pierce WA 98433–

Landholding Agency: Army

Property Number: 21199920237

Status: Excess

Comment: 54 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. U001C

Fort Lewis

Ft. Lewis Co: Pierce WA 98433–

Landholding Agency: Army

Property Number: 21199920238

Status: Unutilized

Comment: 960 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—supply, off-site use only

10 Bldgs.

Fort Lewis

Ft. Lewis Co: Pierce WA 98433–

Location: U002B, U002C, U015I, U019C,

U022A, U028B, 0091A, U093C

Landholding Agency: Army

Property Number: 21199920239

Status: Excess

Comment: 600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

6 Bldgs.

Fort Lewis

Ft. Lewis Co: Pierce WA 98433–

Location: U003A, U004B, U006C, U015B,

U016B, U019B

Landholding Agency: Army

Property Number: 21199920240

Status: Unutilized

Comment: 54 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. U004D

Fort Lewis

Ft. Lewis Co: Pierce WA 98433–

Landholding Agency: Army

Property Number: 21199920241

Status: Unutilized

Comment: 960 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—supply, off-site use only

Bldg. U005A

Fort Lewis

Ft. Lewis Co: Pierce WA 98433–

Landholding Agency: Army

Property Number: 21199920242

Status: Unutilized

Comment: 360 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

Bldgs. U006A, U024A

Fort Lewis

Fort Lewis Co: Pierce WA 98433–

Landholding Agency: Army

Property Number: 21199920243

Status: Excess

Comment: 1440 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—shelter, off-site use only

Bldgs. U007A, U021A

Fort Lewis

Fort Lewis Co: Pierce WA 98433–

Landholding Agency: Army

Property Number: 21199920244

Status: Excess

Comment: 100 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

7 Bldgs.

Fort Lewis

Fort Lewis Co: Pierce WA 98433–

Location: U014A, U022B, U023A, U043B,

U059B, U060A, U101A

Landholding Agency: Army

Property Number: 21199920245

Status: Excess

Comment: needs repair, presence of asbestos/lead paint, most recent use—shelter, ofc/tower/support, off-site use only

Bldg. U015J

Fort Lewis

Fort Lewis Co: Pierce WA 98433–

Landholding Agency: Army

Property Number: 21199920246

Status: Excess

Comment: 144 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—tower, off-site use only

Bldg. U018B

Fort Lewis

Fort Lewis Co: Pierce WA 98433–

Landholding Agency: Army

Property Number: 21199920247

Status: Unutilized

Comment: 121 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldg. U018C

Fort Lewis

Fort Lewis Co: Pierce WA 98433–

Landholding Agency: Army

Property Number: 21199920248

Status: Unutilized

Comment: 48 sq. ft., needs repair, presence of asbestos/lead paint, off-site use only

Bldg. U024B

Fort Lewis

Fort Lewis Co: Pierce WA 98433–

Landholding Agency: Army

Property Number: 21199920249

Status: Unutilized

Comment: 168 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. U024D

Fort Lewis

Fort Lewis Co: Pierce WA 98433–

Landholding Agency: Army

Property Number: 21199920250

Status: Unutilized

Comment: 120 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—ammo bldg., off-site use only

Bldg. U027A

Fort Lewis

Fort Lewis Co: Pierce WA 98433–

Landholding Agency: Army

Property Number: 21199920251

Status: Excess

Comment: 64 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—tire house, off-site use only

Bldgs. U028A–U032A

Fort Lewis

Ft. Lewis Co: Pierce WA 98433–

Landholding Agency: Army

Property Number: 21199920252

Status: Unutilized

Comment: 72 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. U031A

Fort Lewis

Ft. Lewis Co: Pierce WA 98433–

Landholding Agency: Army

Property Number: 21199920253

Status: Excess

Comment: 3456 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—line shed, off-site use only

Bldg. U031C

Fort Lewis

Ft. Lewis Co: Pierce WA 98433–

Landholding Agency: Army

Property Number: 21199920254

Status: Unutilized

Comment: 32 sq. ft., needs repair, presence of asbestos/lead paint, off-site use only

Bldg. U040D

Fort Lewis

Ft. Lewis Co: Pierce WA 98433–

Landholding Agency: Army

Property Number: 21199920255

Status: Excess

Comment: 800 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldgs. U052C, U052H

Fort Lewis

Ft. Lewis Co: Pierce WA 98433–

Landholding Agency: Army

Property Number: 21199920256

Status: Excess

Comment: various sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldgs. U035A, U035B

Fort Lewis

Ft. Lewis Co: Pierce WA 98433–

Landholding Agency: Army

Property Number: 21199920257

Status: Excess

Comment: 192 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—shelter, off-site use only

Bldg. U035C

Fort Lewis

Ft. Lewis Co: Pierce WA 98433–

Landholding Agency: Army

Property Number: 21199920258

Status: Excess

Comment: 242 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

- Bldg. U039A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920259
Status: Excess
Comment: 36 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
control tower, off-site use only
- Bldg. U039B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920260
Status: Excess
Comment: 1600 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
grandstand/bleachers, off-site use only
- Bldg. U039C
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920261
Status: Excess
Comment: 600 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
support, off-site use only
- Bldg. U043A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920262
Status: Excess
Comment: 132 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
range house, off-site use only
- Bldg. U052A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920263
Status: Excess
Comment: 69 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
tower, off-site use only
- Bldg. U052E
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920264
Status: Excess
Comment: 600 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
storage, off-site use only
- Bldg. U052G
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920265
Status: Excess
Comment: 1600 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
shelter, off-site use only
- 3 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: U058A, U103A, U018A
Landholding Agency: Army
Property Number: 21199920266
Status: Excess
Comment: 36 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
control tower, off-site use only
- Bldg. U059A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920267
Status: Excess
Comment: 16 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
support, off-site use only
- Bldg. U093B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920268
Status: Excess
Comment: 680 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
range house, off-site use only
- 4 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: U101B, U101C, U507B, U557A
Landholding Agency: Army
Property Number: 21199920269
Status: Excess
Comment: 400 sq. ft., needs repair, presence
of asbestos/lead paint, off-site use only
- Bldg. U102B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920270
Status: Excess
Comment: 1058 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
shelter, off-site use only
- Bldg. U108A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920271
Status: Excess
Comment: 31,320 sq. ft., needs repair,
presence of asbestos/lead paint, most
recent use—line shed, off-site use only
- Bldg. U110B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920272
Status: Excess
Comment: 138 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
support, off-site use only
- 6 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: U111A, U015A, U024E, U052F,
U109A, U110A
Landholding Agency: Army
Property Number: 21199920273
Status: Excess
Comment: 1000 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
support/shelter/mess, off-site use only
- Bldg. U112A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920274
Status: Excess
Comment: 1600 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
shelter, off-site use only
- Bldg. U115A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920275
Status: Excess
Comment: 36 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
tower, off-site use only
- Bldg. U507A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920276
Status: Excess
Comment: 400 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
support, off-site use only
- Bldg. U516B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920277
Status: Excess
Comment: 5000 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
shed, off-site use only
- 7 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: F0002, F0004, F0003, F0005,
F0006, F0008, F0009
Landholding Agency: Army
Property Number: 21199920278
Status: Excess
Comment: various sq. ft., needs repair,
presence of asbestos/lead paint, most
recent use—storehouse, off-site use only
- Bldg. F0022A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920279
Status: Excess
Comment: 4373 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
gen. inst., off-site use only
- Bldg. F0022B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920280
Status: Excess
Comment: 3100 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
storage, off-site use only
- Bldg. C0120
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920281
Status: Excess
Comment: 384 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
scale house, off-site use only
- Bldg. A0220
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920282
Status: Excess
Comment: 2284 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
club facility, off-site use only
- 18 Bldgs.

Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: A0337, A0617, B0820, B0821,
C0319, C0833, C0310, C0311, C0318,
C1019, D0712, D0713, D0720, D0721,
D1108, D1153, C1011, C1018
Landholding Agency: Army
Property Number: 21199920283
Status: Excess
Comment: 1144 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
day room, off-site use only

Bldg. A0334
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920284
Status: Excess
Comment: 1092 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
sentry station, off-site use only

7 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: C0302, C0303, C0306, C0322,
C0323, C0326, C0327
Landholding Agency: Army
Property Number: 21199920285
Status: Excess
Comment: 2340 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
barracks, off-site use only

5 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: A0518, A0530, B0811, B0822,
B0911
Landholding Agency: Army
Property Number: 21199920286
Status: Excess
Comment: 397 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
Hq. Bldg., off-site use only

12 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: C1002, C1003, C1006, C1007,
C1022, C1023, C1026, C1027, C1207,
C1301, C1333, C1334
Landholding Agency: Army
Property Number: 21199920287
Status: Excess
Comment: 2360 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
barracks, off-site use only

Bldg. E1010
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920288
Status: Excess
Comment: 148 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
gas station, off-site use only

Bldg. D1154
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920289
Status: Excess
Comment: 1165 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
day room, off-site use only

Bldg. 01205
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920290
Status: Excess
Comment: 87 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
storehouse, off-site use only

Bldg. 01259
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920291
Status: Excess
Comment: 16 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
storage, off-site use only

Bldg. 01266
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920292
Status: Excess
Comment: 45 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
shelter, off-site use only

Bldg. B1410
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920293
Status: Excess
Comment: 3108 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
motor repair, off-site use only

Bldg. 1445
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920294
Status: Excess
Comment: 144 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
generator bldg., off-site use only

Bldg. 02082
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920295
Status: Excess
Comment: 16 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
storage, off-site use only

Bldg. 03091, 03099
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920296
Status: Excess
Comment: various sq. ft., needs repair,
presence of asbestos/lead paint, most
recent use—sentry station, off-site use only

Bldgs. 03100, 3101
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920297
Status: Excess
Comment: various sq. ft., needs repair,
presence of asbestos/lead paint, most
recent use—storage, off-site use only

Bldgs. 4040
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920298
Status: Excess
Comment: 8326 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
shed, off-site use only

Bldgs. 4072, 5104
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920299
Status: Excess
Comment: 24/36 sq. ft., needs repair,
presence of asbestos/lead paint, off-site use
only

Bldgs. 4295
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920300
Status: Excess
Comment: 48 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
storage, off-site use only

Bldgs. 5170
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920301
Status: Excess
Comment: 19,411 sq. ft., needs repair,
presence of asbestos/lead paint, most
recent use—store, off-site use only

Bldgs. 6118
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920302
Status: Excess
Comment: 2263 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
gen. inst., off-site use only

Bldgs. 6191
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920303
Status: Excess
Comment: 3663 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
exchange branch, off-site use only

Bldgs. 08076, 08080
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920304
Status: Excess
Comment: 3660/412 sq. ft., needs repair,
presence of asbestos/lead paint, off-site use
only

Bldgs. 08093
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920305
Status: Excess
Comment: 289 sq. ft., needs repair, presence
of asbestos/lead paint, most recent use—
boat storage, off-site use only

Bldg. 8279
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920306
Status: Excess

Comment: 210 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—fuel disp. fac., off-site use only
 Bldg. 8280, 8291
 Fort Lewis
 Ft. Lewis Co: Pierce WA 98433—
 Landholding Agency: Army
 Property Number: 21199920307
 Status: Excess
 Comment: 800/464 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only
 Bldg. 8956
 Fort Lewis
 Ft. Lewis Co: Pierce WA 98433—
 Landholding Agency: Army
 Property Number: 21199920308
 Status: Excess
 Comment: 100 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only
 Bldg. 9530
 Fort Lewis
 Ft. Lewis Co: Pierce WA 98433—
 Landholding Agency: Army
 Property Number: 21199920309
 Status: Excess
 Comment: 64 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—sentry station, off-site use only
 Bldg. 9574
 Fort Lewis
 Ft. Lewis Co: Pierce WA 98433—
 Landholding Agency: Army
 Property Number: 21199920310
 Status: Excess
 Comment: 6005 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—veh. shop., off-site use only
 Bldg. 9596
 Fort Lewis
 Ft. Lewis Co: Pierce WA 98433—
 Landholding Agency: Army
 Property Number: 21199920311
 Status: Excess
 Comment: 36 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—gas station, off-site use only
 Bldg. 9627
 Fort Lewis
 Ft. Lewis Co: Pierce WA 98433—
 Landholding Agency: Army
 Property Number: 21199920312
 Status: Excess
 Comment: 2249 sq. ft., needs repair, presence of asbestos/lead paint, off-site use only
 Bldg. 9939
 Fort Lewis
 Ft. Lewis Co: Pierce WA 98433—
 Landholding Agency: Army
 Property Number: 21199920313
 Status: Excess
 Comment: 600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—recreation, off-site use only
 Bldg. E0324
 Fort Lewis
 Ft. Lewis Co: Pierce WA 98433—
 Landholding Agency: Army
 Property Number: 21199920314
 Status: Excess
 Comment: 2207 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Wisconsin
 Bldg. 1532
 Fort McCoy
 Ft. McCoy Co: Monroe WI 54656—
 Landholding Agency: Army
 Property Number: 21199920230
 Status: Unutilized
 Comment: 2750 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—training, off-site use only
 Bldg. 1535
 Fort McCoy
 Ft. McCoy Co: Monroe WI 54656—
 Landholding Agency: Army
 Property Number: 21199920231
 Status: Unutilized
 Comment: 5310 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—training, off-site use only
 Bldg. 1536
 Fort McCoy
 Ft. McCoy Co: Monroe WI 54656—
 Landholding Agency: Army
 Property Number: 21199920232
 Status: Unutilized
 Comment: 5310 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—training, off-site use only
 Bldg. 1539
 Fort McCoy
 Ft. McCoy Co: Monroe WI 54656—
 Landholding Agency: Army
 Property Number: 21199920233
 Status: Unutilized
 Comment: 5310 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—training, off-site use only
 Bldg. 1540
 Fort McCoy
 Ft. McCoy Co: Monroe WI 54656—
 Landholding Agency: Army
 Property Number: 21199920234
 Status: Unutilized
 Comment: 5310 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—training, off-site use only
 Bldg. 1544
 Fort McCoy
 Ft. McCoy Co: Monroe WI 54656—
 Landholding Agency: Army
 Property Number: 21199920235
 Status: Unutilized
 Comment: 3250 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—training, off-site use only
 Bldg. 6038
 Fort McCoy
 Ft. McCoy Co: Monroe WI 54656—
 Landholding Agency: Army
 Property Number: 21199920236
 Status: Unutilized
 Comment: 1400 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—airfield operations, off-site use only

Unsuitable Properties

Buildings (by State)

California
 Bldg. 6–2
 Naval Air Weapons Station
 Point Mugu
 Oxnard Co: Ventura CA 93042—
 Landholding Agency: Navy
 Property Number: 77199920095

Status: Unutilized
 Reason: Extensive deterioration
 Bldg. 83
 Naval Air Weapons Station
 Point Mugu
 Oxnard Co: Ventura CA 93042—
 Landholding Agency: Navy
 Property Number: 77199920096
 Status: Unutilized
 Reason: Extensive deterioration
 Bldg. 619
 Naval Air Weapons Station
 Point Mugu
 Oxnard Co: Ventura CA 93042—
 Landholding Agency: Navy
 Property Number: 77199920097
 Status: Unutilized
 Reason: Extensive deterioration
 Bldg. 707
 Naval Air Weapons Station
 Point Mugu
 Oxnard Co: Ventura CA 93042—
 Landholding Agency: Navy
 Property Number: 77199920098
 Status: Unutilized
 Reason: Extensive deterioration
 Bldg. 713
 Naval Air Weapons Station
 Point Mugu
 Oxnard Co: Ventura CA 93042—
 Landholding Agency: Navy
 Property Number: 77199920099
 Status: Unutilized
 Reason: Extensive deterioration
 Bldg. 714
 Naval Air Weapons Station
 Point Mugu
 Oxnard Co: Ventura CA 93042—
 Landholding Agency: Navy
 Property Number: 77199920100
 Status: Unutilized
 Reason: Extensive deterioration
 Bldg. 742
 Naval Air Weapons Station
 Point Mugu
 Oxnard Co: Ventura CA 93042—
 Landholding Agency: Navy
 Property Number: 77199920101
 Status: Unutilized
 Reason: Extensive deterioration
 Bldg. 772
 Naval Air Weapons Station
 Point Mugu
 Oxnard Co: Ventura CA 93042—
 Landholding Agency: Navy
 Property Number: 77199920102
 Status: Unutilized
 Reason: Extensive deterioration
 Bldg. 813
 Naval Air Weapons Station
 Point Mugu
 Oxnard Co: Ventura CA 93042—
 Landholding Agency: Navy
 Property Number: 77199920103
 Status: Unutilized
 Reason: Extensive deterioration
 Bldg. 7–818
 Naval Air Weapons Station
 Point Mugu
 Oxnard Co: Ventura CA 93042—
 Landholding Agency: Navy
 Property Number: 77199920104
 Status: Unutilized
 Reason: Extensive deterioration

Bldg. 00003
Naval Air Weapons Station
China Lake Co: CA 93555-
Landholding Agency: Navy
Property Number: 77199920105
Status: Excess
Reason: Extensive deterioration
10 Bldgs.
Naval Air Weapons Station
China Lake Co: CA 93555-
Location: 52, 989, 1021, 1022, 1025, 1029,
1032, 1033, 1040, 1042
Landholding Agency: Navy
Property Number: 77199920106
Status: Excess
Reason: Extensive deterioration
10 Bldgs.
Naval Air Weapons Station
China Lake Co: CA 93555-
Location: 1178, 2242, 2334, 2335, 2339, 3262,
15816, 15952, 20007, 20055
Landholding Agency: Navy
Property Number: 77199920107
Status: Excess
Reason: Extensive deterioration
10 Bldgs.
Naval Air Weapons Station
China Lake Co: CA 93555-
Location: 20185, 20192, 20209, 20263, 30140,
30855, 30888, 30929, 30954
Landholding Agency: Navy
Property Number: 77199920108
Status: Excess
Reason: Extensive deterioration
10 Bldgs.
Naval Air Weapons Station
China Lake Co: CA 93555-
Location: 30957, 30964, 30968, 31180, 31559,
31567, 31618, 32538, 50127, 91063
Landholding Agency: Navy
Property Number: 77199920109
Status: Excess
Reason: Extensive deterioration
10 Bldgs.
Naval Air Weapons Station
China Lake Co: CA 93555-
Location: 455, 935, 1097, 1363, 2315, 2316,
2317, 2325, 2612, 2614
Landholding Agency: Navy
Property Number: 77199920110
Status: Excess
Reason: Extensive deterioration
10 Bldgs.
Naval Air Weapons Station
China Lake Co: CA 93555-
Location: 10636, 10637, 10976, 11161, 11693,
15818, 15819, 15953, 16014, 16015
Landholding Agency: Navy
Property Number: 77199920111
Status: Excess
Reason: Extensive deterioration
10 Bldgs.
Naval Air Weapons Station
China Lake Co: CA 93555-
Location: 16082, 20004, 20008, 20032, 20033,
20065, 20066, 20107, 20117, 20120
Landholding Agency: Navy
Property Number: 77199920112
Status: Excess
Reason: Extensive deterioration
10 Bldgs.
Naval Air Weapons Station
China Lake Co: CA 93555-
Location: 20150, 20159, 20162, 20164, 20165,
20200, 20203, 20204, 20205, 20208

Landholding Agency: Navy
Property Number: 77199920113
Status: Excess
Reason: Extensive deterioration
10 Bldgs.
Naval Air Weapons Station
China Lake Co: CA 93555-
Location: 25001, 30710, 30840, 30863, 30879,
30885, 30886, 30902, 30918, 30955
Landholding Agency: Navy
Property Number: 77199920114
Status: Excess
Reason: Extensive deterioration
10 Bldgs.
Naval Air Weapons Station
China Lake Co: CA 93555-
Location: 30960, 30965, 30966, 30976, 30983,
31039, 31059, 31124, 31190, 31191
Landholding Agency: Navy
Property Number: 77199920115
Status: Excess
Reason: Extensive deterioration
10 Bldgs.
Naval Air Weapons Station
China Lake Co: CA 93555-
Location: 31417, 31427, 31483, 31503, 31505,
31511, 31514, 31515, 31518, 31579
Landholding Agency: Navy
Property Number: 77199920116
Status: Excess
Reason: Extensive deterioration
10 Bldgs.
Naval Air Weapons Station
China Lake Co: CA 93555-
Location: 31594, 31595, 31604, 31609, 32022,
32026, 32546, 32555, 32608, 70009
Landholding Agency: Navy
Property Number: 77199920117
Status: Excess
Reason: Extensive deterioration
10 Bldgs.
Naval Air Weapons Station
China Lake Co: CA 93555-
Location: 70020, 70024, 70025, 70026, 70038,
70039, 70045, 70047, 70050, 70051
Landholding Agency: Navy
Property Number: 77199920118
Status: Excess
Reason: Extensive deterioration
9 Bldgs.
Naval Air Weapons Station
China Lake Co: CA 93555-
Location: 70052, 70053, 70060, 70061, 70139,
91040, 91041, 91053, 91054
Landholding Agency: Navy
Property Number: 77199920119
Status: Excess
Reason: Extensive deterioration.

Bldg. 529
Naval Warfare Assessment
Station
Corona Co: CA 91718-
Landholding Agency: Navy
Property Number: 77199920133
Status: Excess
Reason: Extensive deterioration
Bldg. 535
Naval Warfare Assessment Station
Corona Co: CA 91718-
Landholding Agency: Navy
Property Number: 77199920134
Status: Excess
Reason: Extensive deterioration
Bldg. 540

Naval Warfare Assessment Station
Corona Co: CA 91718-
Landholding Agency: Navy
Property Number: 77199920135
Status: Excess
Reason: Extensive deterioration
Bldg. 545
Naval Warfare Assessment Station
Corona Co: CA 91718-
Landholding Agency: Navy
Property Number: 77199920136
Status: Excess
Reason: Extensive deterioration
Guam
Bldg. 294
Communications Annex
Dededo Co: GU 96537-
Landholding Agency: Navy
Property Number: 77199920131
Status: Unutilized
Reason: Secured Area
Bldg. 296
Communications Annex
Dededo Co: GU 96537-
Landholding Agency: Navy
Property Number: 77199920132
Status: Unutilized
Reason: Secured Area
Massachusetts
Frederick Murphy Federal Ctr
424 Trapelo Road
Waltham Co: MA 00000-
Landholding Agency: GSA
Property Number: 54199920005
Status: Surplus
Reason: Extensive deterioration
GSA Number: 1-G-MA-0848
Puerto Rico
4 Bldgs.
STOP 7½ Compound, Naval Reservation
San Juan Co: PR 34051-
Location: 440, 441, 442, 443
Landholding Agency: Navy
Property Number: 77199920120
Status: Underutilized
Reason: Secured Area
Bldgs. 444
STOP 7½ Compound, Naval Reservation
San Juan Co: PR 34051-
Landholding Agency: Navy
Property Number: 77199920121
Status: Underutilized
Reason: Secured Area
Bldgs. 445-447
STOP 7½ Compound, Naval Reservation
San Juan Co: PR 34051-
Landholding Agency: Navy
Property Number: 77199920122
Status: Underutilized
Reason: Secured Area
6 Bldgs.
STOP 7½ Compound, Naval Reservation
San Juan Co: PR 34051-
Location: 448, 449, 450, 451, 452, 455
Landholding Agency: Navy
Property Number: 77199920123
Status: Underutilized
Reason: Secured Area
Bldg. 458
STOP 7½ Compound, Naval Reservation
San Juan Co: PR 34051-
Landholding Agency: Navy
Property Number: 77199920124

Status: Unutilized
Reason: Extensive deterioration
Bldgs. 461, 2157
STOP 7½ Compound, Naval Reservation
San Juan Co: PR 34051–
Landholding Agency: Navy
Property Number: 77199920125
Status: Underutilized
Reason: Secured Area
Bldgs. 28–29
STOP 7½ Compound, Naval Reservation
San Juan Co: PR 34051–
Landholding Agency: Navy
Property Number: 77199920126
Status: Unutilized
Reason: Extensive deterioration
Bldgs. 30–31
STOP 7½ Compound, Naval Reservation
San Juan Co: PR 34051–
Landholding Agency: Navy
Property Number: 77199920127
Status: Unutilized
Reason: Extensive deterioration
Bldg. 104
STOP 7½ Compound, Naval Reservation
San Juan Co: PR 34051–
Landholding Agency: Navy
Property Number: 77199920128
Status: Unutilized
Reason: Extensive deterioration
Bldg. 459
STOP 7½ Compound, Naval Reservation
San Juan Co: PR 34051–
Landholding Agency: Navy
Property Number: 77199920129
Status: Unutilized
Reason: Extensive deterioration
Structure 460
STOP 7½ Compound, Naval Reservation
San Juan Co: PR 34051–
Landholding Agency: Navy
Property Number: 77199920130
Status: Underutilized
Reason: Secured Area

Land (by State)

California

Excess Land at Eureka Housing
Eureka Co: Humboldt CA 95501–
Landholding Agency: GSA
Property Number: 87199940001
Status: Excess
Reason: Inaccessible
GSA Number: 9UCA1527

[FR Doc. 99–13881 Filed 6–3–99; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****Aquatic Nuisance Species Task Force Meeting**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Ballast Water and Shipping Committee of the Aquatic Nuisance Species Task Force. Meeting

topics are identified in the **SUPPLEMENTARY INFORMATION.**

DATES: The Ballast Water and Shipping Committee will meet from 9:30 a.m. to 4:30 p.m. on Wednesday, June 23, 1999.

ADDRESSES: The Ballast Water and Shipping Committee Meeting will be held in Room 2415, U.S. Coast Guard Headquarters, 2100 Second Street, SW, Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: LT Mary Pat McKeown, Chair, Ballast Water and Shipping Committee, at 202–267–0500 or mmckeown@comdt.uscg.mil or Executive Secretary, Aquatic Nuisance Species Task Force, at 703–358–1718.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), we announce a meeting of the Ballast Water and Shipping Committee on the Aquatic Nuisance Species Task Force was established by the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701–4741).

Topics to be addressed include an update on efforts to compile a directory of ballast water research and technologies, factors to be considered in evaluating treatment technologies and management practices, and the nature and process for developing strategic national priorities for ballast water management research and development. Time permitting, presentations will be made describing specific ballast water management technologies and practices.

Minutes of the meeting will be maintained by the Executive Secretary, Aquatic Nuisance Species Task Force, Suite 851, 4401 North Fairfax Drive, Arlington, Virginia 22203–1622 and the Chair of the Ballast Water and Shipping Committee at Environmental Standards Division, Office of Operations and Environmental Standards, U.S. Coast Guard (G–MSO–4), 2100 Second Street, SW, Room 1309, Washington, DC 20593–0001. Minutes for the meetings will be available at these locations for public inspection during regular business hours, Monday through Friday.

Dated: June 1, 1999.

Rowan W. Gould,

Acting Co-Chair, Aquatic Nuisance Species Task Force, Acting Assistant Director— Fisheries.

[FR Doc. 99–14183 Filed 6–3–99; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR**Bureau of Land Management**

[WO–350–2800 24 1A]

OMB Approval Number 1004–0175: Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

The proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* on March 1, 1999, BLM published a notice in the **Federal Register** (64 FR 10011) requesting comments on this proposed collection. The comment period ended on April 30, 1999. BLM received no comments for the public in response to that notice. Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the BLM clearance officer at the telephone number listed below. OMB is required to respond to this request within 60 days but may respond after 30 days. For maximum consideration, your comments and suggestions on the requirement should be made within 30 days to the Office of Management and Budget, Interior Desk Officer (1004–0175), Office of Information and Regulatory Affairs, Washington, DC 20503 (telephone (202) 395–7340). Please provide a copy of your comments to the Bureau Clearance Officer (WO–630), 1849 C St., NW., Mail Stop 401 LS, Washington, DC 20240.

Nature of Comments

We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning of the Bureau of Land Management, including whether the information will have practical utility;
2. The accuracy of BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;
3. The quality, utility, and clarity of the information to be collected; and
4. How to minimize the burden of collecting the information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

Title: Identification of Communications Site Tenants and Tenant Uses.

OMB Approval Number: 1004-0175.

Abstract: BLM collects information from holders of rights-of-way for communication sites on public lands. This information concerns the identity and type of use of tenants. This information enables BLM to meet its statutory obligation to collect annually from communication site grant holders the fair market value of the right-of-way. BLM uses the information to calculate the annual rent for the facility, based on the highest value use in the facility.

Bureau Form: None.

Frequency: Annually.

Description of Respondents:

Respondents are holders of communication site right-of-way grants.

Annual Responses: 1,500.

Annual Burden Hours: 1,500.

Collection Clearance Officer: Carole Smith, (202) 452-0367.

Dated: May 12, 1999.

Carole J. Smith,

BLM Information Clearance Officer.

[FR Doc. 99-14195 Filed 6-3-99; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO-700-99-1010-00-1784]

Southwest Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice; Resource Advisory Council Meeting.

SUMMARY: Notice is hereby given that the Southwest Resource Advisory Council (Southwest RAC) will hold a special meeting via conference call.

DATES: The conference call will be held on Thursday, June 10, 1999.

ADDRESSES: For additional information, contact Roger Alexander, Bureau of Land Management (BLM), Southwest Center, 2465 South Townsend Avenue, Montrose, Colorado 81401; telephone 970-240-5335, TDD 970-240-5366; e-mail Roger_Alexander@co.blm.gov.

SUPPLEMENTARY INFORMATION: The June 10, 1999, conference call will begin at 11:30 a.m. and end no later than 12:30 p.m. The agenda will be limited to the selection of a Southwest RAC subgroup to conduct a public input process to obtain concerns and comments on the future management of the Anasazi Culture Multiple Use Area of Critical Environmental Concern. The conference

phone at BLM's Southwest Center in Montrose will be available for any member of the public wishing to participate in the conference call.

Summary minutes for Council meetings are maintained in the Southwest Center Office and on the World Wide Web at http://www.co.blm.gov/mdo/mdo_sw_rac.htm and are available for public inspection and reproduction within thirty (30) days following each meeting.

Dated: June 1, 1999.

Roger Alexander,

Public Affairs Specialist.

[FR Doc. 99-14282 Filed 6-3-99; 8:45 am]

BILLING CODE 4310-JB-M

DEPARTMENT OF THE INTERIOR

[NM-050-1430-00]

Notice of Reopening of Public Land, Socorro County, NM

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Reopening order.

SUMMARY: Notice is hereby given that the temporary emergency closure of public land in Socorro County, New Mexico, which was announced in the **Federal Register** on Thursday, May 20, 1999, Vol. 64, No. 97, page 27600, is no longer in effect. The lands described in the temporary closure notice are reopened to public use and access.

DATES: The reopening of the subject public land is effective as of May 26, 1999.

FOR FURTHER INFORMATION CONTACT: Kate Padilla, Socorro Field Manager, or Jon Hertz, Assistant Field Manager, 198 Neel Avenue, NW, Socorro, NM 87801, telephone (505) 835-0412.

Dated: May 26, 1999.

Kate Padilla,

Field Manager.

[FR Doc. 99-14192 Filed 6-3-99; 8:45 am]

BILLING CODE 4310-MW-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT-070-99-1030-00-MTM-89252]

Notice of Realty Action, Proposal To Lease Public Land in Lewis and Clark County, MT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management proposes to issue a noncompetitive lease on the following described public land to resolve an unintentional occupancy trespass:

Principal Meridian, Montana

T. 10 N., R 4 W.,

Sec. 36, a Metes and Bounds tract within Lot 41; comprising 0.023 acres.

The public land is located within the city limits of Helena, MT. The lease would be issued under Section 302 of the Federal Land Policy and Management Act (FLPMA) of 1976, 43 U.S.C. 1732, and subsequent regulations found at 43 CFR Part 2920. The lease would be issued for a term of 30 years with the right of renewal. Fair market rental will be collected at 5-year intervals subject to reappraisal at the beginning of each period. A final determination on the lease of the public land will be made after completion of an environmental assessment. The City of Helena has applied for a Recreation and Public Purpose patent on Lot 41, which totals 17.03 acres. The patent would be issued subject to the proposed lease.

DATES: For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Field Manager, Butte Field Office, P.O. Box 3388, Butte, MT 59702-3388.

FOR FURTHER INFORMATION CONTACT: Elizabeth Williams at the above address or at 406-494-5059.

Dated: May 20, 1999.

Merle Good,

Field Manager.

[FR Doc. 99-14123 Filed 6-3-99; 8:45 am]

BILLING CODE 4310-DN-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES-960-1910-4595] ES-50412, Group 200, Florida

Notice of Filing of Plat of Survey; Florida

The plat of the dependent resurvey of fractional sections 20 and 29, and the survey of lots 8 and 9 in fractional section 20, Township 9 South, Range 11 West, Tallahassee Meridian, Florida, will be officially filed in Eastern States, Springfield, VA at 7:30 a.m., on July 9, 1999.

The survey was requested by the U.S. Army Corps of Engineers.

All inquiries or protests concerning the technical aspects of the survey must be sent to the Chief Cadastral Surveyor, Eastern States, Bureau of Land

Management 7450 Boston Boulevard, Springfield, VA 22153, prior to 7:30 a.m., July 9, 1999.

Copies of the plat will be made available upon request and prepayment of the appropriate fee.

Dated: May 25, 1999.

Stephen G. Kopach,
Chief Cadastral Surveyor.

[FR Doc. 99-14194 Filed 6-3-99; 8:45 am]

BILLING CODE 4310-JG-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT-924-1430-01; MTM 89170]

Proposed Withdrawal and Opportunity for Public Meeting; Montana; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice corrects an error in the land description published as FR Doc. 99-13531 in the **Federal Register**, 64 FR 28833-4, May 27, 1999, for a proposed Bureau of Land Management withdrawal.

On page 28834, column 1, line 4 from the bottom of the column, which reads "W $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{2}$ SE $\frac{1}{4}$," is hereby corrected to read "W $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$."

Dated: May 28, 1999.

John E. Moorhouse,
Acting Deputy State Director, Division of Resources.

[FR Doc. 99-14197 Filed 6-3-99; 8:45 am]

BILLING CODE 4310-DP-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM-050-1150-00; NMNM 95118]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; New Mexico

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Correction notice.

SUMMARY: In **Federal Register** Volume 64, Pages 26438-26439, Number 93 of Friday, May 14, 1999, Notices, under **SUPPLEMENTARY INFORMATION**, third paragraph, delete second sentence; "Until an application is filed, no further action will be taken on this proposal."

Dated: May 27, 1999.

Kate Padilla,
Field Manager.

[FR Doc. 99-14193 Filed 6-3-99; 8:45 am]

BILLING CODE 4310-MW-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-420]

In the Matter of Certain Beer Products; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on May 3, 1999, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Anheuser-Busch Incorporated, One Busch Place, St. Louis, MO 63118-1852. A supplement to the complaint was filed on May 28, 1999. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain beer products by reason of infringement of U.S. Trademark Registration Nos. 922,481, 952,277, and 666,367. The complaint further alleges that there exists an industry in the United States as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after a hearing, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW, Room 112, Washington, DC 20436, telephone 202-205-2000. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may be obtained by accessing its internet server (<http://www.usitc.gov>).

FOR FURTHER INFORMATION CONTACT: Thomas S. Fusco, Esq., Office of Unfair

Import Investigations, U.S. International Trade Commission, telephone 202-205-2571.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's rules of practice and procedure, 19 C.F.R. 210.10 (1998).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on May 27, 1999, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(C) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain beer products, by reason of infringement of U.S. Trademark Registration Nos. 922,481, 952,277, or 666,367. The complaint further alleges that there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Anheuser-Busch Incorporated, One Busch Place, St. Louis, MO 63118-1852.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served: Budejovicky Budvar, N.P., Karoliny Svetle 4, 370 21 Ceske Budejovice, Czech Republic
Argen-Wine Imports, Ltd., 1303 Liriope Ct., Belcamp, MD 21017-1376

(c) Thomas S. Fusco, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Room 401-O, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Debra Morriss is designated as the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's rules of practice and procedure, 19 C.F.R. 210.13. Pursuant to 19 C.F.R. 201.16(d) and 210.13(a) of the Commission's Rules, such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of

investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondents, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

Issued: May 28, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99-14201 Filed 6-3-99; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-827 (Preliminary)]

Nitrile Rubber From Korea

AGENCY: United States International Trade Commission.

ACTION: Institution of antidumping investigation and scheduling of a preliminary phase investigation.

SUMMARY: The Commission hereby gives notice of the institution of an investigation and commencement of preliminary phase antidumping investigation No. 731-TA-827 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Korea of acrylonitrile-butadiene rubber (nitrile rubber), provided for in subheading 4002.59.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must

reach a preliminary determination in antidumping investigations in 45 days, or in this case by July 12, 1999. The Commission's views are due at the Department of Commerce within five business days thereafter, or by July 19, 1999.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: May 27, 1999.

FOR FURTHER INFORMATION CONTACT:

Jonathan Seiger (202-205-3183), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on May 27, 1999, by Zeon Chemicals, L.P., Louisville, KY, and Uniroyal Chemical Company, Inc., Middlebury, CT.

Participation in the Investigation and Public Service List

Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigation under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on June 17, 1999, at the U.S. International Trade Commission Building, 500 E Street S.W., Washington, DC. Parties wishing to participate in the conference should contact Jonathan Seiger (202-205-3183) not later than June 15, 1999, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before June 22, 1999, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the

public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: May 28, 1999.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 99-14202 Filed 6-3-99; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 98-10]

Lawrence C. Hill, M.D.; Conditional Grant of Restricted Registration

On January 2, 1998, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Lawrence C. Hill, M.D. (Respondent) of Monroe, Louisiana, notifying him if an opportunity to show cause as to why DEA should deny his pending application for registration as a practitioner pursuant to 21 U.S.C. 823(f), for reason that his registration would be inconsistent with the public interest.

By letter dated January 30, 1998, Respondent, through counsel, filed a request for a hearing, and following prehearing procedures, a hearing was held in Monroe, Louisiana on May 6 and 7, 1998, before Administrative Law Judge Mary Ellen Bittner. At the hearing, both parties called witnesses to testify and introduced documentary evidence. After the hearing, both parties submitted proposed findings of fact, conclusions of law and argument.

On October 30, 1998, Judge Bittner issued her Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision, recommending that Respondent's application for registration be granted. Neither party filed exceptions to the Administrative Law Judge's recommended decision, and on December 2, 1998, Judge Bittner transmitted the record of these proceedings to the Deputy Administrator.

The Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon

findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts the Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision of the Administrative Law Judge, except as specifically noted below. His adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, or of any failure to mention a matter of fact or law.

The Deputy Administrator finds that Respondent graduated from medical school in 1976 and entered private practice as a general practitioner in 1977. In 1976, Respondent was issued DEA Certificate of Registration AH7179725, which he allowed to expire on October 31, 1980. According to Respondent, he moved office locations without advising DEA of his new address, and as a result he did not receive the renewal application for his registration.

In July 1987, Respondent called DEA's New Orleans Field Division and requested that he be issued DEA order forms to enable him to purchase Schedule II controlled substances. Respondent was informed that his DEA registration had expired and that he would need to apply for and receive a new registration before he could again handle controlled substances. On July 16, 1987, Respondent executed an application for a new DEA registration, on that same day a DEA investigator visited Respondent at his office and reiterated that his previous DEA registration had expired and that he could no longer handle controlled substances until he received a new DEA registration. On July 20, 1987, Respondent contacted the investigator's supervisor to verify what he had been told. Respondent was again advised that he could not handle controlled substances until he received a new DEA registration.

On August 13, 1987, the investigator visited the pharmacy located across the street from Respondent's office. The investigator discovered that Respondent had issued 44 controlled substance prescriptions since July 17, 1987, when she had advised him that he was not authorized to handle controlled substances. A subsequent review of another pharmacy's records revealed that Respondent issued an additional 54 controlled substance prescriptions between July 17 and August 13, 1987.

The investigator questioned Respondent about these prescriptions. Respondent indicated that another physician had agreed to "cover" his prescriptions. Respondent was again advised that he could not handle controlled substances until he received

a new DEA registration. After the investigator left his office, Respondent telephoned DEA's New Orleans Field Division to confirm that he was not permitted to handle controlled substances.

On August 21, 1987, the owner of the pharmacy located across the street from Respondent's office called the DEA investigator and informed her that a friend of his had recently visited Respondent and was given a medication bottle filled with Lorcet, a Schedule III controlled substance, and Valium, a Schedule IV controlled substance, in exchange for \$5.00. During a subsequent interview, the individual confirmed this information and also indicated that Respondent had dispensed Vicodin, a Schedule III controlled substance, to the individual's wife on August 27, 1987.

As a result of this information, the DEA investigator contacted several pharmaceutical companies to determine whether Respondent had ordered any controlled substances since July 16, 1987. One company indicated that on September 16, 1987, Respondent had requested 100 dosage units of Lorcet and 100 dosage units of Lorcet Plus misrepresenting that his expired DEA registration AH7179725 would expire on October 31, 1987. A second company advised that since July 17, 1987, Respondent had requested and received controlled substances such as Valium, Dalmane and Limbitrol, all Schedule IV controlled substances. Finally, the records of a third company showed that Respondent used his expired DEA registration on July 28, 1987 to request 100 dosage units of Vicodin.

Based upon this information, several undercover visits were made to Respondent's office in an attempt to determine whether Respondent would prescribe, dispense or administer controlled substances to the undercover officers. No controlled substances were obtained by the undercover officers.

On December 9, 1987, a search warrant was executed at Respondent's office and investigators found, among other things, a small amount of controlled substances. Respondent told the investigators that he did not realize that there were still controlled substances in his office and that he thought that he had disposed of all of them. During execution of the warrant, records of patients who had received controlled substances from Respondent were seized. These records were then turned over to the Louisiana State Board of Medical Examiners (Medical Board) for its review.

In November 1988, Respondent withdrew his pending application for registration with DEA after he received

an Order to Show Cause proposing to deny the application.

Based upon its review of information received from DEA, the Medical Board filed an Administrative Complaint against Respondent alleging that Respondent prescribed, administered or dispensed controlled substances to 11 patients, "in amount, frequency, and duration, in excess of any legitimate justification." Rather than have these charges adjudicated at a hearing, Respondent entered into a Consent Order with the Medical Board on June 12, 1989, however he did not admit the accuracy of the allegations. Pursuant to the Consent Order Respondent's medical license was suspended for six months, and then placed on probation until June 1, 1999. Respondent was prohibited from handling controlled substances for the duration of his medical career; fined \$5,000; and ordered to attend at least 50 credit hours per year of continuing medical education.

The United States Attorney's Office contemplated criminally prosecuting Respondent for using an expired DEA registration to prescribe and order controlled substances. However, criminal prosecution was declined in light of Respondent's agreement to a lifetime suspension of his controlled substance authority as contained in the Consent Order with the Medical Board. For the same reasons, the United States Attorney's Office declined to pursue a civil complaint against Respondent.

However, on August 10, 1994, the Medical Board issued a letter to Respondent, notifying him that "the Board voted to grant your request for release from your probation and allow you to apply for your DEA privileges." As a result, Respondent submitted the application that is the subject of these proceedings.

At the hearing in this matter, the Government introduced a letter to DEA dated July 28, 1995, from the United States Attorney for the Western District of Louisiana objecting to Respondent being granted a DEA registration. According to the United States Attorney a "key factor" in the decision not to criminally prosecute Respondent in 1989 was his agreement to forfeit, for life, his privilege to handle controlled substances. He further stated that "had this office known [Respondent] would not live up to his word, this office would have vigorously prosecuted him."

Respondent testified at the hearing that as a result of the suspension of his medical license he closed his medical practice. He further testified that after the investigation, he "went through a

tremendous amount of self-directed anger for having been so wrong-headed and you might say willful, and anger was translated at one point into depression, and I became very depressed."

In 1989, Respondent entered the residency program at E.A. Conway Hospital, Louisiana State University Monroe Medical Center in Monroe, Louisiana (LSU Monroe Medical Center). Respondent was considered an impaired physician because according to the hospital's medical director, "he just frankly didn't believe that the rules applied to himself * * *." As a result, Respondent was closely monitored during his residency. During the final year of his residency, Respondent was elected chief resident.

After graduating from the residency program in 1992, Respondent was offered a position at the emergency room at LSU Monroe Medical Center, where he was still working as of the date of the hearing. Respondent administers and dispenses controlled substances using the hospital's DEA registration, however, he does not issue controlled substance prescriptions.

At the hearing, Respondent testified that following the lifting of his probation, he applied for and received his Louisiana controlled substance license, however he let it lapse since he did not have a DEA registration. Following the hearing, on July 7, 1998, Respondent introduced into evidence a copy of his Louisiana Controlled Dangerous Substance License with an expiration date of March 1, 1998.

After the Medical Board lifted his probation, Respondent became Board certified in family practice. To maintain his certification, he is required to attend at least 50 hours of continuing medical education each year.

A number of Respondent's supervisors and colleagues testified on his behalf at the hearing and/or wrote letters of recommendation for Respondent. Essentially it was the position of these physicians that Respondent does not pose a threat to the public health and safety; that he is a competent, hard working physician; that he is well respected by his peers; and that they have no hesitation in recommending that Respondent be issued a DEA registration.

Respondent testified that with respect to his handling of controlled substances in the 1980s he felt that he was "under-trained" and that he would do things differently now in light of all of his subsequent training. He further testified that he had learned from his mistakes and that although he has gone through difficult times because of those

mistakes, he feels that "it's been to (his) benefit." He stated that DEA "can take assurances that I will not break the rules again if I were to receive my DEA license again."

The Government contends that Respondent's application for registration should be denied because he continued to handle controlled substances after being told several times that he was not authorized to do so. Respondent contends that he made mistakes in his past, but he has been rehabilitated. He further asserts that he needs a DEA registration in order to better care for his patients.

Pursuant to 21 U.S.C. 823(f) and 824(a)(4), the Deputy Administrator may revoke a DEA Certificate of Registration and deny any pending application for renewal of such registration, if he determines that the continued registration would be inconsistent with the public interest. Section 823(f) requires that the following factors be considered in determining the public interest:

- (1) The recommendation of the appropriate State licensing board or professional disciplinary authority.
- (2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.
- (3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.
- (4) Compliance with applicable State, Federal, or local laws relating to controlled substances.
- (5) Such other conduct which may threaten the public health and safety. These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration denied. *See Henry J. Schwartz, Jr., M.D.*, 54 FR 16,422 (1989).

Regarding factor one, there is no dispute that in June 1989, the Medical Board issued a Consent Order that suspended Respondent's medical license for six months, placed him on probation for nine and one-half years, and prohibited him from handling controlled substances for life. It is also undisputed that in 1994, the Medical Board removed all restrictions from Respondent's medical license and permitted him to apply for a DEA Certificate of Registration.

However, what is in dispute is whether Respondent is currently authorized to handle controlled substances in Louisiana. Judge Bittner concluded that "Respondent also

received his Louisiana controlled substance license. Thus, Respondent is now fully licensed in Louisiana." The Deputy Administrator does not believe that such a conclusion can be drawn from the evidence in the record. At the hearing, Respondent testified that he allowed his state controlled substance permit to lapse since he was not registered with DEA. Judge Bittner kept the record open following the conclusion of the hearing to allow Respondent to present evidence that he is currently authorized to handle controlled substances in Louisiana, a prerequisite to DEA registration in that state. By letter dated July 7, 1998, counsel for Respondent forwarded a copy of Respondent's Louisiana controlled dangerous substance license. However, review of this license indicates that it expired on March 1, 1998. Therefore, there is a question as to whether Respondent is in fact currently authorized to handle controlled substances in Louisiana. This is significant because DEA does not have the statutory authority under the Controlled Substances Act to register a practitioner unless that practitioner is authorized by the state to handle controlled substances. See 21 U.S.C. 802(21) and 823(f).

As to factors two and four, Respondent's experience in handling controlled substances and his compliance with applicable laws relating to controlled substances, the evidence is clear that Respondent handled controlled substances, the evidence is clear that Respondent handled controlled substances in 1987 knowing that he was not authorized to do so. He used his expired DEA Certificate of Registration to prescribe, dispense, administer, and order controlled substances in violation of 21 U.S.C. 843(a)(2).

While there is some indication that Respondent may have excessively prescribed diet pills to 11 patients, the only evidence presented regarding this allegation is the Administrative Complaint filed by the Medical Board. As Judge Bittner noted, "[a]n Administrative complaint alone, however, fails to prove by a preponderance of the evidence that Respondent's DEA registration is not in the public interest." Like Judge Bittner, the Deputy Administrator does not rely on the allegations in the Medical Board's Administrative Complaint in rendering his decision regarding Respondent's application for registration.

There is also evidence in the record regarding Respondent's experience in handling controlled substances since

1987. Respondent has undergone extensive training in among other things, how to properly handle controlled substances. He has been working at LSU Monroe Medical Center since 1992 and has been administering and dispensing controlled substances under the hospital's DEA registration. There are no allegations that he has improperly handled controlled substances or failed to comply with controlled substance laws since 1987. In fact, Respondent's supervisors and colleagues are of the opinion that Respondent is a hard working, dedicated professional and that he is not a threat to the public health and safety.

Regarding factor three, there is no evidence that Respondent has ever been convicted under State or Federal laws relating to controlled substances.

Under factor five, the Government asserted that the only reason Respondent was not prosecuted for his use of his expired DEA registration to handle controlled substances was because he agreed with the Medical Board to the lifetime suspension of his ability to handle controlled substances. In his July 28, 1995 letter, the United States Attorney stated, "(Respondent) received the benefit of his agreement and now, when the statute of limitations prohibits (the United States Attorney's Office) from taking further action, he wants to 'renege' on the agreement." But as Judge Bittner noted "the only formal agreement that Respondent would not seek to handle controlled substances was between Respondent and the Medical Board, and neither the United States Attorney nor DEA has standing to assert any rights with regard to that agreement or to claim detrimental reliance on it."

Judge Bittner concluded that the Government presented a *prima facie* case for denying Respondent's application for registration based upon Respondent's use of his expired DEA registration to continue to handle controlled substances in the 1980s and the Medical Board's action against his medical license. Nonetheless, Judge Bittner concluded that Respondent's application should be granted. Respondent has admitted his mistakes, is remorseful, and has taken great steps to rehabilitate himself. He has the support of his supervisors and colleagues and has been handling controlled substances since at least 1992 using the hospital's DEA registration with no indication of any problems. Judge Bittner stated that "I am satisfied that Respondent now understands that the rules do apply to him and that there is little likelihood that his misconduct will recur."

The Deputy Administrator appreciates the concerns of the United States Attorney's Office. Respondent agreed with the Medical Board not to handle controlled substances for the duration of his medical career. In light of this agreement, the United States Attorney's Office declined to criminally or civilly prosecute Respondent for his wrongdoing. While it is true that there was no formal agreement with the United States Attorney's Office or DEA, Respondent clearly was aware that his agreement with the Medical Board was the reason that he was not criminally prosecuted. Then in 1994, Respondent sought to be released from his agreement with the Medical Board, and as a result, he is no longer prohibited from handling controlled substances.

However, the Deputy Administrator must look at the record as a whole to determine whether Respondent's registration is currently in the public interest. In light of Respondent's admission of wrongdoing and expressions of remorse; his training since 1989; and his handling of controlled substances since at least 1992 using the hospital's DEA registration with no problems, the Deputy Administrator agrees with Judge Bittner that it is in the public interest to issue Respondent a DEA Certificate of Registration.

But, given the egregious nature of Respondent's conduct in the 1980s and that he has not had his own DEA registration since 1980, the Deputy Administrator concludes that a restricted registration is appropriate. Respondent needs to demonstrate his ability to effectively and responsibly handle controlled substances with his own DEA registration. Imposing strict controls upon Respondent's registration "will allow Respondent to demonstrate that he can responsibly handle controlled substances in his medical practice, yet simultaneously protect the public by providing a mechanism for rapid detection of any improper activity related to controlled substances." *Steven M. Gardner, M.D.*, 51 FR 12,576 (1986), as cited in *Michael J. Septer, D.O.*, 61 FR 53,762 (1996).

Therefore, for one year from the issuance of the DEA Certificate of Registration:

(1) Respondent shall maintain a log of all controlled substances that he prescribes. This log shall include at a minimum the name of the patient, the date of the prescription, and the name, strength and quantity of the controlled substance prescribed. This log shall be made available for inspection by DEA personnel.

(2) Respondent shall notify the Special Agent in Charge of the DEA New Orleans Field Division, or his designee, if he ceases to be employed at LSU Monroe Medical Center.

(3) If Respondent goes into private practice, he shall permit DEA personnel to conduct inspections of his registered location and of his controlled substance records without an Administrative Inspection Warrant.

However, having said that it is in the public interest to issue Respondent a restricted registration, DEA cannot issue him such a registration unless he is authorized to handle controlled substances by the state in which he practices. As discussed above, it is unclear whether Respondent possesses a current valid state controlled substance license. Therefore, the Deputy Administrator concludes that Respondent should be issued a DEA Certificate of Registration subject to the above described conditions once he provides evidence to DEA that he is authorized to handle controlled substances in Louisiana.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the application for a DEA Certificate of Registration submitted by Lawrence C. Hill, M.D., be, and it hereby is granted subject to the above described conditions, upon receipt by the DEA New Orleans office of evidence of his state authorization to handle controlled substances. This order is effective June 4, 1999.

Dated: May 25, 1999.

Donnie R. Marshall,

Deputy Administrator.

[FR Doc. 99-14100 Filed 6-3-99; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Pablo E. Melgarejo, M.D.; Revocation of Registration

On November 17, 1998, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Pablo E. Melgarejo, M.D., of Orlando, Florida, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration AM2026284 pursuant to 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of such registration pursuant to 21 U.S.C. 823(f), for reason that he is not

currently authorized to handle controlled substances in the State of Florida. The order also notified Dr. Melgarejo that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The Order to Show Cause was sent to Dr. Melgarejo by registered mail to his DEA registered address, but was returned with the notation "not deliverable as addressed, unable to forward." The Order to Show Cause was then sent to Dr. Melgarejo at another address in Florida. This time the order was returned to DEA with the notation that delivery had been refused. Information in the investigative file indicates that the records of the Florida State Attorney's Office in Orange County and the Florida Medical Board show that Dr. Melgarejo failed to appear at a criminal proceeding and has fled the United States.

The Deputy Administrator finds that DEA has made numerous attempts to locate Dr. Melgarejo and has determined that his whereabouts are unknown. It is evident that Dr. Melgarejo is no longer practicing medicine at the address listed on his DEA Certificate of Registration. The Deputy Administrator concludes that considerable effort has been made to serve Dr. Melgarejo with the Order to Show Cause without success. Dr. Melgarejo is therefore deemed to have waived his opportunity for a hearing. The Deputy Administrator now enters his final order in this matter without a hearing and based on the investigative file pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Deputy Administrator finds that on July 15, 1998, the Florida Board of Medicine issued an Order revoking Dr. Melgarejo's license to practice medicine effective July 21, 1998, based upon his sexual misconduct with patients.

The Deputy Administrator finds that Dr. Melgarejo is not currently authorized to practice medicine in Florida. It is reasonable to infer that he is also not authorized to handle controlled substances in that state.

The DEA does not have the statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts his business. 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. *See Romeo J. Perez, M.D.*, 62 FR 16,193 (1997); *Demetris A. Green, M.D.*, 61 FR 60,728 (1996); *Dominick A. Ricci, M.D.*, 58 FR 51,104 (1993).

Here it is clear that Dr. Melgarejo is not currently licensed to practice medicine or authorized to handle

controlled substances in the State of Florida. Therefore, Dr. Melgarejo is not entitled to a DEA registration in that state.

Accordingly, the Deputy Administration of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AM2026284, previously issued to Pablo E. Melgarejo, M.D., be, and it hereby is, revoked. The Deputy Administrator further orders that any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective July 6, 1999.

Dated: May 25, 1999.

Donnie R. Marshall,

Deputy Administrator.

[FR Doc. 99-14101 Filed 6-3-99; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Neil Laboratories, Inc.; Suspension of Shipment

On August 7, 1998, the then-Acting Deputy Administrator of the Drug Enforcement Administration (DEA), issued an Order to Suspend Shipment to Neil Laboratories, Inc. of East Windsor, New Jersey, notifying it that a proposed shipment of 240 kilograms of pseudoephedrine to Oscar Barajas Gomez/Comercializadora Del Noroeste (Comercializadora) of Mexico was suspended pursuant to 21 U.S.C. 971 and 21 CFR 1313.41. The Order to Suspend Shipment stated that DEA believed that the listed chemical may be diverted. Specifically, the order provided Neil Laboratories, Inc. (1) With the factual and legal basis for the suspension of the shipment; (2) with an opportunity to file a written request for a hearing within 30 days pursuant to 21 CFR 1313.51 through 1313.57; (3) with notice that, should it fail to request a hearing, it would be deemed to have waived the hearing; and (4) with notice that upon the expiration of the 30 day time frame, the Deputy Administrator may then enter his final order in this matter without a hearing.

The order was received by Neil Laboratories, Inc. on August 21, 1998. No request for a hearing has been received by DEA from Neil Laboratories, Inc., or anyone purporting to represent the company in this matter. Subsequently, the investigative file was transmitted to the Deputy Administrator for final agency action.

Therefore, the Deputy Administrator, finding that: (1) 30 days have passed since the issuance of the Order to Suspend Shipment; and (2) no request for a hearing has been received, concludes that Neil Laboratories, Inc. is deemed to have waived its hearing right. After considering relevant material from the file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1313.57.

The Deputy Administrator finds that on December 12, 1997, Neil Laboratories, Inc. submitted a DEA Form 486 to DEA which indicated that it proposed to export 2,992,000 pseudoephedrine 60 mg. tablets to Comercializadora. A check with Mexican authorities revealed that Comercializadora never requested an import permit from the Mexican Department of Health. This shipment was exported to Mexico before DEA could discuss this matter with Neil Laboratories, Inc.

On February 3, 1998, DEA was notified that Comercializadora was not authorized by the Department of Health to import pseudoephedrine into Mexico.

On February 6, 1998, Neil Laboratories, Inc. submitted another DEA Form 486 which indicated that it proposed to export 4,000,000 pseudoephedrine 60 mg. tablets to Comercializadora. Neil Laboratories, Inc. also forwarded to DEA a copy of a Mexican import permit for this shipment. Upon receipt of the documents, DEA asked the Mexican Department of Health to verify the legitimacy of the customer. Thereafter, the Mexican authorities informed DEA that the Mexican import document submitted by Comercializadora to Neil Laboratories, Inc. was fraudulent. On February 20, 1998, Neil Laboratories, Inc. voluntarily canceled the shipment.

DEA personnel went to the address used by Comercializadora which was the same address as that listed in the Tijuana, Mexico telephone book for its owner, Oscar Barajas Gomez. The address was discovered to be an empty store front.

On April 2, 1998, Neil Laboratories, Inc. submitted a third DEA Form 486 which indicated that it proposed to export 4,000,000 pseudoephedrine 60 mg. tablets to Comercializadora. DEA requested that the Mexican Department of Health verify the import license submitted for this shipment. It was determined that the import license provided to Neil Laboratories, Inc. was fraudulent, in that one of the Mexican officials' signature was a forgery and two other Mexican officials listed on the permit were fictitious names. In

addition, the company number provided by Comercializadora on the import license belonged to another company in Mexico.

On June 4, 1998, Neil Laboratories, Inc. forwarded another import license from Comercializadora, which Mexican authorities verified was also fraudulent. On June 15, 1998, Neil Laboratories, Inc. withdrew the previous DEA Form 486 and submitted a new, duplicate request. The Mexican port of entry for the shipment listed on the form is not authorized to receive shipments of pseudoephedrine.

Pursuant to 21 U.S.C. 971(c), and the delegation of authority found in 28 CFR 0.100(b) and 0.104, the Deputy Administrator may "order the suspension of any importation or exportation of a listed chemical * * * on the ground that the chemical may be diverted to the clandestine manufacture of a controlled substance." The Deputy Administrator concludes that there is substantial evidence to support the conclusion that this shipment of pseudoephedrine may be diverted to the clandestine manufacture of a controlled substance. The address noted for the customer was an empty store front and the customer provided fraudulent import documents. Further, the Deputy Administrator notes that no contrary evidence has been presented.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 971 and 28 CFR 0.100(b) and 0.104, hereby orders that the proposed shipment described above, be, and it hereby is, suspended, and that these proceedings are hereby concluded. This final order is effective immediately.

Dated: May 25, 1999.

Donnie R. Marshall,

Deputy Administrator.

[FR Doc. 99-14099 Filed 6-3-99; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to

be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3014, Washington, DC 20210.

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

Connecticut

CT990001 (Mar. 12, 1999)
 CT990003 (Mar. 12, 1999)
 CT990004 (Mar. 12, 1999)
 CT990005 (Mar. 12, 1999)
 CT990006 (Mar. 12, 1999)

Massachusetts:

MA990001 (Mar. 12, 1999)
 MA990002 (Mar. 12, 1999)
 MA990007 (Mar. 12, 1999)
 MA990018 (Mar. 12, 1999)

Maine:

ME990005 (Mar. 12, 1999)
 ME990010 (Mar. 12, 1999)
 ME990019 (Mar. 12, 1999)
 ME990022 (Mar. 12, 1999)
 ME990026 (Mar. 12, 1999)
 ME990037 (Mar. 12, 1999)

New Hampshire:

NH990001 (Mar. 12, 1999)
 NH990002 (Mar. 12, 1999)
 NH990003 (Mar. 12, 1999)
 NH990005 (Mar. 12, 1999)
 NH990007 (Mar. 12, 1999)
 NH990008 (Mar. 12, 1999)

New Jersey:

NJ990002 (Mar. 12, 1999)
 NJ990003 (Mar. 12, 1999)
 NJ990004 (Mar. 12, 1999)
 NJ990005 (Mar. 12, 1999)
 NJ990007 (Mar. 12, 1999)

New York:

NY990002 (Mar. 12, 1999)
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 NY990050 (Mar. 12, 1999)
 NY990051 (Mar. 12, 1999)
 NY990060 (Mar. 12, 1999)
 NY990072 (Mar. 12, 1999)
 NY990075 (Mar. 12, 1999)
 NY990076 (Mar. 12, 1999)
 NY990077 (Mar. 12, 1999)

Volume II

District of Columbia:

DC990001 (Mar. 12, 1999)
 DC990003 (Mar. 12, 1999)

Maryland:

MD990001 (Mar. 12, 1999)
 MD990002 (Mar. 12, 1999)
 MD990006 (Mar. 12, 1999)
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MD990058 (Mar. 12, 1999)
 Pennsylvania:
 PA990005 (Mar. 12, 1999)
 PA990006 (Mar. 12, 1999)
 PA990025 (Mar. 12, 1999)
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 PA990031 (Mar. 12, 1999)

Virginia:

VA990013 (Mar. 12, 1999)
 VA990014 (Mar. 12, 1999)
 VA990030 (Mar. 12, 1999)
 VA990036 (Mar. 12, 1999)
 VA990042 (Mar. 12, 1999)
 VA990044 (Mar. 12, 1999)
 VA990059 (Mar. 12, 1999)
 VA990067 (Mar. 12, 1999)
 VA990079 (Mar. 12, 1999)
 VA990092 (Mar. 12, 1999)
 VA990099 (Mar. 12, 1999)

West Virginia:

WV990002 (Mar. 12, 1999)
 WV990003 (Mar. 12, 1999)
 WV990006 (Mar. 12, 1999)

Volume III

Alabama:

AL990003 (Mar. 12, 1999)
 AL990008 (Mar. 12, 1999)
 AL990034 (Mar. 12, 1999)
 AL990052 (Mar. 12, 1999)

Kentucky:

KY990001 (Mar. 12, 1999)
 KY990002 (Mar. 12, 1999)
 KY990003 (Mar. 12, 1999)
 KY990004 (Mar. 12, 1999)
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 KY990035 (Mar. 12, 1999)
 KY990049 (Mar. 12, 1999)

Mississippi:

MS990057 (Mar. 12, 1999)

Tennessee:

TN990001 (Mar. 12, 1999)
 TN990002 (Mar. 12, 1999)
 TN990018 (Mar. 12, 1999)
 TN990038 (Mar. 12, 1999)
 TN990039 (Mar. 12, 1999)
 TN990049 (Mar. 12, 1999)

Volume IV:

Illinois:

IL990001 (Mar. 12, 1999)
 IL990002 (Mar. 12, 1999)
 IL990003 (Mar. 12, 1999)
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- Indiana:
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- Ohio:
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- Volume V*
- Iowa:
 IA990003 (Mar. 12, 1999)
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 IA990032 (Mar. 12, 1999)
 IA990070 (Mar. 12, 1999)
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- Kansas:
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- Louisiana:
 LA990004 (Mar. 12, 1999)
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- Oklahoma:
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- Texas:
 TX990003 (Mar. 12, 1999)
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- Volume VI:*
- Colorado:
 CO990001 (Mar. 12, 1999)
 CO990002 (Mar. 12, 1999)
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- Idaho:
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- North Dakota:
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- Oregon:
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- South Dakota:
 SD990002 (Mar. 12, 1999)
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- Washington:
 WA990001 (Mar. 12, 1999)
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 WA990004 (Mar. 12, 1999)
 WA990007 (Mar. 12, 1999)
 WA990011 (Mar. 12, 1999)
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- Volume VIII*
- California:
 CA990001 (Mar. 12, 1999)
 CA990002 (Mar. 12, 1999)
 CA990004 (Mar. 12, 1999)
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- Nevada:
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 NV990007 (Mar. 12, 1999)
 NV990009 (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, DC this 28th day of May, 1999.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 99-14072 Filed 6-3-99; 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 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 revision and combination of the "Manual for Developing Local Area Unemployment Statistics" (OMB Number 1220-0017) and the "Local Area Unemployment Statistics Reports" (OMB Number 1220-0043). The two collections are being revised and combined into a single information

collection titled the Local Area Unemployment Statistics (LAUS) Program, retaining OMB Number 1220-0017.

A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before August 3, 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, N.E., Washington, DC 20212. Ms. Kurz can be reached on 202-606-7628 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

The Bureau of Labor Statistics has been charged by Congress (29 USC Chapters 1 and 2) with the responsibility of collecting and publishing monthly information on employment, the average wage received, and the hours worked by area and industry. The process for developing residency-based employment and unemployment estimates is a cooperative Federal-State program which uses employment and unemployment inputs available in State Employment Security Agencies (SESAs).

The labor force estimates developed and issued in this program are used for economic analysis and as a tool in the implementation of Federal economic policy in such areas as employment and

economic development under the Workforce Investment Act and the Public Works and Economic Development Act, among others.

The estimates also are used in economic analysis by public agencies and private industry, and for State and area funding allocations and eligibility determinations according to legal and administrative requirements. Implementation of current policy and legislative authorities could not be accomplished without collection of the data.

The reports and manual covered by this request are integral parts of the Local Area Unemployment Statistics (LAUS) program insofar as they insure and/or measure the timeliness, quality, consistency, and adherence to program directions of the LAUS estimates and related research.

II. Current Actions

The BLS is revising and combining two previously-separate information collection requests which make up the LAUS program: the Manual for Developing Local Area Unemployment Statistics (OMB Number 1220-0017) and the Local Area Unemployment Statistics Reports (OMB Number 1220-0043).

All aspects of the program now are automated. Exportable software eliminated the need for the Monthly Report on Continued Claimants by Place of Residence (LAUS 6). Electronic transmittals of any corrections to regularly submitted data have eliminated the need to use Monthly and Area Correction Forms (LAUS 13 and 14). The paper forms previously approved, BLS 3040, LAUS 2 and LAUS 3, also have been eliminated. All data are entered directly into BLS-provided systems.

BLS, as part of its responsibility to develop concepts and methods by which SESAs prepare estimates under the LAUS program, developed a manual for use by the SESAs. The manual explains the conceptual framework for the State and area estimates of employment and unemployment, specifies the procedures to be used, and discusses the theoretical and empirical basis for each procedure.

Type of Review: Revision of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: Local Area Unemployment Statistics (LAUS) Program.

OMB Number: 1220-0017.

Affected Public: State government.

Total Respondents: 52.

Frequency: Monthly and Annually.

Total Responses: 82,718.

Average Time Per Response: 1.60 hours.

Estimated Total Burden Hours: 131,600 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 1st day of June 1999.

W. Stuart Rust, Jr.,

*Chief, Division of Management Systems,
Bureau of Labor Statistics.*

[FR Doc. 99-14178 Filed 6-3-99; 8:45 am]

BILLING CODE 4510-24-M

MERIT SYSTEMS PROTECTION BOARD

Privacy Act of 1974; Proposed New System of Records

AGENCY: Merit Systems Protection Board.

ACTION: Privacy Act of 1974; Notice of new system of records.

SUMMARY: As required by The Privacy Act of 1974, 5 U.S.C. 552a, the Merit Systems Protection Board (Board) is publishing a notice proposing establishment of a new system of records. This new records system is the Administrative Data System. These records will be used as an internal catalog of organizations, positions, and employees, and to track the status of personnel-related actions.

DATES: Comments must be received on or before July 6, 1999. This system of records becomes effective as proposed, without further notice, on August 3, 1999, unless comments are received which would result in a contrary determination. Comments may be mailed to the Merit Systems Protection Board, Office of the Clerk of the Board, 1120 Vermont Avenue, NW, Washington, DC 20419, or faxed to the same address on 202-653-7130. Electronic mail comments may be sent via the Internet to mspb@mspb.gov.

FOR FURTHER INFORMATION CONTACT:

Michael H. Hoxie, Office of the Clerk of the Board, 202-653-7200.

Dated: May 28, 1999.

Robert E. Taylor,
Clerk of the Board.

MSPB/INTERNAL-7

SYSTEM NAME:

Administrative Data System.

SYSTEM LOCATION:

Information Resources Management Division, Merit Systems Protection Board (MSPB), 1120 Vermont Avenue, NW, Washington, DC 20419.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the MSPB.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of information about employees of the Board, including: Name, social security number, date of birth, position title, grade, and series, organizational unit, photograph, work telephone number, flexiplace telephone number and work schedule for flexiplace employees. The system will also contain information about certain personnel requests such as: training requests and authorization, awards, and leave requests and authorization.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1204.

PURPOSE(S):

These records are used by Board officials to prepare requests for personnel actions and related requests such as training or awards. The information in this system will also be used by Board officials to track the status of personnel actions, prepare listings of Board personnel by organization, position and location, and to contact flexiplace employees working away from Board offices regarding Board mission related matters.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

These records and information in these records may be used:

- a. To provide information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
- b. To disclose information to another Federal agency, to a court, or a party in litigation before a court, or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.
- c. To disclose, in response to a request for discovery or for appearance of a

witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

d. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigation, prosecution, enforcement, or implementation of a statute, rule, regulation, or order, where the Board becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in a database on a local area network server with standard password access security.

RETRIEVABILITY:

These records are retrieved by the names of the individuals or whom they are maintained.

SAFEGUARDS:

Access to these records is limited to persons whose official duties require such access. Records are protected from unauthorized access through password identification procedures and other system-based protection methods.

RETENTION AND DISPOSAL:

Records in this system are maintained as long as the individual is an employee of the Board. Expired records will be destroyed by deleting.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Financial and Administrative Management Division, Merit Systems Protection Board, 1120 Vermont Avenue, NW, Washington, DC 20419.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the Clerk of the Board and must follow the MSPB Privacy Act regulations at 5 CFR 1205.11 regarding such inquiries.

RECORD ACCESS PROCEDURES:

Individuals requesting access to their records should contact the Clerk of the Board. Such requests should be addressed to the Clerk of the Board, Merit Systems Protection Board, 1120 Vermont Avenue, NW, Washington, DC 20419. Requests for access to records must follow the MSPB Privacy Act regulations at 5 CFR 1205.11.

CONTESTING RECORD PROCEDURES:

Individuals requesting amendment of records should write the Clerk of the Board. Requests must follow the MSPB

Privacy Act regulations at 5 CFR 1205.21.

RECORD SOURCE CATEGORIES:

The individual to whom the information applies; the records maintained in the Board's Financial and Administrative Management Division; and records maintained by the U.S. Department of Agriculture, Animal Plant Health Inspection Service.

[FR Doc. 99-14121 Filed 6-3-99; 8:45 am]

BILLING CODE 7400-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rule 17f-2(d); SEC File No. 270-36; OMB Control No. 3235-0028]

Proposed Collection; Comment Request

Upon Written Request, Copies Available
From: Securities and Exchange Commission Office of Filings and Information Services Washington, DC 20549.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 17f-2(d) was adopted on March 16, 1976, and was last amended on November 18, 1982. Paragraph (d) of the rule (i) requires that records produced pursuant to the fingerprinting requirements of Section 17(f)(2) of the Securities Exchange Act of 1934 ("Exchange Act") be maintained, (ii) permits the designating examining authorities of broker-dealers or members of exchanges, under certain circumstances, to store and to maintain records required to be kept by this rule, and (iii) permits the required records to be maintained on microfilm.

The general purposes for Rule 17f-2 are: (i) to identify security risk personnel; (ii) to provide criminal record information so that employers can make fully informed employment decisions; and (iii) to deter persons with criminal records from seeking employment or association with covered entities.

Retention of fingerprint records, as required under paragraph (d) of the Rule, enables the Commission or other examining authority to ascertain whether all required persons are being

fingerprinted and whether proper procedures regarding fingerprint are being followed. Retention of these records for the term of employment of all personnel plus three years ensures that law enforcement officials will have easy access to fingerprint cards on timely basis. This in turn acts as an effective deterrent to employee misconduct.

Approximately 9,614 respondents are subject to the recordkeeping requirements of the rule. Each respondent keeps approximately 32 new records per year, which take approximately 2 minutes per record for the respondent to maintain, for an annual burden of 64 minutes per respondent. All records subject to the rule must be retained for the term of employment plus 3 years. The Commission estimates that the total annual cost to submitting entities is approximately \$196,850. This figure reflects estimated costs of labor and storage of records.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (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 respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, N.W., Washington, DC 20549.

Dated: May 26, 1999.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-14212 Filed 6-3-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-23855; File No. 812-11176]

Mentor Variable Insurance Portfolios, et al.; Notice of Application

May 28, 1999.

AGENCY: The Securities and Exchange Commission (the "Commission").

ACTION: Notice of application for an order under Section 6(c) of the Investment Company Act of 1940 ("Act") granting exemptive relief from Sections 9(a), 13(a), 15(a) and 15(b) of the Act and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to permit shares of Mentor Variable Investment Portfolios (the "Current Trust") and any other investment company that is designed to fund insurance products and for which Mentor Investment Advisors, LLC, Mentor Perpetual Advisors, LLC or their affiliates may serve as investment manager, investment advisers, investment sub-adviser, administrator, manager, principal underwriter or sponsor ("Future Trusts," together with the Trust, "Trust(s)") to be sold to and held by: (i) variable annuity and variable life insurance separate accounts of both affiliated and unaffiliated life insurance companies; (ii) qualified pension and retirement plans ("Qualified Plans" or "Plans") outside of the separate account context; and (iii) the Trusts' investment adviser (representing seed money investments in the Trusts).

APPLICANTS: Mentor Variable Investment Portfolios, Mentor Advisors, LLC ("Mentor Advisors") and Mentor Perpetual Advisors, LLC ("Mentor Perpetual," together with Mentor Advisors, the "Advisors").

FILING DATE: The application was originally filed on June 17, 1998, and amended and restated on December 14, 1998, and April 27, 1999.

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 on this application by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on June 22, 1999, and should be accompanied by proof of service on the Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the interest, the reason for the request and the issues contested. Persons may request notification of the date of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Commission, 450 Fifth Street, N.W., Washington, D.C. 20549-0609. Applicants, c/o Paul F. Costello, Managing Director, Mentor Investment Advisors, LLC, 901 E. Byrd

Street, 6th Floor, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT:

Joyce Merrick Pickholz, Senior Counsel, or Kevin M. Kirchoff, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942-0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the Commission, 450 Fifth Street, N.W., Washington, D.C. (tel. (202) 942-8090).

Applicants' Representations

1. The Trust, a Massachusetts business trust, is registered under the Act as an open-end, management investment company. The Trust currently consists of five investment portfolios (the "Funds").

2. Mentor Advisors and Mentor Perpetual serve as the investment advisors to the Funds. The Advisors are registered with the Commission as investment advisers under the Investment Advisers Act of 1940.

3. The Trust currently offers shares of certain of its Funds to Hartford Life Insurance Company ("Hartford") to serve as the investment vehicle for certain variable annuity contracts. In the future, the Trust may offer shares of the Funds to separate accounts ("Participating Separate Accounts") registered under the Act as unit investment trusts ("UITs") of various life insurance companies including Hartford ("Participating Insurance Companies") and to Plans qualified under Section 401(a) of the Internal Revenue Code of 1986, as amended (the "Code"). Certain Participating Separate Accounts ("VLI Accounts") support variable life insurance contracts ("VLI Contracts"). Other Participating Separate Accounts ("VA Accounts") support variable annuity contracts ("VA Contracts," together with VLI Contracts, "Variable Contracts").

Applicants' Legal Analysis

1. Applicants request an order pursuant to Section 6(c) of the Act exempting them from Sections 9(a), 13(a), 15(a), and 15(b) of the Act, and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder, to the extent necessary to permit shares of the Trusts to be offered and sold to, and held by: (a) VA Accounts and VLI Accounts of the same life insurance company or of any affiliated life insurance company ("mixed funding"); (b) VA Accounts and VLI Accounts of unaffiliated life insurance companies ("shared

funding"); (c) trustees of Qualified Plans; and (d) the Trusts' investment adviser (representing seed money investments in the Trust or Future Trust).

2. Rule 6e-2(b)(15) under the Act provides partial exemptions from: (a) Section 9(a), which makes it unlawful for certain individuals and companies to act in certain capacities with respect to registered investment companies; and (b) Sections 13(a), 15(a), and 15(b) of the Act to the extent that those sections might be deemed to require "pass-through" voting with respect to the shares of a registered management investment company underlying a UIT (an "underlying fund") to VLI Accounts supporting scheduled premium VLI Contracts and to their life insurance company depositors, investment advisers, and principal underwriters. The exemptions granted by the Rule are available, however, only if an underlying fund offers its shares exclusively to VLI Accounts of a single Participating Insurance Company or an affiliated insurance company, and then, only if scheduled premium VLI Contracts are issued through such VLI Accounts. Therefore, the relief granted by Rule 6e-2(b)(15) is not available with respect to a scheduled premium VLI Account that owns shares of an underlying fund that engages in mixed funding by also offering its shares to a VA Account or to a flexible premium VLI Account of the same company or of an affiliated life insurance company. In addition, the relief granted by Rule 6e-2(b)(15) is not available if the underlying fund engages in shared funding by offering its shares to VA Accounts or VLI Accounts of unaffiliated life insurance companies. Furthermore, Rule 6e-2(b)(15) does not contemplate that shares of the underlying fund might also be sold to Qualified Plans.

3. Rule 6e-3(T)(b)(15) under the Act provides partial exemptions from Sections 9(a), 13(a), 15(a), and 15(b) of the Act to VLI Accounts supporting flexible premium variable life insurance contracts and their life insurance company depositors, investment advisers and principal underwriters. The exemptions granted by the Rule are available, however, only where the Trust offers its shares exclusively to separate accounts of the Participating Insurance Company, or of any affiliated insurance company, offering either scheduled premium contracts or flexible premium contracts, or both, or which also offer their shares to VA Accounts of the Participating Insurance Company or of an affiliated life insurance company. Therefore, Rule 6e-3(T)(b)(15)

permits mixed funding with respect to a flexible premium VLI Account, subject to certain conditions. However, Rule 6e-3(T)(b)(15) does not permit shared funding because the relief granted is not available with respect to a VLI Account that owns shares of an underlying fund that also offers its shares to separate accounts (including VA Accounts and flexible premium and scheduled premium VLI Accounts) of unaffiliated Participating Insurance Companies. Also, Rule 6e-3(T)(b)(15) does not contemplate that shares of the underlying fund might also be sold to Qualified Plans.

4. Applicants state that current tax law permits the Trust to sell its shares directly to Qualified Plans. Section 817(h) of the Code imposes certain diversification standards on the assets underlying Variable Contracts, such as those in the Trust. The Code provides that Variable Contracts will not be treated as annuity contracts or life insurance contracts, as the case may be, for any period (or any subsequent period) for which the underlying assets are not adequately diversified in accordance with regulations issued by the Treasury Department. On March 1, 1989, the Treasury Department adopted regulations (Treas. Reg. 1.817-5) (the "Regulations") which established specific diversification requirements for investment portfolios underlying Variable Contracts. The Regulations generally provide that, in order to meet these diversification requirements, all of the beneficial interests in the investment company must be held by the segregated asset accounts of one or more life insurance companies. Notwithstanding this, the Regulations also contain an exception to this requirement that permits trustees of a Qualified Plan to hold shares of an investment company, the shares of which are also held by insurance company segregated asset accounts, without adversely affecting the status of the investment company as an adequately diversified underlying investment for Variable Contracts issued through such segregated asset accounts (Treas. Reg. 1.817-5(f)(3)(iii)).

5. Applicants also note that the promulgation of Rules 6e-2(b)(15) and 6e-3(T)(b)(15) preceded the issuance of the Regulations. Thus, the sale of shares of the same investment company to both Participating Separate Accounts and Qualified Plans was not contemplated at the time of the adoption of Rules 6e-2(b)(15) and 6e-3(T)(b)(15), and, therefore, Applicants assert that the restrictions of such Rules do not evidence an intent of the Commission to prevent extended mixed funding.

6. Section 9(a)(3) of the Act provides that it is unlawful for any company to serve as investment adviser or principal underwriter for any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in sections 9(a)(1) or (2). Rule 6e-2(b)(15) and Rule 6e-3(T)(b)(15) limited the application of the eligibility restrictions of section 9(a) to affiliated persons of a life insurance company that directly participate in the management of the underlying registered management investment company under certain circumstances, subject to limitations on mixed and shared funding. The relief provided by Rule 6e-2(b)(15)(i) and Rule 6e-3(T)(b)(15)(i) permits persons who are affiliated persons of a life insurance company or its affiliates who otherwise would be disqualified under section 9(a) to serve as an officer, director, or employee of an underlying fund, so long as any such person does not participate directly in the management or administration of such underlying fund. In addition, Rule 6e-2(b)(15)(ii) and Rule 6e-3(T)(b)(15)(ii) permit a Participating Insurance Company to serve as the underlying fund's investment adviser or principal underwriter, provided that none of the insurance company's personnel who are ineligible pursuant to section 9(a) of the Act participate in the management or administration of the underlying fund.

7. Applicants assert that the partial relief provided by Rule 6e-2(b)(15) and Rule 6e-3(T)(b)(15) from the requirements of section 9 limits the amount of monitoring of a Participating Insurance Company's personnel that is necessary to ensure compliance with section 9 (to that which is appropriate in light of the policy and purposes of section 9. Applicants state that Rule 6e-2(b)(15) and Rule 6e-3(T)(b)(15) recognize that applying the provisions of section 9 to the many individuals in a large insurance company complex, most of whom typically will have no involvement in matters pertaining to investment companies funding the Participating Separate Accounts, is not necessary or appropriate in the public interest nor is it necessary for the protection of investors or the purposes fairly intended by the policy and provisions of the Act. Moreover, applicants assert that disallowing the relief permitted by Rule 6e-2(b)(15) and Rule 6e-3(T)(b)(15) because the Trusts will sell their shares to Qualified Plans would serve no regulatory purpose. Applicants assert that the sale of shares of an underlying fund to Qualified Plans does not change the fact that the

purposes of the Act are not advanced by applying the prohibitions of section 9(a) to individuals who may be involved in a life insurance complex but have no involvement in the underlying fund.

8. Rule 6e-2(b)(15)(iii) and Rule 6e-3(T)(b)(15)(iii) provide partial exemptions from sections 13(a), 15(a), and 15(b) of the Act to the extent that those sections might be deemed to require "pass-through" voting with respect to the shares of an underlying fund, by allowing an insurance company to disregard the voting instructions of contract owners with respect to several significant matters, assuming the limitations on mixed and shared funding are observed. Rule 6e-2(b)(15)(iii)(A) and Rule 6e-3(T)(b)(15)(iii)(A) permit a Participating Insurance Company to disregard the voting instructions of its contract owners if such instructions would require an underlying fund's shares to be voted to cause such underlying fund to make (or to refrain from making) certain investments which would result in changes in the subclassification or investment objectives of such underlying fund or to approve or disapprove any contract between such underlying fund and an investment adviser when required to do so by an insurance regulatory authority (subject to the provisions of paragraphs (b)(5)(i) and (b)(7)(ii)(A) of the Rules). Rule 6e-2(b)(15)(iii)(B) and Rule 6e-3(T)(b)(15)(iii)(B) (2) permit a Participating Insurance Company to disregard contract owners' voting instructions if the contract owners initiate any change in the underlying fund's investment objectives, principal underwriter or any investment adviser (provided that disregarding such voting instructions is reasonable and subject to the other provisions of paragraph (b)(5)(ii) and (b)(7)(ii)(B) and (C) of the Rules). Applicants assert that these rights do not raise any issues different from those raised by the authority of state insurance administrators over separate accounts.

9. Applicants assert that the reason the Commission did not grant more extensive relief in the area of mixed and shared funding when it adopted Rule 6e-3(T) is because of the Commission's uncertainty in this area with respect to such issues as conflicts of interest. Applicants believe that Commission concern is not warranted in the context of permitting shared funding or permitting Qualified Plans to invest in the Trust and that the addition of owners of Variable Contracts supported by separate accounts of unaffiliated life insurance companies and Qualified Plans as eligible shareholders will not

increase the risk of material irreconcilable conflicts among shareholders.

10. Voting rights of shares sold to Qualified Plans are expressly reserved to certain specified persons and are not required to be passed through to Qualified Plan participants. Under Section 403(a) of the Employee Retirement Income Security Act ("ERISA"), shares of an underlying fund sold to a Qualified Plan must be held by the trustee(s) of the Qualified Plan, and such trustee(s) must have exclusive authority and discretion to manage and control the Qualified Plan with two exceptions: (a) when the Qualified Plan expressly provides that the trustee(s) are subject to the direction of a named fiduciary who is not a trustee, in which case the trustee(s) are subject to proper directions made in accordance with the terms of the Qualified Plan and not contrary to ERISA, and (b) when the authority to manage, acquire or dispose of assets of the Qualified Plan is delegated to one or more investment managers pursuant to Section 402(c)(3) of ERISA. Unless one of the above two exceptions stated in Section 403(a) applies, the exclusive authority and responsibility for voting shares of an underlying fund is vested in the plan trustees. Some of the Qualified Plans, however, may provide for the trustee(s), an investment adviser (or advisers) or another named fiduciary to exercise voting rights in accordance with instructions from participants.

11. If a named fiduciary to a Qualified Plan appoints an investment manager, the investment manager has the responsibility to vote the shares held unless the right to vote such shares is reserved to the trustees or the named fiduciary. The Qualified Plans may have their trustee(s) or other fiduciaries exercise voting rights attributable to investment securities held by the Qualified Plans in their discretion. Some of the Qualified Plans, however, may provide for the trustee(s), an investment adviser (or advisers) or another named fiduciary to exercise voting rights in accordance with instructions from participants.

12. If a Qualified Plan does not provide participants with the right to give voting instructions, the Applicants submit that there is no potential for material irreconcilable conflicts of interest between or among owners of Variable Contracts and participants in Qualified Plans with respect to voting of an underlying fund's shares. Accordingly, unlike the case with Participating Separate Accounts, the issue of the resolution of material irreconcilable conflicts with respect to

voting is not present with respect to such Qualified Plans because the Qualified Plans are not entitled to pass-through voting privileges.

13. Applicants further note that there is no reason to believe that participants in Qualified Plans which provide participants with the right to give voting instructions generally, or those in a particular Plan, either as a single group or in combination with participants in other Qualified Plans, would vote in a manner that would disadvantage Variable Contract owners. Applicants, therefore, submit that the purchase of shares of the Trusts by Qualified Plans that provide voting rights does not present any complications not otherwise occasioned by mixed or shared funding.

14. Applicants state that the presence of both VLI Accounts and VA Accounts as shareowners of an underlying fund will not lead to a greater probability of material irreconcilable conflicts than if the underlying fund did not engage in mixed funding. Similarly, shared funding does not present any issues that do not already exist where an underlying fund sells its shares to a single insurance company which sells contracts in several states. A state insurance regulatory body in one state could require action that is inconsistent with the requirements of other states in which the insurance company offers its policies. The fact that unaffiliated insurers may be domiciled in different states does not create a significantly different or enlarged problem.

15. Applicants assert that shared funding by unaffiliated insurers, in this respect, is no different than the use of the same investment company as the funding vehicle for affiliated insurers, which Rules 6e-2(b)(15) and 6e-2(T)(b)(15) under the Act permit under various circumstances. Affiliated insurers may be domiciled in different states and be subject to differing state law requirements. Affiliation does not reduce the potential for differences in state regulatory requirements. Applicants state that the conditions summarized below are designed to safeguard against, and provide procedures for resolving, any adverse effects that differences among state regulatory requirements may produce. For instance, if a particular state insurance regulator's decision conflicts with the majority of other state regulators, then the affected insurer may be required to withdraw its Participating Separate Account's investment in the Trusts. This requirement will be provided for in agreements that will be entered into by Participating Insurance Companies with respect to their participation in the relevant Trust.

16. Rules 6e-2(b)(15) and 6e-2(T)(b)(15) under the Act give the insurance company the right to disregard the voting instructions of the contract owners. Applicants assert that this right does not raise any issues different from those raised by the authority of state insurance administrators over separate accounts. Under Rules 6e-2(b)(15) and 6e-2(T)(b)(15), an insurer can disregard contract owner voting instructions only with respect to certain specified items and under certain specified conditions. Requiring that only affiliated insurance companies invest in the Trust does not eliminate the potential, if any exists, for divergent judgments as to the advisability or legality of a change in investment policies, principal under writer, or investment adviser initiated by contract owners. Moreover, the potential for disagreement is limited by the requirements in Rules 6e-2 and 6e-3(T) that an insurance company's disregard of voting instructions be reasonable and based on specific good faith determinations.

17. A particular Participating Insurance Company's disregard of voting instructions, nevertheless, could conflict with the majority of contract owners' voting instructions. The insurer's action possibly could be different than the determination of all or some of the other Participating Insurance Companies (including affiliated insurers) that the voting instructions of contract owners should prevail, and either could preclude a majority vote approving the change or could represent a minority view. If the insurer's judgment represents a minority position or would preclude a majority vote, then the insurer may be required, at the election of the relevant Fund, to withdraw its Participating Separate Account's investment in such Fund, and no charge or penalty will be imposed as a result of such withdrawal. This requirement will be provided for in the agreements entered into with respect to participation by the Participating Insurance Companies in the Trust.

18. Applicants assert that there is no reason why the investment policies of the Funds would or should be materially different from what these policies would or should be if they funded only VA Contracts or VLI Contracts. Each type of insurance product is designed as a long-term investment program. The Funds will be managed in the same manner as any other mutual funds and there is no incentive for a Fund's investment advisor to invest to benefit a particular class of shareholders. In addition, the Board of Trustees has a fiduciary duty

to oversee the Trusts' investment advisers and ensure that the Trusts are managed in a way that does not discriminate against any Trust shareholders.

19. Furthermore, Applicants assert that no one investment strategy can be identified as appropriate to a particular insurance product. Each pool of VA and VLI Contract owner is composed of individuals of diverse financial status, age, insurance, and investment goals. A Fund supporting even one type of insurance product must accommodate these diverse factors in order to attract and retain purchasers. Permitting mixed and shared funding as well as permitting sales to Qualified Plans will provide benefits to the Trusts' shareholders. Among other things, Participating Insurance Companies, and Variable Contract owners will benefit from a greater variety of investment options with lower costs.

20. Applicants do not believe that the sale of the shares of the Trusts to Qualified Plans will increase the potential for material irreconcilable conflicts of interest between or among different types of investors. Applicants assert that there are either no conflicts of interest or that there exists the ability by the affected parties to resolve the issues without harm to the contract owners in the Participating Separate Accounts or to the participants under the Qualified Plans.

21. As noted above, Section 817(h) of the Code imposes certain diversification standards on the underlying assets of variable annuity contracts and variable life insurance contracts held in the portfolios of management investment companies. The Code provides that a variable contract shall not be treated as an annuity contract or life insurance, as applicable, for any period (and any subsequent period) for which the investments are not, in accordance with the Regulations, adequately diversified.

22. The Regulations provided that, in order to meet the statutory diversification requirements, all of the beneficial interests in the investment company must be held by the segregated asset accounts of one or more insurance companies. The Regulations, however, contain certain exceptions to this requirement, one of which allows shares in an underlying mutual fund to be held by the trustees of a Qualified Plan without adversely affecting the ability of shares in the underlying fund also to be held by separate accounts of insurance companies in connection with their variable contracts. (Treas. Reg. 1.871-5(f)(3)(iii)). Thus, the Regulations specifically permit Qualified Plans and separate accounts to invest in the same

portfolio of an underlying fund. For this reason, Applicants assert that neither the Code, nor the Regulations, nor the Revenue Rulings thereunder, present any inherent conflicts of interests.

23. Applicants note that while there are differences in the manner in which distribution from Variable Contracts and Qualified Plans are taxed, the differing tax consequences do not raise any conflicts of interest. If the Participating Separate Account or the Qualified Plan cannot net purchase payments to make the distributions, the Participating Separate Account or the Qualified Plan will redeem shares of the Fund at their net asset value. The Qualified Plan then will make distributions in accordance with the terms of the Qualified Plan and the Participating Insurance Company will make distributions in accordance with the terms of the Variable Contract. Therefore, distributions and dividends will be declared and paid by the Fund without regard to the character of the shareholder.

24. Applicants state that it is possible to provide an equitable means of giving voting rights to Variable Contract owners and to the trustees of Qualified Plans. The transfer agent for the Fund will inform each Participating Insurance Company of its share ownership in each Participating Separate Account, as well as inform the trustees of Qualified Plans of their holdings. Each Participating Insurance Company then will solicit voting instructions in accordance with Rules 6e-2 and 6e-3(T), as applicable, and its participation agreement with the relevant Fund. Shares held by Qualified Plans will be voted in accordance with applicable law. The voting rights provided to Qualified Plans with respect to shares of the Trusts will be no different from the voting rights that are provided to Qualified Plan with respect to shares of funds sold to the general public.

25. Applicants submit that the ability of the Trusts to sell their shares directly to Qualified Plans does not create a "senior security," as such term is defined under Section 18(g) of the Act, with respect to any contract owner as opposed to a participant under a Qualified Plan. Regardless of the rights and benefits of Variable Contract owners or participants under the Qualified Plans, the Qualified Plans and the Participating Separate Accounts have rights only with respect to their respective shares of the trusts. They can only redeem such shares at their net asset value. No shareholder of the Trusts will have any preference over any other shareholder with respect to distribution of assets or payment of dividends.

26. Applicants assert that the veto power of state insurance commissioners over an underlying fund's investment objectives does not create any inherent conflicts of interest between the contract owners of the Participating Separate Accounts and Qualified Plan participants. Applicants note that the basis premise of corporate democracy and shareholder voting is that not all shareholders may agree with a particular proposal. Although the interests and opinions of shareholders may differ, this does not mean that inherent conflicts of interest exist between or among such shareholders. State insurance commissioners have been given the veto power in recognition of the fact that insurance companies usually cannot simply redeem their separate accounts out of one fund and invest in another. Generally, time-consuming, complex transactions must be undertaken to accomplish such redemptions and transfers.

27. In contrast, the trustees of Qualified Plans or the participants in participant-directed Qualified Plans can make the decision quickly and redeem their interest in the Funds and reinvest in another funding vehicle without the same regulatory impediments faced by separate accounts or, as in the case with most Qualified Plans, even hold cash pending suitable investment.

28. Applicants also assert that the investment of seed capital in a Trust presents no potential for irreconcilable conflicts of interest. Seed capital for a Trust will be provided by the Trust's investment adviser or by Participating Insurance Companies.

29. Applicants state that various factors have kept more insurance companies from offering variable annuity and variable life insurance contracts than currently offer such contracts. These factors include the costs of organizing and operating a funding medium, the lack of expertise with respect to investment management (principally with respect to stock and money market investments), and the lack of name recognition by the public of certain insurers as investment experts with whom the public feels comfortable entrusting their investment dollars. Use of a Trust as a common investment medium for variable contracts would reduce or eliminate these concerns. Mixed and shared funding also should provide several benefits to Variable Contract owners by eliminating a significant portion of the costs of establishing and administering separate funds. Participating Insurance Companies will benefit not only from the investment and administrative

expertise of the Trusts' investment adviser, but also from the cost efficiencies and investment flexibility afforded by a large pool of funds. Mixed and shared funding also would permit a greater amount of assets available for investment by a Fund, thereby promoting economics of scale, by permitting increased safety through greater diversification, or by making the addition of new funds more feasible. Applicants assert that the sale of shares of the Trusts to Qualified Plans in addition to the Participating Separate Accounts will result in an increased amount of assets available for investment by such Trusts. This may benefit variable contract owners by promoting economies of scale, by permitting increased safety of investments through greater diversification, and by making the addition of new Funds more feasible.

30. Applicants assert that granting the exemptions requested by Applicants will not compromise the regulatory purposes of Sections 9(a), 13(a), 15(a) and 15(b) of the Act or Rules 6e-2(b)(15) or 6e-3(T)(b)(15) thereunder.

Applicants' Conditions

1. Applicants have consented to the following conditions:

a. A majority of the Board of Trustees ("Board") of each Trust will consist of persons who are not "interested persons" of such Trust, as defined by Section 2(a)(19) of the Act, and the rules thereunder, and as modified by any applicable orders of the Commission, except that if this condition is not met by reason of the death, disqualification, or bona-fide resignation of any trustee or trustees, then the operation of this condition will be suspended: (i) for a period of 45 days if the vacancy or vacancies may be filled by the Board; (ii) for a period of 60 days if a vote of shareholders is required to fill the vacancy or vacancies; or (iii) for such longer period as the Commission may prescribe by order upon application.

b. Each Board will monitor its respective Trust for the existence of any material irreconcilable conflict between the interests of the contract owners of all Participating Separate Accounts and participants of all Qualified Plans investing in such Trust, and determine what action, if any, should be taken in response to such conflicts. A material irreconcilable conflict may arise for a variety of reasons, including: (i) an action by any state insurance regulatory authority; (ii) a change in applicable Federal or state insurance tax, or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretative letter, or any

similar action by insurance, tax, or securities regulatory authorities; (iii) an administrative or judicial decision in any relevant proceeding; (iv) the manner in which the investments of Trust are being managed; (v) a difference in voting instructions given by VA contract owners, VLI contract owners, and Plan investors or the trustees of a Qualified Plan that does not provide voting rights to its investors; (vi) a decision by a Participating Insurance Company to disregard the voting instructions of contract owners; or (vii) if applicable, a decision by a Qualified Plan to disregard the voting instructions of Plan participants.

c. Each Trust will disclose in its prospectus that: (i) Shares of such Trust may be offered to insurance company separate accounts that support both variable annuity and variable life insurance contracts and to Qualified Plans; (ii) due to differences in tax treatment and other considerations, the interests of various contract owners participating in such Trust and the interests of Qualified Plans investing in such Trust may conflict; and (iii) the Trust's Board of Trustees will monitor events in order to identify the existence of any material irreconcilable conflicts and to determine what action, if any, should be taken in response to any such conflict. Each trust shall also notify the Qualified Plan trustees and Participating Insurance Companies that similar prospectus disclosure may be appropriate in Participating Separate Account prospectuses or any Plan prospectuses or other Plan disclosure documents.

d. Each Trust will comply with all provisions of the Act requiring voting by shareholders, including Sections 16(a), 16(b) (when applicable) and 16(c) (even though the Trust is not a trust of the type described therein).

e. Mentor Advisors and Mentor Perpetual will report any material irreconcilable conflicts or any potential material irreconcilable conflicts between or among the interests of VLI Contract owners, VA Contract owners and Plan participants to the Trust's Board of Trustees and will assist the Board in carrying out the Board's responsibilities under these conditions. Such assistance will include, but not be limited to, providing the Board, at least annually, with all information reasonably necessary for the Board to consider any issues raised by such existing or potential conflicts.

f. All reports sent by Participating Insurance Companies or Qualified Plans to the Board of Trustees of a Trust or notices sent by the Board of Trustees to Participating Insurance Companies or

Qualified Plans notifying the recipient of the existence of or potential for a material irreconcilable conflict between the interests of VA Contract owners, VLI Contract owners and Plan participants as well as Board deliberations regarding such conflicts or such potential conflicts shall be recorded in the board meeting minutes of the Trust or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

2. In addition to the foregoing conditions, Applicants consent to the following conditions and represent and agree that if the exemptions requested are granted, a Trust will not sell shares to any VLI Account unless such Account's Participating Insurance Company enters into a participation agreement with the Trust containing provisions that require the following:

a. A majority vote of the disinterested trustees of a Trust shall represent a conclusive determination as to the existence of a material irreconcilable conflict between or among the interests of VLI Contract owners, VA Contract owners and Qualified Plan investors. For the purpose of subparagraph (e) below, a majority vote of the disinterested trustees of that Trust shall represent a conclusive determination as to whether any proposed action adequately remedies any material irreconcilable conflict between or among the interests of VLI Contract owners, VA Contract owners and Qualified Plan investors. The Trust shall notify each Participating Insurance Company and Qualified Plan in writing of any determination of the foregoing type.

b. Each Participating Insurance Company will monitor its operations and those of the Trusts for the purpose of identifying any material irreconcilable conflicts or potential material or irreconcilable conflicts between or among the interests of Qualified Plan investors, VA Contract Owners and VLI Contract Owners.

c. Each Participating Insurance Company will report any such conflicts or potential conflicts to a Trust's Board of Trustees and will provide the Board, at least annually, with all information reasonably necessary for the Board to consider any issues raised by such existing or potential conflicts or by these conditions. Each Participating Insurance Company will also assist the Board in carrying out its responsibilities under these conditions including, but not limited to: (i) Informing the Board whenever it disregards VLI Contract owner or VA Contract owner voting instructions; and (ii) providing, at least annually, such other information and

reports as the Board may reasonably request. Each Participating Insurance Company will carry out these obligations with a view only to the interests of owners of its VLI Contracts and VA Contracts.

d. Each Participating Insurance Company will provide "pass-through" voting privileges to owners of registered VA Contracts and registered VLI Contracts as long as the Act requires such privileges in such cases. Accordingly, such Participating Insurance Companies, where applicable, will vote Trust shares held in their Participating Separate Accounts in a manner consistent with voting instructions timely received from owners of such VLI and VA Contracts. Each Participating Insurance Company will vote Trust shares owned by itself (i.e., that are not attributable to VA Contract or VLI Contract reserves) in the same proportion as instructions received in a timely fashion from VA Contract owners and VLI Contract owners and shall be responsible for ensuring that it and other Participating Insurance Companies calculate "pass-through" votes for VLI Accounts and VA Accounts in a consistent manner. Each Participating Insurance Company also will vote Trust shares held in any registered VLI Account or registered VA Account for which it has not received timely voting instructions in the same proportion as instructions received in a timely fashion from VA Contract owners and VLI Contract owners.

e. In the event that a material irreconcilable conflict of interest arises between VA Contract owners or VLI Contract owners and Qualified Plan participants, each Participating Insurance Company will, at its own expense, take whatever action is necessary to remedy such conflict as it adversely affects owners of its VA Contracts or VLI Contracts up to and including: (i) establishing a new registered management investment company; and (ii) withdrawing assets attributable to reserves for the VA Contracts or VLI Contracts subject to the conflict from the Trust and reinvesting such assets in a different investment medium (including another Fund of the Trust) or submitting the question of whether such withdrawal should be implemented to a vote of all affected VA Contract owners or VLI Contract owners, and, as appropriate, segregating the assets supporting the contracts of any group of such owners that votes in favor of such withdrawal, or offering to such owners the option of making such a change. Each Participating Insurance Company will carry out the responsibility to take the foregoing

action with a view only to the interests of owners of its VA Contracts and VLI Contracts. Notwithstanding the foregoing, each Participating Insurance Company will not be obligated to establish a new funding medium for any group of VA Contracts or VLI Contracts if an offer to do so has been declined by a vote of a majority of the VA Contract owners or VLI Contract owners adversely affected by the conflict.

f. If a material irreconcilable conflict arises because of a Participating Insurance Company's decision to disregard the voting instructions of VLI Contract owners or VA Contract owners and that decision represents a minority position or would preclude a majority vote at any Fund shareholder meeting, then, at the request of the Trust's Board of Trustees, the Participating Insurance Company will redeem the shares of the Trust to which the disregarded voting instructions relate. No charge or penalty, however, will be imposed in connection with such a redemption.

g. Each Participating Insurance Company and VLI Account will continue to rely on Rule 6e-2(b)(15) and/or Rule 6e-3(T)(b)(15), as appropriate, and to comply with all of the appropriate Rule's conditions. In the event that Rule 6e-2 and/or Rule 6e-3(T) is amended, or any successor rule is adopted, each Participating Insurance Company and VLI Account will instead comply with such amended or successor rule.

h. Each Participating Insurance Company will maintain at its home office available to the Commission a list of its officers, directors and employees who participate directly in the management and administration of any separate account organized as a UIT or of any Fund. These individuals will continue to be subject to the automatic disqualification provisions of Section 9(a).

3. In addition to the foregoing conditions, Applicants consent to the following conditions and represent and agree that if the exemptions requested are granted, the Trust will not sell shares of any Fund to a Qualified Plan if such sale would result in the Qualified Plan owning 10% or more of that Fund's outstanding shares unless the Qualified Plan first enters into a participation agreement with the Trust containing provisions that require the following:

a. The trustees or plan committees of the Qualified Plan will: (i) monitor the Qualified Plan's operations and those of the Trusts for the purpose of identifying any material irreconcilable conflicts or potential material irreconcilable conflicts between or among the interests

of Qualified Plan participants, VA Contract owners and VLI Contract owners; (ii) report any such conflicts or potential conflicts to a Trust's Board of Trustees; (iii) provide the Board, at least annually, with all information reasonably necessary for the Board to consider any issues raised by such existing or potential conflicts and any other information and reports that the Board may reasonably request; (iv) inform the Board whenever it (or another fiduciary) disregards the voting instructions of Qualified Plan participants (of a Qualified Plan that provides voting rights to its participants); and (v) ensure that the Qualified Plan votes Trust shares as required by applicable law and governing Qualified Plan documents. The trustees or plan committees of the Qualified Plan will carry out these obligations with a view only to the interests of Qualified Plan participants in its Qualified Plan.

b. In the event that a material irreconcilable conflict of interest arises between Qualified Plan investors and VA Contract owners, VLI Contract owners or other investors in the Trust, each Qualified Plan will, at its own expense, take whatever action is necessary to remedy such conflict as it adversely affects that Qualified Plan or participants in that Qualified Plan up to and including: (i) Establishing a new registered management investment company; and (ii) withdrawing Qualified Plan assets subject to the conflict from the Trusts and reinvesting such assets in a different investment medium (including another Fund of the Trusts) or submitting the question of whether such withdrawal should be implemented to a vote of all affected Qualified Plan investors, and, as appropriate, segregating the assets of any group of such participants that votes in favor of such withdrawal, or offering to such participants the option of making such a change. Each Qualified Plan will carry out the responsibility to take the foregoing action with a view only to the interests of Qualified Plan investors in its Qualified Plan. Notwithstanding the foregoing, no Qualified Plan will be obligated to establish a new funding medium for any group of participants or Qualified Plan investors if an offer to do so has been declined by a vote of a majority of the Qualified Plan's participants or Qualified Plan investors adversely affected by the conflict.

c. If a material irreconcilable conflict arises because of a Qualified Plan trustee's (or other fiduciary's) decision to disregard the voting instructions of Qualified Plan participants (of a

Qualified Plan that provides voting rights to its participants) and that decision represents a minority position or would preclude a majority vote at any shareholder meeting, then, at the request of the Trust's Board of Trustees, the Qualified Plan will redeem the shares of that Trust to which the disregarded voting instructions relate. No charge or penalty, however, will be imposed in connection with such a redemption.

4. Applicants also represent and agree that if the exemptions requested are granted, a Trust will not sell shares of any Fund to a Qualified Plan until the Qualified Plan executes an application containing an acknowledgment of the condition that the Trust cannot sell shares of any Fund to such Qualified Plan if such sale would result in that Qualified Plan owning 10% or more of that Fund's outstanding shares unless that Qualified Plan first enters into a participation agreement as described above.

Conclusion

For the reasons summarized above, Applicants assert that the requested exemptions are 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.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 99-14207 Filed 6-3-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-27033]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

May 28, 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 Branch 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 June 22, 1999, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549-0609, 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 facts 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 June 22, 1999, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Conectiv, et al. (70-9499)

Conectiv, a registered public utility holding company, Atlantic City Electric Company ("ACE"), and Delmarva Power & Light Company ("Delmarva"), both utility subsidiaries of Conectiv ("Applicants"), all located at 800 King Street, Wilmington, Delaware 19899, have filed a declaration under section 12(c) of the Act and rules 46(a) and 54 under the Act.

Applicants note that each of the states in which ACE and Delmarva operate, i.e., New Jersey, Delaware, Maryland and Virginia, has enacted restructuring legislation that is intended to result in competition for the supply component of the price ACE and Delmarva charge to their retail customers. Applicants state that because of this legislation, certain costs that ACE and Delmarva have incurred to serve their customers ("stranded costs") may not be recoverable from these customers. Applicants expect that the utility commissions in Delaware, Maryland and Virginia will issue orders in the second and third quarters ("Restructuring Orders") that will allow applicants to quantify the amount of stranded costs that ACE and Delmarva will have to charge to their retained earnings.

Applicants state that these charges may have an effect on Applicants' abilities to pay dividends out of retained earnings. For this reason, each Applicant seeks authority to pay dividends out of capital or unearned surplus should the charges to retained earnings exceed its level of retained earnings at the time of the charge.

Specifically, Conectiv requests authority to pay dividends with respect to its common stock and Class A common stock for up to six quarters in amounts that would aggregate up to

approximately \$144 million.¹ ACE requests authority to pay dividends out of capital or unearned surplus to preferred stockholders and to Conectiv as the holder of ACE common stock for up to four quarters in amounts that would aggregate up to approximately \$52 million.² Delmarva requests authority to pay dividends out of capital or unearned surplus to preferred stockholders and to Conectiv as the holder of Delmarva common stock for up to four quarters in amounts that would aggregate up to approximately \$52.4 million.³

For the Commission by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-14208 Filed 6-3-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-23856]

Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

May 28, 1999.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of May, 1999. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth St., N.W., Washington, DC 20549-0102 (tel. 202-942-8090). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 22, 1999, and should be accompanied by proof of service on the applicant, 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 Secretary, SEC, 450 Fifth Street, N.W., Washington, DC 20549-

¹This represents approximately ten percent of Conectiv's capital surplus as of March 31, 1999.

²This represents eleven percent of the ACE capital surplus as of March 31, 1999.

³This represents approximately ten percent of Delmarva's capital surplus as of March 31, 1999.

0609. For Further Information Contact: Diane L. Titus, at (202) 942-0564, SEC, Division of Investment Management, Office of Investment Company Regulation, 450 Fifth Street, N.W., Washington, DC 20549-0506.

Alameda-Contra Costa Medical Association Collective Investment Trust For Retirement Plans [File No. 811-5887]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Between November 18, 1998, and January 5, 1999, a pro rata distribution was made to each securityholder of each of applicant's portfolios based on net asset value. Expenses of approximately \$35,000 were incurred in connection with the liquidation and were paid by applicant's sponsor and administrator, the Alameda-Contra Costa Medical Association.

Filing Dates: The application was filed on April 21, 1999, and amended on May 21, 1999.

Applicant's Address: 6230 Claremont Avenue, Oakland, California 94618.

Bascom Hill Balanced Fund, Inc. [File No. 811-4825]

Bascom Hill Investors, Inc. [File No. 811-2825]

Madison Bond Fund, Inc. [File No. 811-5952]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. On June 13, 1997, Bascom Hill Balanced Fund, Inc. and Bascom Hill Investors, Inc. transferred their assets and liabilities to a corresponding series of Mosaic Equity Trust based on net asset value. On June 13, 1997, Madison Bond Fund, Inc. transferred its assets and liabilities to Mosaic Income Trust based on net asset value. Expenses of approximately \$12,000, \$10,000, and \$8,000, respectively, were incurred in connection with the reorganizations and were paid by Madison Investment Advisors, Inc., investment adviser of each applicant.

Filing Dates: Each application was filed on February 17, 1999, and amended on May 12, 1999.

Applicants' Address: 6411 Mineral Point Road, Madison, Wisconsin 53705.

The Highland Family of Funds [File No. 811-7867]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On March 13, 1998, applicant made its final liquidating distribution to its remaining securityholders at net asset value per

share. Expenses of approximately \$33,815 incurred in connection with the liquidation were paid by Robert Lamb III, applicant's President and Trustee, and co-founder of Highland Investment Group, L.P., applicant's investment adviser.

Filing Dates: The application was filed on November 5, 1998 and amended on May 11, 1999.

Applicant's Address: 1248 Post Road, Fairfield, Connecticut 06430.

Marquis Funds [File No. 811-7830]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On August 10, 1998, applicant transferred all of its assets and liabilities to corresponding series of The One Group® in exchange for shares of the corresponding series of The One Group® based on net asset value. Expense of approximately \$270,000 were incurred in connection with the reorganization and were paid by Banc One Investment Advisors, investment adviser to the The One Group®.

Filing Dates: The application was filed on March 26, 1999, and amended on May 26, 1999.

Applicant's Address: 2 Oliver Street, Boston, Massachusetts 02109.

Oppenheimer Mortgage Income Fund [File No. 811-4712]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 28, 1995, applicant transferred all of its assets to Oppenheimer U.S. Government Trust ("U.S. Government Trust"), in exchange for shares of U.S. Government Trust, based on the relative net asset values per share. Applicant and U.S. Government Trust paid \$37,107 and \$23,207, respectively, in expenses related to the reorganization.

Filing Dates: The application was filed on March 3, 1999, and amended on May 12, 1999.

Applicant's Address: Two World Trade Center, New York, New York 10048-0203.

Principal Tax-Exempt Cash Management Fund, Inc. [File No. 811-5548]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On April 8, 1999, applicant transferred its assets and liabilities to Principal Cash Management Fund, Inc. in exchange for shares of that fund based on the net asset value per share. Expenses of approximately \$70,000 were incurred in connection with the reorganization, and were paid

by Principal Management Corporation, applicant's investment adviser.

Filing Dates: The application was filed on April 28, 1999, and amended on May 20, 1999.

Applicant's Address: The Principal Financial Group, Des Moines, Iowa 50392.

Stonebridge Growth Fund, Inc. [File No. 811-916]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On November 2, 1998, applicant transferred all of its assets to the Stonebridge Growth Fund, a series of the Stonebridge Funds Trust, at net asset value. Expenses of approximately \$41,000 incurred in connection with the reorganization were borne by applicant.

Filing Dates: The application was filed on January 8, 1999, and amended on April 15, 1999 and May 26, 1999.

Applicant's Address: 370 17th Street, Suite 3100, Denver, Colorado 80202-5631.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-14209 Filed 6-3-99; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41466; File No. SR-DTC-99-12]

Self-Regulatory Organizations; The Depository Trust Company; Filing and Order Granting Accelerated, Temporary Approval of a Proposed Rule Change Relating to the Admission of Non-U.S. Entities as Direct Depository Participants

May 28, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on May 19, 1999, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared primarily by DTC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated, temporary approval of the proposed rule change through May 31, 2000.

¹ 15 U.S.C. 78s(b)(1).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to extend the Commission's temporary approval of DTC's admission criteria for entities that are organized in a country other than the United States ("non-U.S. entities").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.²

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to extend the Commission's temporary approval of DTC's admission criteria for non-U.S. entities as direct DTC participants. The Commission originally granted temporary approval on May 9, 1997.³ The admission criteria permit well-qualified, non-U.S. entities to obtain direct access to DTC's services without requiring the non-U.S. entities to obtain financial guarantees from another DTC participant. According to DTC, DTC established the program for admission of non-U.S. entities in response to requests it received from certain participants. These participants requested that DTC consider changes in its admissions policy that would allow non-U.S. affiliates to become direct participants without having to obtain financial guarantees from a DTC participant that was a U.S. entity.

As of May 10, 1999, one non-U.S. entity has been approved for DTC membership under the standards for admission of non-U.S. entities. DTC is currently reviewing an application from another non-U.S. entity and has received numerous inquiries from other non-U.S. entities. In 1999, DTC expects

² The Commission has modified the text of the summaries prepared by DTC.

³ For a complete discussion of the admission criteria, refer to Securities Exchange Act Release No. 38600, International Release No. 1078 (May 9, 1997), 62 FR 27086-01 [File No. SR-DTC-96-13] (order temporarily approving a proposed rule change relating to the admission of non-U.S. entities as direct depository participants).

to admit, several non-U.S. entities. DTC is seeking an extension of the temporary approval so it can complete the admission of these non-U.S. entities and gain further experience with the admission standards of non-U.S. entities and the unique risks posed by the activities of non-U.S. entities as direct DTC participants.

DTC believes that the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Act and the rules and regulations promulgated because the admission criteria takes into account the unique risks to DTC raised by the admission of non-U.S. entities while not unfairly discriminating against non-U.S. entities seeking admission as participants.

(b) Self-Regulatory Organization's Statement on Burden on Competition

While DTC acknowledges that the proposed additional admissions criteria applicable to non-U.S. entities may impose some additional burden, for the reasons stated above, we believe that any such burden is necessary and 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

DTC has not sought or received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.⁴ The Commission finds that the rule change is consistent with this obligation because DTC's admission criteria has been designed in a manner which takes into account jurisdiction differences in regulatory structure and in business operations of non-U.S. entities with respect to risk control and management. Furthermore, DTC admission criteria should bind non-U.S. entities to DTC's rules and procedures in a manner similar to domestic participants and should lesson or eliminate the negative effects that jurisdictional issues could have on DTC's exercise of its rights against non-U.S. entities. Therefore, the Commission finds that the admissions criteria will assist DTC in assuring the safeguarding of securities and funds which are in its

custody, control, or for which it is responsible.

DTC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of the notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication of the notice of the filing because accelerated approval will permit DTC to continue to use and study the effectiveness of its admission criteria without interruption.

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 submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submissions, 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, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filings will also be available for inspection and copying at the principal office of DTC. All submissions should refer to the file number SR-DTC-99-12 and should be submitted by June 25, 1999.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-DTC-99-12), be, and hereby is, temporarily approved on an accelerated basis through May 31, 2000.

For the Commission by the Division of Market Regulation pursuant to delegated authority.⁵

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-14211 Filed 6-3-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41457; File No. SR-MSRB-99-03]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Reports of Sales and Purchases, Pursuant to Rule G-14

May 26, 1999.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 28, 1999, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change (File No. SR-MSRB-99-03). The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the Board. The MSRB has designated this proposal as one constituting a stated policy, practice or interpretation with respect to the enforcement of an existing rule under Section 19(b)(3)(A)³ of the Act which renders the proposal effective upon receipt of the filing by the Commission. 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 Board is filing a proposed rule change concerning the Board's Transaction Reporting Program. The proposed rule change states the Board's intention to publish for comments a sample Daily Transaction Report which covers a five day period and contains information on individual transactions in frequently-traded municipal securities, as reported by dealers under Rule G-14.

The proposed rule change is as follows in *italics*:

Notice—Sample Transparency Reports With Data on Individual Transactions in Frequently-Traded Securities Available for Review

A long standing goal of the Municipal Securities Rulemaking Board is providing market participants with more information about the value of securities.⁴ Toward this end, the Board

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ See "From the Chairman," MSRB Reports, Vol. 8, No. 5 (December 1988) at 2.

⁴ 15 U.S.C. 78q-1(b)(3)(F).

⁵ 17 CFR 200.30-3(a)(12).

established its Transaction Reporting Program, which has provided increasing levels of information during the past five years. The Board has consistently stated that its ultimate goal for the Program is to collect and make available transaction information in a comprehensive and contemporaneous manner.⁵

The Board is now publishing for comment sample Daily Transaction Reports with individual transaction information for issues that trade four or more times on an give day. The sample Daily Transaction Reports represents the next step in making transaction price information more readily available to investors and other market participants. Release of the sample reports builds upon tow earlier phases of transparency—the Board's Inter-Dealer Daily Report and the Combined Daily Report.

Background

The Inter-Daily Report

The Board began disseminating price and volume information on municipal securities on January 1995 with the production of the Inter-Dealer Daily Report. Each business day since its inauguration, this report has provided statistics on total inter-dealer market activity the previous day and information about price and volume for each frequently traded issue—i.e., each issue that was traded between dealers four or more times during the day. The report includes the total par value traded in each frequently traded issue, the high and low prices, and average prices of representative trades.⁶

The initial design of the Inter-Dealer Daily Report was based upon the distinctive aspects of the municipal securities market that distinguish it from the exchange-listed and NASDAQ markets, where transaction price transparency is the norm. A primary distinguishing characteristic of the municipal securities market is the large number of outstanding issues. There are approximately 1.3 million municipal securities that are distinct, non-fungible entities for purposes of trading and reporting, compared to a much smaller number of equity issues, and their

frequency of trading also differs substantially from patterns in the exchange and NASDAQ markets. While, on any given day, a certain number of municipal securities are traded frequently, the identity of these frequently traded issues is continually changing over time. Another distinguishing characteristic is that, in the municipal securities market, most issues are purchased by "buy and hold" investors relatively quickly after initial issuance. When frequent trading does occur in an issue, it generally occurs in connection with issuance and then subsides.

The Board identified a reporting threshold of four trades a day in 1994, based upon its belief that reporting an isolated transaction in a security does not necessarily provide a reliable indicator of "market price" and might be misleading to an observer not familiar with the market. At the same time, the Board made a commitment to review the use of the Inter-Dealer Daily Report as experience was obtained and to consider expanding the information included.⁷ In its approval order for the Inter-Dealer Daily Report, the Commission noted that the MSRB, in proceeding to subsequent levels of transparency, "should continue to work toward publicly disseminating the maximum level of useful information to the public while ensuring that the information and manner in which it is presented is not misleading."⁸

The Combined Daily Report

The Board proposed in August 1996 to expand the transparency program by adding to the daily public report information about transactions between dealers and their customers.⁹ The Commission approved the expansion in November 1996.¹⁰ Dealers have been required to report customer transaction information to the Board since March 1, 1998, and the Board began production of a Combined Daily Report which incorporated both inter-dealer and customer transaction information on August 24, 1998.¹¹ This report, which is made available on T+1 prior to the beginning of the trading day, is used by

market participants to help gauge the value of municipal securities.

The Board currently has nine subscribers to the Combined Daily Report. Most of these are information vendors that redistribute to their own subscribers and/or use the information in various securities valuation products that they market. The Board has used the customer transaction information to create a surveillance database of all trade data which is has made available to the Commission, the National Association of Securities Dealers (NASD) and the bank regulatory agencies for market surveillance and enforcement purposes.

Proposed New Daily Transaction Report

As a step to increase transparency beyond the market summary information provided in Combined Daily Reports, the Board now is proposing to make data available on individual transactions in securities that were traded four or more times on the previous day and is publishing samples of a new Daily Transaction Report for comments. The new Daily Transaction Report, once it receives Commission approval and becomes operational, would substantially increase the amount of available information compared to that provided in the Combined Daily Report. Currently, the Combined Daily Report provides a one-line summary of trading in each of approximately 1,072 frequently-traded issues. In comparison, for each transaction in a frequently-traded security,¹² the sample Daily Transaction Reports display the CUSIP number and a short description of the traded issue, the time of trade execution, the par value traded, and the dollar price of the trade.¹³ As part of the format of the sample Reports, prices of sales to customers, which represent the

¹² In determining whether a reported transactions will be included for purposes of the Daily Report eligibility, certain transaction records are eliminated from consideration if they contain what appear to be obvious errors (e.g., invalid or unknown CUSIP number, missing dollar price). The Board continually monitors the data it receives for errors and informs the dealer or its agent of each error that would eliminate a transaction from the Report. The Board is working continually with dealers and enforcement agencies such as the NASD to improve the quality of reported data and dealer compliance with rule G-14 reporting requirements.

¹³ An attempt is made to calculate a dollar price on when-issued transactions submitted with a yield but no dollar price. In such a case, if there is sufficient securities data available to calculate dollar price from yield (e.g., if coupon or dated date are not known) or if the dollar price cannot be calculated using a standard semiannual compounding formula and a 30/360 day-count, the transaction is not included in the Daily Transaction Report. See "Public Reporting of Transactions in Municipal Securities: Rule G-14," MSRB Reports, Vol. 18, No. 2 (August 1998) at 25-27.

⁵ See, e.g., "Board to Proceed with Pilot Program to Disseminate Inter-Dealer Transaction Information," MSRB Reports, Vol. 14, No. 1 (January 1994) at 13; "Reporting Inter-Dealer Transactions to the Board: Rule G-14," MSRB Reports, Vol. 14, No. 5 (December 1994) at 3-6; and "Transaction Reporting Program for Municipal Securities," MSRB Reports, Vol. 15, No. 1 (April 1995) at 11-15.

⁶ The average price of all trades with par value between \$100,000 and \$1 million is displayed in the report.

⁷ See Securities Exchange Act Release No. 34458 (July 28, 1994).

⁸ See Securities Exchange Act Release No. 34955 (November 9, 1994).

⁹ See "Board to Proceed with Customer Transaction Reporting Program," MSRB Reports, Vol. 16, No. 3 (September 1996) at 3-10.

¹⁰ See Securities Exchange Act Release No. 37998 (November 29, 1996).

¹¹ See "Availability of Information on Transactions in Municipal Securities: Rule G-14," MSRB Reports, Vol. 19, No. 1 (February 1999) at 23.

prices that customers can expect to pay when purchasing securities, are in a column separate from prices of all other trades (i.e., purchases from a customer or inter-dealer trades), which represent wholesale market activity. Issues are ordered by frequency of trading, and, within an issue, trades are displayed in order of time of trade, from the earliest reported time of trade to the latest.¹⁴ Trade data now being received by the Board indicates that the new Daily Transaction Reports on average would provide detailed information daily on approximately 9,000 individual transactions in the 1,000 frequently-traded issues. As these statistics illustrate, the detailed transaction data in the new Reports would increase greatly the amount of available municipal securities price information and would display a more complete picture of the market than any existing public records.

Five sample Daily Transaction Reports will be available beginning April 29, 1999. The Reports will include information on transactions reported to the Board by midnight on trade date between March 22 and March 26, 1999. The sample Daily Transaction Reports will be available on the Board's Web site at WWW.MSRB.ORG. Subscribers to the current Inter-Dealer Daily Report also will be able to access the sample Reports through the computer bulletin board that they normally use to access Daily Reports. Printed copies will be available for inspection at the Board's offices.

The Board intends to disseminate the Daily Transaction Report by a service similar to that now used for the Inter-Dealer and Combined Daily Reports. In this service, electronic files are made available via the Transaction Reporting System's Bulletin Board. Electronic versions of the reports will be made available by approximately 7:00 am each business day to subscribers. The Board will continue to make the surveillance database of all trade data, including dealer identities, available to the Commission, the NASD and the bank regulatory agencies.

Comments Requested

The Board invites comment on the format of Daily Transaction Reports so that the Board can make the new Reports as useful as possible. Is the organization of the proposed Report appropriate for effective use? When operational, should the proposed reports be made available electronically

by the same means and in the same computerized formats as the Inter-Dealer and Combined Daily Reports? Is there value in continuing to produce the Combined Daily Report, which summarizes the price and volume data of the Daily Transaction Report? The Board requests that comment on the sample Daily Transaction Report be made in writing prior to July 1, 1999.

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 Board 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 texts of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in Section 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

As a step to increase transparency beyond the market summary information provided in Combined Daily Reports, the Board intends to publish a sample Daily Transaction Report covering a five day period containing information on individual transactions in frequently-traded municipal securities, as reported by dealers under Rule G-14. The sample Daily Transaction Report represents the next step in disseminating meaningful and comprehensive transaction information. The Board is inviting comments from market participants and the public on the format to be used in disseminating large quantities of information about individual transactions.

The new Daily Transaction Report, once it receives Commission approval and becomes operational, would substantially increase the amount of information available compared to that currently provided in the Combined Daily Report. Currently, the Combined Daily Report provides a one-line summary of trading in each of approximately 1,072 frequently-traded issues. In comparison, for each transaction in a frequently-traded security, the sample Daily Transaction Report will display the CUSIP number and a short description of the traded issue, the time of trade execution, the

par value traded, and the dollar price of the trade. In addition, the sample Daily Transaction Report shows prices of sales to customers, which represent the prices that customers can expect to pay when purchasing securities, in a column separate from prices of all other trades (i.e., purchases from a customer or inter-dealer trades), which represent wholesale market activity. Issues will be ordered by frequency of trading and within an issue trades will be displayed in order of time of trade, from the earliest reported time of trade to the latest. Trade data now being received by the Board indicates that the new Daily Transaction Reports on average would provide detailed information daily on approximately 9,000 individual transactions in the 1,000 frequently-traded issues. As these statistics illustrate, the detailed transaction data in the new Reports should increase greatly the amount of available municipal securities price information and should display a more complete picture of the market than any existing public records.

2. Basis

The Board believes the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act, which provides that the Board's rules shall: be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change will impose any burden on competition in that it applies equally to all dealers in municipal securities.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments have been solicited. However, none have been received to date.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Board has designated this proposed rule change as constituting a

¹⁴ Where trades were reported with invalid or no time of trade, the report shows the time of trade as "0" and these trades are listed first within the issue.

stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing Board rule under section 19(b)(3)(A)¹⁵ of the Act, and rule 19b-4(f)(1) thereunder,¹⁶ which renders the proposed rule change effective upon receipt of this filing by the Commission. The proposed rule change describes the plan for the Board to provide sample data from the Board's Transaction Reporting System so that the Board can obtain comment on the format of a new Daily Transaction Report and move expeditiously forward with its previously announced plan to make public transaction data more useful and comprehensive. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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, D.C. 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 the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No. SR-MSRB-99-03 and should be submitted by June 25, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹⁷

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-14113 Filed 6-3-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41461; File No. SR-NASD-99-08]

Self-Regulatory Organizations; filing of Proposed Rule Change and Amendment No. 1 by the National Association of Securities dealers, Inc. Relating to the Arbitration Process for Claims of Employment Discrimination

May 27, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 1, 1999, the National Association of Securities Dealers, Inc., ("NASD") or "Association"), through its wholly-owned subsidiary, NASD Regulation, Inc. ("NASD Regulation") 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 NASD Regulation. On May 10, 1999, NASD Regulation amended its proposal.³ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD Regulation is proposing to amend Rules 10201 and 10202, and to add new Rule 3080 and new Rule Series 10210 of the NASD. The proposed rule change is intended to enhance the dispute resolution process for the handling of employment discrimination disputes, and to expand disclosure to employees concerning the arbitration of all disputes. The text of the proposed rule change follows. Proposed new rule language is in italics; proposed deletions are in brackets.

* * * * *

RULES OF THE ASSOCIATION

* * * * *

3000. RESPONSIBILITIES RELATING TO ASSOCIATED PERSONS, EMPLOYEES, AND OTHERS' EMPLOYEES

* * * * *

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Letter from Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated May 10, 1999 ("Amendment No. 1"). Amendment No. 1 made substantive changes to the proposed rule language, including the provisions for arbitrator qualifications and coordination of claims filed in court and arbitration.

3080. Disclosure to Associated Persons When Signing Form U-4

A member shall provide an associated person with the following written statement whenever the associated person is asked to sign a new or amended Form U-4.

The Form U-4 contains a predispute arbitration clause. It is in item 5 on page 4 of the Form U-4. You should read that clause now. Before signing the Form U-4, you should understand the following:

(1) You are agreeing to arbitrate any dispute, claim or controversy that may arise between you and your firm, or a customer, or any other person, that is required to be arbitrated under the rules of the self-regulatory organizations with which you are registering. This means you are giving up the right to sue a member, customer, or another associated person in court, including the right to a trial by jury, except as provided by the rules of the arbitration forum in which a claim is filed.

(2) A claim alleging employment discrimination, including a sexual harassment claim, in violation of a statute is not required to be arbitrated under NASD rules. Such a claim may be arbitrated at the NASD only if the parties have agreed to arbitrate it, either before or after the dispute arose. The rules of other arbitration forums may be different.

(3) Arbitration awards are generally final and binding; a party's ability to have a court reverse or modify an arbitration award is very limited.

(4) The ability of the parties to obtain documents, witness statements and other discovery is generally more limited in arbitration than in court proceedings.

(5) The arbitrators do not have to explain the reason(s) for their award.

(6) The panel of arbitrators may include arbitrators who were or are affiliated with the securities industry, or public arbitrators, as provided by the rules of the arbitration forum in which a claim is filed.

(7) The rules of some arbitration forums may impose time limits for bringing a claim in arbitration. In some cases, a claim that is ineligible for arbitration may be brought in court.

* * * * *

1000. CODE OF ARBITRATION PROCEDURE

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10200. INDUSTRY AND CLEARING CONTROVERSIES

10210. Required Submission

(a) Except as provided in paragraph (b) or Rule 10216, a dispute, claim, or

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 17 U.S.C. 240.19b-4(f)(1).

¹⁷ 17 CFR 200.30-3(a)(12).

controversy eligible for submission under the Rule 10100 Series between or among members and/or associated persons, and/or certain others, arising in connection with the business of such member(s) or in connection with the activities of such associated person(s), or arising out of the employment or termination of employment of such associated person(s) with such member, shall be arbitrated under this Code, at the instance of:

- (1) a member against another member;
- (2) a member against a person associated with a member or a person associated with a member against a member; and
- (3) a person associated with a member against a person associated with a member.

* * * * *

10202. Composition of Panels

(a) In disputes subject to arbitration that arise out of the employment or termination of employment of an associated person, and that relate exclusively to disputes involving employment contracts, promissory notes or receipt of commission, the panel of arbitrators shall be appointed as provided by paragraph (b)(1) or (2) or Rule 10203, whichever is applicable. In all other disputes arising out of the employment or termination of employment of an associated person, the panel of arbitrators shall be appointed as provided by rule 10212, 10302 or [Rule] 10308, whichever is applicable.

10210. Statutory Employment Discrimination Claims

The Rule 10210 Series shall apply only to disputes that include a claim alleging employment discrimination, including a sexual harassment claim, in violation of a statute. The Rule 10210 Series shall supersede any inconsistent Rules contained in this Code.

10211. Special Arbitrator Qualifications for Employment Discrimination Disputes (a) Minimum Qualifications for All Arbitrators

Only arbitrators classified as public arbitrators as provided in Rule 10308 shall be selected to consider disputes involving a claim of employment discrimination, including a sexual harassment claim, in violation of a statute.

(b) Single Arbitrators or Chairs of Three-Person Panels

(1) Arbitrators who are selected to serve as single arbitrators or as chairs of three-person panels should have the following additional qualifications:

(A) law degree (*Juris Doctor* or equivalent);

(B) membership in the Bar of any jurisdiction;

(C) substantial familiarity with employment law; and

(D) ten or more years of legal experience, of which at least five years must be in either:

- (i) law practice;
- (ii) law school teaching;
- (iii) government enforcement of equal employment opportunity statutes;
- (iv) experience as a judge, arbitrator, or mediator, or
- (v) experience as an equal employment opportunity officer or in-house counsel of a corporation.

(2) In addition, a chair or single arbitrator with the above experience may not have represented primarily the views of employers or of employees within the last five years. For purposes of this Rule, the term "primarily" shall be interpreted to mean 50% or more of the arbitrator's business or professional activities within the last five years.

(c) Waiver of Special Qualifications

If all parties agree, after a dispute arises, they may waive any of the qualifications set forth in paragraph (a) or (b) above.

10212. Composition of panels

For disputes involving a claim alleging employment discrimination, including a sexual harassment claim, in violation of a statute:

(a) Each panel shall consist of either a single public arbitrator or three public arbitrators qualified under Rule 10211, unless the parties agree to a different panel composition.

(b) A single arbitrator shall be appointed to hear claims for \$100,00 or less.

(c) A panel of three arbitrators shall be appointed to hear claims for more than \$100,000, unless the parties agree to have their case determined by a single arbitrator.

10213. Discovery

(a) Necessary pre-hearing depositions consistent with the expedited nature of arbitration shall be available.

(b) The provisions of Rule 10321 shall apply to proceedings under this Rule 10210 Series.

10214. Awards

The arbitrator(s) shall be empowered to award any relief that would be available in court under the law. The arbitrator(s) shall issue an award setting forth a summary of the issues, including the type(s) of dispute(s), the damages or other relief requested and awarded, a

statement of any other issues resolved, and a statement regarding the disposition of any statutory claim(s).

10215. Attorneys' Fees

The arbitrator(s) shall have the authority to provide for reasonable attorneys' fee reimbursement, in whole or in part, as part of the remedy in accordance with applicable law.

10216. Coordination of Claims Filed in Court and in Arbitration

(a) Option To Combine Related Claims in Court

(1)(A) If a current or former associated person of a member files a statutory discrimination claim in court against a member or its associated persons, and asserts related claims in arbitration at the Association against some or all of the same parties, a respondent who is named in both proceedings shall have the option to move to compel the claimant to bring the related arbitration claims in the same court proceeding in which the statutory discrimination claim is pending, to the full extent to which the court will accept jurisdiction over the related claims.

(B) The respondent shall notify the claimant in writing, before the time to answer Rule 10314 has expired, that it is exercising this option and shall file a copy of such notification with the Director. If the respondent files an answer without having exercised this option, it shall have waived its right to move to compel the claimant to assert related claims in court, except as provided in paragraph (b).

(2)(A) If a member or current or former associated person of a member ("party") has a pending claim in arbitration against a current or former associated person of a member and the current or former associated person thereafter asserts a related statutory employment discrimination claim in court against the party, the party shall have the option to assert its pending arbitration claims and any counterclaims in court.

(B) The party shall notify the current or former associated person in writing, before filing an answer to the complaint in court, that it is exercising this option and shall file a copy of such notification with the Director. If the party files an answer in court without having exercised this option, it shall have waived its right to assert the pending arbitration claim in court.

(C) The party may not exercise this option after the first hearing has begun on the arbitration claim.

(b) Option Extended When Claim Is Amended

(1) If the claimant files an amended Statement of Claim adding new claims not asserted in the original Statement of Claim, a respondent named in the amended Statement of Claim shall have the right to move to compel the claimant to assert all related claims in the same court proceeding in which the statutory discrimination claim is pending, to the full extent that the court will accept jurisdiction over the related claims, even if those related claims were asserted in the original Statement of Claim.

(2) The respondent shall notify the claimant in writing, before the time to answer the amended Statement of Claim under Rule 10314 has expired, that it is exercising this option and shall file a copy of such notification with the Director. If the respondent files an answer to the amended Statement of Claim without having exercised this option, it shall have waived its right to move to compel the claimant to assert related claims in court.

(c) Requirement to Combine All Related Claims

If a party elects to require a current or former associated person to assert all related claims in court, the party shall assert in the same court proceeding all related claims that it has against the associated person to the full extent to which the court will accept jurisdiction over the related claims.

(d) Right of Respondent to Remain in Arbitration

(1) If there are multiple respondents and a respondent has exercised an option under paragraph (a) or (b), but another respondent wishes to have the claims against it remain in arbitration, then any remaining party may apply for a stay of the arbitration proceeding.

(2) The arbitration shall be stayed unless the arbitration panel determines that the stay will result in substantial prejudice to one or more of the parties. If a panel has not been appointed, the Director shall appoint a single arbitrator to consider the application for a stay. Such single arbitrator shall be selected using the Neutral List Selection System (as defined in Rule 10308) and is not required to have the special employment arbitrator qualifications described in Rule 10211.

(e) Pre-Filing Certification

(1) Prior to or concurrently with filing a Statement of Claim, a claimant may file with the Director a certification that it had communicated unsuccessfully with the respondent concerning the

consolidation of all claims in court prior to filing a Statement of Claim, in an effort to save the expense of arbitration fees. A copy of such certification shall be sent to the respondent at the same time and in the same manner as the filing with the Director.

(2) If, after a certification has been filed, all the respondents later exercise the option to consolidate all claims in court, the Director will return the claimant's filing fee and any hearing session deposits for hearings that have not been held, but will retain the member surcharge and any accrued member process fees. If there are any remaining respondents, the filing fee and any hearing deposits will be adjusted to correspond to the claims against the remaining respondents.

(f) Motions to Compel Arbitration

If a member or a current or former associated person of a member files in court a claim against a member or a current or former associated person of a member that includes matters that are subject to mandatory arbitration, either by the rules of the Association or by private agreement, the defending party may move to compel arbitration of the claims that are subject to mandatory arbitration.

(g) Definitions

For purposes of this Rule:

(1) The term "related claim" shall mean any claim that arises out of the employment or termination of employment of an associated person.

(2) The term "statutory discrimination claim" means a claim alleging employment discrimination, including a sexual harassment claim, in violation of a statute.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Regulation 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. NASD Regulation 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 proposed rule change is intended to enhance the dispute resolution process for the handling of employment discrimination disputes, and to expand disclosure to employees concerning the arbitration of all disputes.

Background. In August 1997, NASD Regulation and the NASD Boards decided to remove from the NASD Code of Arbitration Procedure the requirement for registered persons to arbitrate claims of statutory employment discrimination. That rule change was approved by the Commission and became effective January 1, 1999.⁴ In conjunction with this rule change, the Boards recommended certain enhancements to the arbitration process for discrimination claims. To carry out the Boards' mandate, NASD Regulation staff assembled a working group, including attorneys representing employees, general counsels of member firms, and arbitrators with expertise in employment matters to advise on issues relating to the arbitration of employment discrimination claims. This working group met numerous times during 1997 and 1998 to assist the staff in preparing recommendations to the Board.

In addition to several issues that were presented to them by NASD Regulation staff, the working group considered recommendations contained in a document known as "A Due Process Protocol for Mediation and Arbitration of Statutory Disputes arising out of the Employment Relationship" ("the Protocol"). The Protocol was created in 1995 by a task force made up of individuals from diverse organizations involved in labor and employment law to examine questions of due process arising out of the use of mediation and

⁴ See Securities Exchange Act Release No. 40109 (June 22, 1998), 63 FR 35299 (June 29, 1998). The NASD Code of Arbitration Procedure applies not only to NASD members and their associated persons, but also to members and associated persons of the Municipal Securities Rulemaking Board ("MSRB") (for claims filed after Jan. 1, 1998), the Philadelphia Stock Exchange ("Phlx") (for claims filed after Oct. 1, 1998), and the American Stock Exchange ("Amex") (for claims filed following the closing of the merger), pursuant to agreements under which members of those self-regulatory organizations for whom the NASD administers the arbitration process will be treated as "members" of the NASD for purposes of the NASD Code of Arbitration Procedure. See Securities Exchange Act Release Nos. 39378 (December 1, 1997), 62 FR 64417 (December 5, 1997) (MSRB); 40517 (October 1, 1998), 63 FR 54177 (October 8, 1998) (Phlx); and 40622 (October 30, 1998), 63 FR 59819 (November 5, 1998) (Amex).

arbitration for resolving employment disputes. The Protocol has been adopted by several dispute resolution forums, and the Boards recommended that due process procedures similar to those in the Protocol be considered for use in the dispute resolution process at the NASD for claims of employment discrimination. The working group and the staff considered the provisions of the Protocol, and made recommendations to the Board as to how they could be applied to the arbitration process in the NASD forum. Those recommendations were considered and adopted by the Boards in October 1998. In this rule filing, NASD Regulation proposes adoption of a new Rule 10210 Series which will contain special rules applicable to the arbitration of statutory employment discrimination claims, and proposes related changes to other NASD rules. These rule changes deal with the qualifications of arbitrators hearing claims of employment discrimination; the number of arbitrators to hear such claims; special rules for discovery, awards, and attorneys' fees; coordination of claims filed in court and arbitration; and disclosure to associated persons of the effects of the arbitration clause found in the Forum U-4. These proposed changes are described in detail below.

Description of Proposed Amendments. The proposed Rule 10210 Series contains certain special rules applicable to statutory employment discrimination claims. These rules supplement and, in some instances, supersede the provisions of the Code that currently apply to the arbitration of employment disputes. The proposed special rules do not attempt to set forth all procedures applicable to the arbitration of statutory employment discrimination claims, but only those procedures that relate specifically to such claims and may be different from procedures that apply to other intra-industry claims.

Qualifications for Neutrals Who Hear Employment Discrimination Cases. With regard to membership on the roster of arbitrators qualified to hear claims of employment discrimination, the Protocol provides as follows:

Mediators and arbitrators selected for such cases should have skill in the conduct of hearings, knowledge of the statutory issues at stake in the dispute, and familiarity with the workplace and employment environment. The roster of available mediators and arbitrators should be established on a non-discriminatory basis, diverse by gender, ethnicity, background, experience, etc. to satisfy the parties that their interest and

objectives will be respected and fully considered.

Our recommendation is for selection of impartial arbitrators and mediators. We recognize the right of employers and employees to jointly select as mediator and/or arbitrators one in whom both parties have requisite trust, even though not possessing the qualifications here recommended, as most promising to bring finality and to withstand judicial scrutiny. The existing cadre of labor and employment mediators and arbitrators, some lawyers, some not, although skilled in conducting hearings and familiar with the employment milieu is unlikely, without special training, to consistently possess knowledge of the statutory environment in which these disputes arise and of the characteristics of the non-union workplace.

NASD Regulation currently has on its arbitration roster many arbitrators who have indicated that they have experience or training in employment law. In addition, NASD Regulation currently offers employment law training to arbitrators; such training is conducted by attorneys experienced in the field of employment law. In accordance with the Protocol provisions, however, NASD Regulation proposes the use of a more specialized roster of available arbitrators for intra-industry cases in which statutory discrimination is alleged. In its discretion, and depending in part on the number of statutory employment discrimination claims filed in its forum, NASD Regulation may choose to create its own specialized employment roster or may work with other dispute resolution providers to utilize their rosters of qualified employment arbitrators.

Proposed Rule 10211(a) provides that only arbitrators classified as public (non-industry) arbitrators will be selected to consider disputes involving a claim of employment discrimination, including a sexual harassment claim, in violation of a statute. Proposed Rule 10211(a) incorporates by reference the definition of "public arbitrator" in the newly revised list selection rule, Rule 10308, which applies both to customer disputes and to intra-industry disputes except where superseded by more specific industry arbitration rules. The definition of "public arbitrator" in Rule 10308 excludes not only securities industry employees and their immediate family members, but also attorneys, accountants, and other professionals who have devoted 20% or more of their professional work in the last two years to clients who are engaged in the securities business (as described in Rule 10308). Use of the same definition of public arbitrators throughout the Code provides for more efficient

administration of the list selection system.

For chairpersons and single arbitrators, NASD Regulation proposes additional qualifications in proposed Rule 10211(b). These qualifications include a law degree, membership in the Bar of any jurisdiction, substantial familiarity with employment law, and ten or more years of legal experience that included at least five years of one of the following: law practice; law school teaching; government enforcement of equal employment opportunity (EEO) statutes; experience as a judge, arbitrator, or mediator; or experience as an EEO officer or in-house counsel of a corporation. In addition, the chair or single arbitrator may not have represented primarily the views of employees or employers within the past five years. For this purpose, "primarily" is defined to mean 50% or more of the arbitrator's business or professional activities within the last five years. NASD Regulation believes that it is important to the credibility of the forum for the single arbitrator or chair not only to be neutral, but to avoid even the appearance of bias toward either employees or employers.

Rule 10211(c) provides that parties may agree, after a dispute arises, to waive any of the special qualifications contained in either paragraph (a) or paragraph (b). Such a waiver is not valid if it is contained in a predispute arbitration agreement.

Composition of Panels. The current arbitration panel composition for statutory discrimination claims and certain other employment claims is identical to the panel used for customer disputes and consists of either one public (non-industry) arbitrator for single arbitrator cases, or two public arbitrators and one non-public (industry) arbitrator for three arbitrator cases. An all-industry panel is used solely for employment disputes that relate exclusively to claims involving employment contracts, promissory notes or receipt of commissions.

As described above, NASD Regulation proposes to change this practice so that, for cases involving claims of employment discrimination, whether or not other issues are also involved, all arbitrators must be classified as public. Therefore, proposed Rule 10212(a) provides for a special panel composition of all public arbitrators to hear claims of statutory employment discrimination. Rule 10212 provides, however, that parties may agree to a different panel composition in a particular case.

Proposed Rule 10212(b) provides a higher threshold for single arbitrator cases than is found elsewhere in the

Code: a single arbitrator will hear claims of \$100,000 or less. This higher threshold reduces the hearing costs for the parties and results in more efficient allocation of qualified employment arbitrators. Proposed Rule 10212(c) provides that the claims for more than \$100,000 will be assigned to a three-person panel unless the parties agree to have their case determined by a single arbitrator. NASD Regulation also proposes a conforming amendment to Rule 10202, the general intra-industry panel composition rule, to include a reference to the above special panel composition rule.

Discovery. The Protocol provides as follows with respect to discovery:

One of the advantages of arbitration is that there is usually less time and money spent in pre-trial discovery. Adequate but limited pre-trial discovery is to be encouraged and employees should have access to all information reasonably relevant to mediation and/or arbitration of their claims. The employees' representative should also have reasonable pre-hearing and hearing access to all such information and documentation.

Necessary pre-hearing depositions consistent with the expedited nature of arbitration should be available.

NASD Regulation has determined to adopt the Protocol provision on discovery. Although the Protocol focuses on the employee's access to information, there also could be situations in which the employee has documents that the employer requires to prepare its case, such as records of the employee's outside business activities or prior employment. Therefore, NASD Regulation believes the term "employees" in the quoted provision should be interpreted to include all parties to the employment dispute. In any event, the NASD's current rule on pre-hearing procedures, including discovery, Rule 10321, already meets the Protocol standard regarding access to information and is not proposed to be amended at this time. Rule 10321 is cross-referenced in proposed Rule 10213(b) to make clear that its provisions apply to employment discrimination disputes.

On the issue of depositions in employment discrimination cases, NASD Regulation proposes that the Protocol should be the standard for depositions. NASD Regulation proposes that, in considering the need for depositions, arbitrators should consider the relevancy of the information sought from the persons to be deposed and the issues of time and expense. Such considerations are already provided for in Rule 10321, paragraphs (d) and (e), which set forth procedures for deciding unresolved issues either at the pre-

hearing conference or by appointment of a selected arbitrator. NASD Regulation has incorporated the proposed discovery provision relating to depositions in proposed Rule 10313.

Attorney's Fees. The Protocol provides as follows:

The amount and method of payment for representation should be determined between the claimant and the representative. We recommend, however, a number of existing systems which provide employer reimbursement of at least a portion of the employee's attorney fees, especially for lower paid employees. The arbitrator should have the authority to provide for fee reimbursement, in whole or in part, as part of the remedy in accordance with applicable law or in the interests of justice.

Although the Code of Arbitration Procedure is silent with respect to attorneys' fees, such fees may be awarded under current practice. Normally, parties will brief the arbitrators on applicable law providing for the award of attorneys' fees in their cases. In view of provisions in the federal civil rights laws that specifically provide for the award of attorneys' fee, NASD Regulation proposes that the Protocol provision be adopted as amended below (additions in italics; deletions in brackets):

The arbitrator should have the authority to provide for *reasonable attorneys' fee* reimbursement, in whole or in part, as part of the remedy in accordance with applicable law [or in the interests of justice].

Proposed Rule 10215 incorporates the amended provision. It provides that the arbitrator has authority to provide for reasonable attorney's fee reimbursement, in whole or in part, as part of the remedy in accordance with applicable law. This accords with Title VII of the Civil Rights Act of 1964, which authorizes a court, in its discretion, to allow the prevailing party "a reasonable attorney's fee" as part of the costs.⁵ NASD Regulation believes that the language of proposed rule 10215 is more precise if the Protocol phrase "or in the interests of justice" is omitted, as that phrase may mislead parties into thinking that no statutory basis is necessary for the award of attorneys fees.⁶ Rather, the intent of

⁵ 42 U.S.C. 2000e-5(k) (1998).

⁶ A guide for arbitrators drafted by the Securities Industry Conference on Arbitration (SICA) provides as follows: "Generally, parties to an arbitration are responsible for their personal costs associated with bringing or defending an arbitration action. Exceptions to the rule do exist. Parties should be prepared to argue the statutory or contractual basis that permits an award of attorneys' fees. The arbitrators should consider referring to the authority relied upon if attorneys' fees are awarded." *The Arbitrator's Manual* (October 1996). SICA is a group composed of representatives of the self-regulatory

proposed rule 10215 is to allow the award of attorney's fees if applicable law permits such an award.

Awards. The Protocol provides as follows with regard to awards and the authority of the arbitrator:

The arbitrator should be bound by applicable agreements, statutes, regulations and rules of procedure of the designating agency, including the authority to determine the time and place of the hearing, permit reasonable discovery, issue subpoenas, decide arbitrability issues, preserve order and privacy in the hearings, rule on evidentiary matters, determine the close of the hearing and procedures for post-hearing submissions, and issue an award resolving the submitted dispute.

The arbitrator should be empowered to award whatever relief would be available in court under the law. The arbitrator should issue an opinion and award setting forth a summary of the issues, including the type(s) of dispute(s), the damages and/or other relief requested and awarded, a statement of any other issues resolved, and a statement regarding the disposition of any statutory claim(s).

NASD Regulation proposes that the Protocol language be adopted with one language change described below. The Code already provides arbitrators with authority similar to the Protocol provisions, although it does not specifically require a statement regarding the disposition of any statutory claims. In order to add the requirement for a statement regarding the disposition of any statutory claims, and to have all related provisions in the same Rule Series, NASD Regulation has drafted proposed Rule 10214. Proposed Rule 10214 provides that arbitrators will be empowered to award any relief that would be available in court under the law, and sets forth the information that must be contained in the arbitrator's award. Such information includes a summary of the issues, including the types of disputes, the damages or other relief requested and awarded, a statement of any other issues resolved, and a statement regarding the disposition of any statutory claims.

NASD Regulation has not used the Protocol's phrase "opinion and award" in proposed Rule 10214, but instead has used only the term "award," which is consistent with terminology used elsewhere in the Code. This avoids confusion that might result from use of the term "opinion," which could mislead parties into expecting a judicial type of decision, rather than the customary type of arbitration award that contains the specific elements listed in the proposed rule, but not a detailed

organizations that provide arbitration forums; public investors; and the securities industry.

explanation. Under current NASD Regulation practice, however, parties may request that the arbitrators provide reasons for their decision, and the arbitrators have discretion to grant or deny the request.⁷

Other Protocol Provisions. NASD Regulation believes that the other applicable provisions of the Protocol are already addressed sufficiently in existing Rules within the Code of Arbitration Procedure. For example, NASD Regulation already gives parties the right to representation by counsel and refers claimants to state and local bar associations for legal referrals in several major cities; parties receive information on arbitration awards issued by arbitrators who may hear their cases; arbitrators are required to disclose possible conflicts of interest; arbitrators have the authority to make necessary rulings and to allocate fees among the parties; and recent rule changes approved by the Commission⁸ provide a list selection method for both customer and intra-industry arbitration proceedings that meets the Protocol standard.

Coordination of Claims Filed in Court and in Arbitration. Several individuals who commented on the recent rule change to allow statutory discrimination claims to be filed in court predicted that the change could lead to splitting or bifurcation of cases: the discrimination claims would proceed in court, while other employment claims that are subject to mandatory arbitration would proceed in arbitration. As the Commission noted in its approval order for that rule change, some commenters argued that such bifurcation could result in the separation of claims that are often joined together and based on the same alleged facts.⁹ Some commenters believed bifurcation of statutory and common law claims could create a financial burden on employees

and members, delay the resolution of claims, and cause scheduling and discovery disputes.¹⁰ Therefore, NASD Regulation proposes adoption of a new rule on coordination of claims that may be filed in court and those that are normally required to be arbitrated under NASD rules.

Proposed Rule 10216 would provide that, if the parties agree to resolve all related matters in court, then the matter need not be submitted to arbitration. Moreover, if a discrimination claim is filed in court and related claims subject to mandatory arbitration are filed in arbitration, a respondent in the arbitration would have the option to move to combine all claims in court. As described more fully below, the rule provides several other opportunities for a party to move to compel that a claim be consolidated with other claims in court. Any claims not accepted by the court under any of these methods, however, would continue to be arbitrable.

The proposed rule would include a pre-filing procedure in which the claimant may certify to the Director of Arbitration that he or she communicated with the respondent about the possibility of filing all claims in court initially, in order to save the expense of arbitration fees and attorneys' fees to draft arbitration claim papers. If the respondent does not agree to consolidate all claims in court, and an arbitration claim is then filed, proposed Rule 10216 provides several methods for coordinating claims filed in court and in arbitration.

Paragraph (a)(1)(A) deals with the situation in which an associated person files a statutory discrimination claim in court and files related claims in arbitration against some or all of the same parties. In that case, any respondent who is named in both proceedings may move to compel the associated person to bring the related arbitration claims in the same court proceeding, to the full extent to which the court will accept jurisdiction over those claims. As noted above, any claims not accepted by the court would remain in arbitration.

Paragraph (a)(1)(B) requires the respondent that wishes to exercise this option to notify the claimant in writing, before the time to answer under Rule 10314 has expired, that it is exercising this option and to file a copy of such notification with the Director of Arbitration, or be deemed to have waived its right to exercise the option, except as provided in paragraph (b), described below. This notice is intended

to motivate parties to discuss their options and consider consolidating all claims in one forum before further expenses are incurred by either party.

Paragraph (a)(2)(A) provides that if a party has a pending claim in arbitration against an associated person who thereafter asserts as related statutory employment discrimination claim in court against the party, that party has the option to assert all arbitration claims and counterclaims in court. This is intended to cover the situation in which an arbitration claim was filed before the statutory discrimination claim was filed in court. For purposes of paragraph (a)(2), the term "party" means a member or a current or former associated person of a member. Paragraph (a)(2)(B) provides notice and time requirements for the exercise of the option similar to those in paragraph (a)(1)(B), described above. Paragraph (a)(2)(C) provides that a party may not exercise this option after the first hearing has begun on the arbitration claim. This is intended to avoid disruption to the arbitration proceeding when it is farther along in the process.

Paragraph (b) of proposed Rule 10216 provides that the time for consolidating claims in court is extended if the claimant files an amended statement of claim adding new claims not asserted in the original statement of claim. In that case, a respondent has an opportunity to move to compel the claimant to assert all related claims in the same court proceeding, even if those claims were asserted in the original statement of claim. As above, the respondent wishing to exercise this option must notify the claimant in writing before filing an answer to the amended statement of claim or be deemed to have waived the right to do so, and must file a copy of such notification with the Director.

Paragraph (c) of proposed Rule 10216 provides that if a party elects to require a current or former associated person to assert all related claims in court, the party also must assert in the same court proceeding all related claims the party has against the associated person, to the full extent to which the court will accept jurisdiction over the related claims.

Paragraph (d) of proposed Rule 10216 provides that a respondent named in both court and arbitration proceedings may choose to remain in arbitration, even if another respondent has exercised its option to consolidate the proceedings against it in court. Any remaining party may seek a stay of the arbitration proceeding, and the proceeding will be stayed unless the arbitration panel determines that the stay will result in substantial prejudice

⁷ A booklet prepared by SICA and provided to all claimants explains this industry-wide practice as follows: "Arbitrators are not required to write opinions or provide reasons for the award. A party, however, may request an opinion. This request should be made no later than the hearing date."

Arbitration Procedures (October 1996) (also available via the Internet under the title, *Arbitration Procedures for Investors*, on the Arbitration page at www.nasdr.com). In a 1989 Order approving arbitration rule changes by several self-regulatory organizations, the Commission decided not to require written opinions in awards, but express the view that arbitrators could voluntarily prepare written opinions. See Securities Exchange Act Rel. No. 26805 (May 10, 1989), 54 FR 21144 (May 16, 1989).

⁸ See Securities Exchange Act Rel. Nos. 40555 (October 14, 1998), 63 FR 56670 (October 22, 1998) and 40556 (October 14, 1998), 63 FR 56957 (October 23, 1998).

⁹ See Securities Exchange Act Rel. Nos. 40109 (June 22, 1998), 63 FR 35299 (June 29, 1998).

¹⁰ *Id.*

to one or more of the parties. The presumption in favor of a stay of the arbitration proceeding is designed to avoid the situation in which parties must proceed in two forums at the same time. Nevertheless, a party may object to the stay and have the matter considered by an arbitrator.

If no panel has been appointed yet, the Director will appoint a single arbitrator to consider the application for a stay, using the Neutral List Selection System to select the arbitrator. That arbitrator is not required to have the special employment arbitrator qualifications described in Rule 10211, since there would be no statutory employment discrimination claims in arbitration at this point; rather, the provisions of Rule 10202 would determine whether the single arbitrator should be an industry arbitrator or a public arbitrator. This means that if the claims that are the subject of the arbitration proceeding "relate exclusively to disputes involving employment contracts, promissory notes or receipt of commissions," as provided in the first sentence of Rule 10202(a), then the single arbitrator would be an industry arbitrator. In "all other disputes arising out of the employment or termination of employment of an associated person," as provided in the second sentence of rule 10202(a), a public arbitrator would be appointed. The single public arbitrator may later appear on a list of arbitrators to be chosen for any hearing on the merits in the same arbitration.

Paragraph (e) of proposed rule 10216 provides a procedure for certifying that the claimant has communicated unsuccessfully with the respondent(s) concerning the consolidation of all claims in court prior to filing a Statement of Claim, in an effort to save the expense of arbitration fees, rather than filing the statutory discrimination claims in court and the other claims in arbitration. If such a certification has been filed, and all the respondents later exercise the option to consolidate all claims in court, the Director will return the claimant's filing fee and any hearing session deposits for hearings that have not been held, but will retain the member surcharge and any accrued member process fees to cover the cost of docketing and otherwise processing the claim. If there are remaining respondents, however, the filing fee and any hearing deposits will be adjusted to correspond to the claims against the remaining respondents.

Paragraph (f) of proposed rule 10216 clarifies that, if an associated person files a claim in court that includes matters that are subject to mandatory

arbitration, either by the rules of the NASD or by private agreement, the defending party may move to compel arbitration of the claims that are subject to mandatory arbitration. This is a statement of current practice and is intended to apply where the defending party has not exercised an option under other provisions of proposed Rule 10216 to combine all claims in court.

Paragraph (g) of proposed rule 10216 provides that, for purposes of Rule 10216, the term "related claim" means any claim that arises out of the employment or termination of employment of an associated person and the term "statutory discrimination claim" means a claim alleging employment discrimination, including a sexual harassment claim, in violation of a statute.

In conjunction with the proposed bifurcation rule, a change is proposed to Rule 10201 to add a reference to proposed Rule 10216. This exception is necessary because, under Rule 10216, some claims that might otherwise be required to be arbitrated may be brought in court, at the respondent's option.

Disclosure Issues. NASD Regulation proposes adoption of a model disclosure statement that would be given to persons who are signing the Form U-4 to apply for registration. This disclosure statement would explain the nature and effect of the arbitration clause contained in the Form U-4. It would not address any private arbitration agreement that the applicant might enter into with the member firm. Rather, the firm would be responsible for either making proper disclosure to its employees about its private arbitration agreement, or risking an adverse decision in later litigation concerning any inadequacy in the disclosure.

Proposed Rule 3080, entitled "Disclosure to Associated Persons When Signing a Form U-4," was modeled on the disclosure given to customs when signing predispute arbitration agreements with member firms, as contained in current Rule 3110(f) and proposed amendments thereto contained in File No. SR-NASD-98-74. Because the proposed rule relates to associated persons, it has been placed in the portion of the Rules that deal with the responsibilities of members relating to associated persons, employees and others' employees. The introductory language of the proposed rule requires members to provide each associated person, whenever the associated person is asked to sign a new or amended Form U-4, with certain specified disclosure language. This means that the disclosure may be given by the same member to the same associated person on more than

one occasion during that person's employment, if the associated person has reason to re-sign the Form U-4. The specified disclosure language explains that the Form U-4 contains a predispute arbitration clause, and indicates in which Item of the Form U-4 the clause is located.¹¹ The disclosure language then advises the associated person to read the predispute arbitration clause.

Subparagraph (1) of proposed Rule 3080 paraphrases the arbitration clause in the Form U-4 and then provides disclosure that the associated person is giving up the right to sue in court, except as provided by the rules of the arbitration forum in which a claim may be filed. Subparagraph (2) incorporates the language of Rule 1021 regarding an exception to the arbitration requirement for claims of statutory employment discrimination. Subparagraph (2) also indicates that the rules of other arbitration forums may be different. Subparagraphs (3) through (7) track the language of the proposed amendments to Rule 3110(f)(1), which sets forth similar disclosures to customers. Those subparagraphs inform the associated person that arbitration awards are generally final and binding, that discovery is generally more limited in arbitration than in court, that arbitrators do not have to explain the reasons for their awards, that the panel of arbitrators may include either public or industry (non-public) arbitrators,¹² and that the rules of some arbitration forums may impose time limits for bringing a claim in arbitration.

2. Statutory Basis

The Association believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which require that the rules of an association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade and, in general, to protect investors and the public interest. The Association believes that the proposed rule change will protect the public interest by improving the arbitration process for claims of statutory employment discrimination, and result in increased satisfaction with that process by both associated persons and members.

¹¹ The member will be responsible for updating this item number on new disclosure statements if it changes in later versions of the Form U-4.

¹² The language of subparagraph (6) differs slightly from that of proposed Rule 3110(f)(1)(E) because, following adoption of the present proposed rule change, the panel composition for statutory employment discrimination claims will differ from the panel composition for customer claims.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Association does not believe that the proposed rule change will 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, Participation, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. In particular, the Commission solicits comments on the following issues:

Proposed Rule 10216 provides procedures for administering disputes that involve both statutory employment discrimination claims that are filed in court and other claims that are filed at the NASD Regulation's arbitration forum. Cases affected by proposed Rule 10216 would generally involve firms that have not entered into agreements with their employees to arbitrate statutory employment discrimination claims.

(1) The proposed rule permits respondents to choose when to bifurcate claims in these disputes. Does this strike a fair balance?

(2) Is this aspect of the proposal (permitting respondents to choose when to bifurcate claims) necessary to encourage firms to give their employees the option of bringing statutory employment discrimination claims in court? Without this provision, would firms be more likely to require employees to sign predispute arbitration clauses governing these claims?

(3) Does the proposal place an unreasonable burden on individual

claimants because they are unable to determine the forum in which they will assert claims related to their statutory employment discrimination claims, or does the ability to bring their dominant, statutory employment discrimination claims in court provide for the appropriate balance?

(4) Does the presumption in favor of a stay of proceedings for those parties who remain in arbitration while other claims are being litigated unduly infringe on the parties bargain to arbitrate?

The Commission welcomes suggestions as to how objectionable procedures could be changed without imposing undue litigation costs in either party to a dispute.

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-99-08 and should be submitted by June 25, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-14210 Filed 6-3-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41459; File No. SR-NYSE-99-17]

Self-Regulatory Organizations; Notice of Filing and Order Granting Partial Accelerated Approval of Proposed Rule Change and Amendment No. 1 Thereto by the New York Stock Exchange, Inc., Relating to Original Listing Standards

May 27, 1999.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and rule 19b-4 thereunder,² notice is hereby given that on April 22, 1999, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change relating to the exchange's original listing standards. The Exchange submitted Amendment No. 1 to its proposal on May 19, 1999.³ The proposed rule change, as amended, is described in Items I, II, and III below, which Items have been prepared by the exchange. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and to grant partial accelerated approval to the portion of the proposal instituting a Pilot relating to the listing eligibility criteria for companies satisfying the Capitalization Standard. The Pilot will expire on September 3, 1999, or at such earlier time as the Commission grants the Exchange's request for permanent approval of the program.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In amendment No. 1, the Exchange (i) requested that the Commission approve on an accelerated basis a 90-day pilot program ("Pilot") for the portion of the proposal adding a new original listing standard applicable to both domestic and non-U.S. companies with a \$1 billion market capitalization and \$250 million in revenues in the most recent fiscal year ("Capitalization Standard"), (ii) clarified that companies satisfying the Capitalization Standard are subject to the Exchange's other original listing criteria (other than the financial criteria), (iii) revised the text of the proposed rule language to show changes against the current *Listed Company Manual* ("Manual") rather than the language proposed for adoption in the pending filing, (iv) incorporated procedures for reconciliation with U.S. GAAP in the third year in the Exchange's proposed rule language and (v) removed the cash flow standard from the text of the proposed rule language. See Letter from James Buck, Senior Vice President and Secretary, NYSE, to Richard Strasser, Assistant Director, Division of Market Regulation ("Division"), Commission, dated May 18, 1999 ("Amendment No. 1").

¹³ 17 CFR 200.30-3(a)(12).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to implement a Pilot amendment sections 102.01 and 103.01 of the Manual to implement an alternative listing eligibility criteria for companies satisfying the Capitalization Standard.⁴ The proposed Pilot would expire on September 3, 1999, or such earlier time as the Commission grants the Exchange's request for permanent approval of the program.⁵ In addition, the Exchange proposes to modify its pre-tax earnings standard applicable to non-U.S. issuers. The text of the proposed rule change follows. New text is italicized and deleted text is bracketed.

NYSE Listed Company Manual

Section 1

The Listing Process

* * * * *

102.01 Minimum Numerical Standards

—Domestic Companies

—Equity Listing

* * * * *

For companies with not less than \$500,000,000 market capitalization and \$200,000,000 revenues in the most recent fiscal year:

* * * * *

OR

For companies with not less than \$1 billion in total worldwide market capitalization and with not less than \$250 million revenues in the most recent fiscal year, there are no additional financial requirements. For such companies listing in connection with an IPO, the market capitalization valuation must be demonstrated by a written representation from the underwriter (or, in the case of a spin-off, by a written representation from the parent company's investment banker or other financial advisor) of the total market capitalization of the company upon completion of the offering (or distribution). For all other such companies, the market capitalization valuation will be determined over a six-month average.

* * * * *

⁴ See Amendment No. 1, *supra* note 3.

⁵ Telephone conversation between N. Amy Bilbija, Counsel, NYSE, and Terri Evans, Attorney, Division, Commission, on May 19, 1999.

103.01 Alternative Minimum Numerical Standards [—] for Non-U.S. Companies—Equity Listings

* * * * *

Pre-tax income

\$100 million cumulative for latest 3 years⁶ with \$25 million minimum *in each of the most recent two* [for any one of the 3] years. *Reconciliation to U.S. GAAP of the third year back would only be required if the Exchange determines that reconciliation is necessary to demonstrate that the aggregate \$100,000 threshold is satisfied.*

OR

For companies with not less than \$1 billion in total worldwide market capitalization and with not less than \$250 million revenues in the most recent fiscal year, there are no additional financial requirements. For such companies listing in connection with an IPO, the market capitalization valuation must be demonstrated by a written representation from the underwriter (or, in the case of a spin-off, by a written representation from the parent company's investment banker, other financial advisor, or transfer agent) of the total market capitalization of the company upon completion of the offering (or distribution). For all other such companies, the market capitalization valuation will be determined over a six-month average.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

⁶ Prior to the Commission's grant of permanent approval of the Pilot, the NYSE plans to modify its pre-tax income standard to insert the word "fiscal" into its reference to three years and two years, respectively. Telephone conversation between N. Amy Bilbija, Counsel, NYSE, and Richard Strasser, Assistant Director, Division, Commission, on May 27, 1999.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to add a new original listing standard to the Exchange's domestic and non-U.S. numerical listing criteria and to modify its current original listing criteria applicable to non-U.S. issuers.

The Exchange's numerical listing criteria currently include requirements regarding size, earnings and share distribution of a company. The Exchange believes there are numerous companies that would benefit from trading in its auction-agency market, but which are excluded under the NYSE's current evaluative criteria. Therefore, the Exchange is proposing to add a new alternative standard that focuses on global market capitalization and revenues for large, global companies.

In addition, the Exchange believes that both its current numerical original listing criteria and its current continued listing criteria place too much emphasis on a company's earnings to the exclusion of other relevant factors. The Exchange believes that the size and trading price of the company, the depth of its shareholder base and the size of the company's stockholders' equity are also important gauges when evaluating both the original and continued listing status of a company.⁷

The specific proposed amendments to the Exchange's original listing criteria are:

1. The Exchange is proposing, on a 90-day Pilot basis pending Commission approval on a permanent basis, a Capitalization Standard alternative to its other financial listing eligibility criteria.⁸ Under the proposed amendment to Paragraphs 102.01 and 103.01 of the NYSE's Manual, a company with a total global market capitalization of \$1 billion and revenues of \$250 million in its most recent fiscal year would be eligible for listing on the Exchange without satisfying any additional financial eligibility requirements. However, the company would have to meet the Exchange's other original listing criteria.⁹ The Exchange believes that companies of this magnitude would be appropriate for listing and trading on the NYSE even if, for example, the company's stage of development, or the transitional nature

⁷ The Exchange intends to file in the near future a proposed rule change with the Commission to address its continued listing criteria.

⁸ See Amendment No. 1, *supra* note 3.

⁹ *Id.*

of its home economy, preclude earnings, or if is undergoing short-term variations in profitability. This listing standard is proposed for both domestic and non-U.S. companies.

For companies listing in connection with an initial public offering ("IPO"), the valuation of the company's market capitalization would need to be demonstrated by a written representation from the underwriter (or, in the case of a spin-off, by the parent company's investment banker, other financial advisor, or transfer agent, if applicable) of the size of the offering as it pertains to the total market capitalization of the company upon completion of the offering (or distribution). For all other companies, the average over the preceding six months would be used to determine the market capitalization of the company. In computing the six month average, the Exchange proposes to take the average of the daily figures over the preceding six months.

2. The Exchange currently has alternative numerical listing criteria for non-U.S. companies with limited U.S. distribution.¹⁰ The Exchange proposes to amend its pre-tax earnings standard for these companies by requiring \$25 million in pre-tax income in each of the two most recent fiscal years. Currently, the company need only have pre-tax earnings of \$25 million in any one of the three most recent years. Thus, to qualify under the proposed criteria, a non-U.S. issuer would need to demonstrate pre-tax income of \$100 million in the aggregate for the last three fiscal years together with a minimum of \$25 million of pre-tax income in each of the two most recent fiscal years.

The Exchange notes that its past experience indicates that non-U.S. companies tend to follow U.S. GAAP/SEC disclosure guidelines, which only require a U.S. GAAP reconciliation for the most recent two years and any relevant interim period. Thus, the third year back is generally reported only in local GAAP and, therefore, is of little quantitative value to the Exchange without reconciliation to U.S. GAAP. As a result, the proposed rule change would obviate the need to reconcile the third year back to U.S. GAAP except where the Exchange determines that

¹⁰The Exchange applies the general financial listing standards in Paragraph 102.01 of its Manual both to domestic companies and to non-U.S. companies that have the required distribution and trading volume in the United States (or North America, for North American companies). However, the section and paragraph headings in the Manual suggest that those standards apply only to U.S. companies. The Exchange is proposing to change the non-U.S. heading to remove the implication by incorporating the word "alternative."

that information is necessary to assure the Exchange that the aggregate \$100 million threshold has been satisfied.

2. Statutory Basis

The Exchange believes that the basis under the Act for the proposed rule change is the requirement under section 6(b)(5)¹¹ that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will 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

The Exchange has neither solicited nor received any written comments from members or other interested parties.

II. 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:

- (a) by order approved such proposed rule change, or
- (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies

¹¹ 15 U.S.C. 78f(b)(5).

thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. In particular, the Commission is seeking comment on whether the Exchange should be required to list only those companies that can show positive earnings in recent years notwithstanding their market capitalization or revenues.

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 in Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SRNYSE9917 and should be submitted by June 25, 1999.

V. Commission's Findings and Order Granting Partial Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change relating to the establishment of the Pilot is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission believes the proposal is consistent with the section 6(b)(5)¹² requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and in general, to protect investors and the public.¹³ The Commission believes that the Exchange's alternative financial listing standard for companies with \$1 billion in market capitalization and \$250 million in revenues in the most recent fiscal year permits the Exchange to list very large companies that the Exchange believes will prove to be successful moving forward although they may not have been profitable in recent years. The Commission further believes that the proposed Pilot is consistent with the Exchange's obligation to remove impediments to and perfect the

¹² 15 U.S.C. 78f(b)(5).

¹³ In approving this rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

mechanism of a free and open market. The Commission notes that there is no guarantee that a company that satisfies the market capitalization and revenue standard in the Pilot will achieve positive earnings in the future. However, the Commission preliminarily does not believe it is inconsistent with the Act for the NYSE to permit companies to list on the Exchange that have not established positive earnings in recent years.

The Commission finds good cause for approving the Pilot prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Commission believes that accelerated approval of the Pilot will enable the Commission and the Exchange to gain experience with the application of the Capitalization Standard before the Commission considers permanent approval of the Pilot.¹⁴ Accordingly, the Commission believes that granting accelerated approval of the Pilot is appropriate and consistent with sections 6(b)(5) and 19(b)(2) of the Act.¹⁵

It is therefore ordered, pursuant to section 19(b)(2) of the Act,¹⁶ that the portion of the proposed rule change (File No. SR-NYSE-99-17) relating to the Pilot program is approved until September 3, 1999, or until the Commission grants permanent approval to the proposal.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁷

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-14116 Filed 6-3-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41455; File No. SR-OCC-98-10]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving a Proposed Rule Change Regarding Supplementary Exercise Notices

May 26, 1999.

On September 10, 1998, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") a

proposed rule change (File No. SR-OCC-98-10) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").¹ Notice of the proposal was published in the **Federal Register** on March 2, 1999.² No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

Rule 805 governs the submission of expiration date exercise instructions. The rule states that if a clearing member tenders an exercise notice in response to an expiration exercise report after OCC's submission deadline ("supplemental exercise notice"), the tender is in violation of OCC's procedures. Rule 805 further provides that the clearing member shall be subject to disciplinary procedures unless the exercise notice was tendered for the account of a customer and the clearing member was prevented from submitting timely exercise instructions due to one of the circumstances specified in the rule.

Supplementary exercise notices require special processing that is manual labor intensive. As a result of OCC's ongoing review of the effectiveness of its rules and procedures relating to expiration date exercise processing, OCC is amending its expiration date exercise procedures to impose filing fees for expiration date exercise notices that are tendered after OCC's prescribed deadlines. The rule change modifies Rule 805 so that OCC's treatment of supplementary exercise notices is more in line with its treatment under Rule 801 of late exercise notices that are submitted on other dates.

Rule 801 imposes a graduated schedule of filing fees for any request to file, revoke, or modify an exercise notice after the applicable deadline. Rule 801 fees increase at specified times depending on when the filing is made in relation to OCC's nightly processing cycle.

The rule change institutes a similar schedule of fees in rule 805 for the submission of supplementary exercise notices. These fees also increase depending on when the request was made in relation to the expiration processing cycle. Under the rule change, OCC will impose a filing fee of \$2,000 per clearing member for any supplementary exercise notice tendered after OCC's filing deadline, but before the start of OCC's critical expiration processing. OCC will charge a filing fee of \$10,000 per line item per clearing

member for any supplementary exercise notice tendered after the start of critical expiration processing. OCC's board of directors is authorized to remit any filing fee, in whole or in part, if it finds that the circumstances that caused the member to submit the supplementary exercise notice were beyond the clearing member's or its customer's control or that remission would be equitable under the circumstances. The rule change further modifies rule 805 so that the unexcused tender of a supplementary exercise notice may be deemed (as opposed to the current language of shall be deemed) a violation of OCC's procedures and so that the required institution of disciplinary action is permissive (as opposed to being mandatory). These changes also conform rule 805 to rule 801.

Finally, the rule change amends rule 805 to add a provision that requires that the tender of supplementary exercise notices be in accordance with the procedures prescribed by OCC from time to time. Under the rule change, failure to follow the procedures prescribed by OCC will result in the supplemental exercise notice being deemed null and void. This requirement is intended to ensure that among other things supplemental exercise notices are received by the appropriate OCC personnel who can act on them in a timely fashion in order to prevent undue delays in providing assignment information to clearing members.

II. Discussion

Section 17A(b)(3)(D) of the Act³ requires that the rules of a clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges among its participants. The Commission believes that the rule change is consistent with OCC's obligations under Section 17A(b)(3)(D) because supplementary exercise notices require special manual labor processing. The Commission believes that the fees imposed by the proposed rule change are reflective of the effort required by OCC to process the supplementary exercise notices and that it is appropriate to allocate the expense of processing supplementary notices to the clearing member that submits such exercise notices.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in

¹⁴ Approval of the 90-day Pilot period should not be interpreted as suggesting that the Commission is predisposed to approving the proposal on a permanent basis.

¹⁵ 15 U.S.C. 78f(b)(5) and 78s(b)(2).

¹⁶ 15 U.S.C. 78s(b)(2).

¹⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 41088 (February 22, 1999), 64 FR 10172.

³ 15 U.S.C. 78q-1(b)(3)(D).

particular with Section 17A of the Act⁴ and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR-OCC-98-10) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁵

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-14114 Filed 6-3-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41456; File No. SR-OCC-99-05]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving a Proposed Rule Change Regarding Joint Back Office Participants

May 26, 1999.

On March 3, 1999, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-OCC-99-05) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").¹ Notice of the proposal was published in the **Federal Register** on April 23, 1999.² No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The rule change amends OCC's rules and by-laws to allow clearing members to maintain joint back office accounts ("JBO accounts") for the broker-dealers with whom the clearing members have joint back office arrangements ("JBO participants") in which long positions can be used to offset short positions in options.

Under the rule change, a broker-dealer registered with the Commission is considered a JBO participant if it: (1) Maintains a joint back office arrangement that satisfies the requirements of Regulation T³ with an

OCC clearing member, (2) meets the applicable requirements as specified in the applicable exchange rules, and (3) consents to having its exchange transactions cleared and its positions carried in a JBO participant account.

OCC will treat JBO participants like market makers and specialists and will treat JBO participants' accounts like market maker's accounts and specialist's accounts. For example, long positions in a JBO participant account will be treated as unsegregated long positions. The exception to this treatment relates to Chapter IV of OCC's Rules, which pertains to the submission of matched trade reports from exchanges to OCC. OCC does not anticipate that its participant exchanges will report JBO transactions as market maker or specialist transactions for purposes of reporting matched trades. Accordingly, JBO participants will be not be included within the term "market maker" or "specialist" for the purposes of the rules in Chapter IV.

In addition, the rule change amends Article I, section 1 of OCC's By-laws to add definitions for "JBO participant" and "JBO participants' account" and amends the definition of "unsegregated long position" to include long positions in JBO participants' accounts. The rule change also amends Interpretation .03 to Article V, section 1 of the By-laws, which provides that applicants for clearing membership must agree to seek approval from the membership/margin committee to clear types of transactions for which approval was not initially sought in the membership application, by adding JBO participant transactions to the list of transactions. Finally, the rule change amends Article VI, section 3 of the By-laws to add a JBO participants' account to the list of permissible accounts clearing members may maintain with OCC.

II. Discussion

Section 17A(b)(3)(F) of the Act⁴ requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible. The Commission believes that the rule change is consistent with OCC's obligations under section 17A(b)(3)(F) because while it should result in OCC collecting less margin for positions which will be carried in JBO accounts, it has been designed to not impair OCC's protection against member default.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with section 17A of the Act⁵ and the rules and regulations thereunder.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-OCC-99-05) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-14115 Filed 6-3-99; 8:45 am]

BILLING CODE 8010-01-M

TENNESSEE VALLEY AUTHORITY

Shoreline Management Initiative (SMI), Reservoirs in Alabama, Georgia, Kentucky, Mississippi, North Carolina, Tennessee, and Virginia

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Issuance of record of decision.

SUMMARY: This notice is provided in accordance with the Council on Environmental Quality's regulations (40 CFR parts 1500 to 1508) and TVA's procedures implementing the National Environmental Policy Act. On April 21, 1999, the TVA Board of Directors decided to adopt the preferred alternative (Blended Alternative) identified in its Final Environmental Impact Statement (EIS), Shoreline Management Initiative: An Assessment of Residential Shoreline Development Impacts in the Tennessee Valley. The Board's decision modified the Blended Alternative by increasing the shoreline management zone (SMZ) from 25 to 50 feet. The Final EIS was made available to the public in November 1998. A Notice of Availability of the Final EIS was published in the **Federal Register** on December 11, 1998. Under the Blended Alternative, TVA seeks to balance residential shoreline development, recreation use, and resource conservation needs in a way that maintains the quality of life and other important values provided by its reservoir system. TVA has decided to adopt a strategy of "maintaining and gaining" public shoreline, continue to allow docks and other alterations along shorelines now available for residential

⁵15 U.S.C. 78q-1.

⁶17 CFR 200.30-3(a)(12).

⁴15 U.S.C. 78q-1.

⁵17 CFR 200.30-3(a)(12).

¹15 U.S.C. 78s(b)(1).

²Securities Exchange Act Release No. 41298 (April 16, 1999), 64 FR 20043.

³Joint back office arrangements are authorized under Section 220.7 of Regulation T of the Board of Governors of the Federal Reserve System and permit non-clearing broker-dealers to be deemed self-clearing for credit extension purposes if the non-clearing broker-dealer has an ownership interest in the clearing firm.

⁴15 U.S.C. 78q-1(b)(3)(F).

access and establish uniform standards for these alterations, and ensure that sensitive natural and cultural resources are conserved for future generations.

FOR FURTHER INFORMATION CONTACT: Harold M. Draper, NEPA Specialist, Environmental Management, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 8C, Knoxville, Tennessee 37902-1499; telephone (423) 632-6889 or e-mail hmdraper@tva.gov.

SUPPLEMENTARY INFORMATION: Residential shoreline development along TVA reservoirs continues to increase. Currently, the amount of residential shoreline development on individual TVA reservoirs ranges from none to 51 percent of the shoreline length. Of the 11,000 miles of total shoreline, 13 percent have been developed for residential uses. From 1988 to 1997, TVA approved almost 19,000 applications for residential shoreline alterations, such as docks, piers, boathouses, retaining walls, and vegetation management. Residential shoreline use requests substantially dominate all requests for other uses (e.g., commercial, industrial) combined. During this period, the number of permits increased at a rate of six percent per year. If these trends and current shoreline management practices continue, TVA estimates that over half the shoreline could be developed within the next 25 years. This level of shoreline development could have unacceptable adverse impacts on shoreline and aquatic ecology, water quality, scenic beauty, and other valuable resources. TVA initiated the SMI project to review existing permitting practices and establish a policy to better protect shoreline and aquatic resources, while allowing adjacent residents reasonable access to the water.

On May 27, 1994, TVA issued a Notice of Intent to prepare an EIS on alternatives for management of TVA shoreline residential uses. Public scoping meetings were held in 13 locations throughout the Tennessee River Watershed in June and July of 1994. The Notice of Availability for the Draft EIS was published on June 28, 1996. TVA subsequently held 16 public meetings throughout the Tennessee River Watershed and in nearby major cities (Nashville and Memphis) in July, August, and September 1996 to receive comments. Almost 10,000 written and oral comments were recorded. The Notice of Availability for the Final EIS was published on December 11, 1998.

Alternatives Considered

TVA initially considered six alternatives to respond to continuing

residential shoreline development along TVA shorelines. In response to public comments on the Draft EIS, TVA developed a seventh alternative, designated the Blended Alternative because it included features of several of the previous alternatives. The alternatives were designed to vary in the standards envisioned for residential shoreline alterations. In addition, the alternatives varied in whether additional shoreline could be opened for residential access.

Under *Alternative A: Limited TVA Role Along Open Shoreline and Additional Areas*, there would be no predefined standards for facility design or appearance, vegetation removal, or other shoreline alterations. TVA would, however, review permit applications for compliance with federal laws.

Under *Alternative B1: Existing Guidelines Along Open Shoreline and Additional Areas*, TVA would continue approving docks and other shoreline alterations using existing guidelines. These guidelines limit the amount and type of vegetation that can be removed, limit the size of boat dock construction and riprap, and open additional shoreline for residential access on a case-by-case basis. These guidelines do not define parameters for channel excavation and do not define a maximum land/water surface area per lot. This is the No Action alternative.

Under *Alternative B2: Existing Guidelines Along Open Shoreline Only*, residential shoreline alterations would be subject to the same standards as with Alternative B1. However, TVA would limit consideration of new applications for residential shoreline alterations to the 38 percent of the shoreline where private access rights currently exist.

Under *Alternative C1: Managed Development Along Open Shoreline and Additional Areas*, TVA would enhance land management plans that are prepared for each reservoir with a shoreline inventory and categorization system and replace existing permitting guidelines with new standards. In these plans, TVA would identify additional areas to make available for residential access. The standards would maintain a 100-foot deep vegetative shoreline management zone on TVA property and define the maximum land/water surface area that could be disturbed per lot. Individual boat channels involving less than 150 cubic yards of dredging would be considered. It was estimated that up to 48 percent of the shoreline could be developed under this alternative. This was identified as TVA's preferred alternative in the Draft EIS.

Under *Alternative C2: Managed Development Along Open Shoreline*

Only, residential shoreline alterations would be subject to the same standards as with Alternative C1. However, TVA would limit considerations of new applications to the 38 percent of the shoreline where private access rights currently exist.

Under *Alternative D: Minimum Disturbance Along Open Shoreline Only*, TVA would limit consideration of applications for residential shoreline alterations to the 38 percent of the shoreline where access rights currently exist. In addition, a shoreline categorization system would be added to the reservoir land management plans prepared for individual reservoirs. A comprehensive set of shoreline development standards would be implemented, including a minimal access path, minimal vegetation clearing within a 100-foot shoreline management zone, and a low profile dock covering less than 300 square feet of surface area. Channel excavation would be prohibited.

Under the *Blended Alternative*, TVA would adopt a shoreline management policy that allows environmentally responsible development of shorelands where residential access rights exist and preserves public benefits along shorelines where residential access rights do not exist. In addition, TVA would encourage voluntary conservation commitments across some areas with outstanding residential access rights. Standards under the Blended Alternative would include a 25-foot-deep shoreline vegetation management (protection) zone with a 20-foot access/visual corridor, limited vegetation disturbance outside of the SMZ, and boat channels with 150 cubic yards of dredging or less. For TVA residential access shoreland further than 25 feet from the reservoir, TVA would only permit limited cutting of small trees and selective removal of certain plants like poison ivy and invasive exotic plants such as honeysuckle. Existing development and uses established prior to the implementation date of the new alternative would be grandfathered. Also, waivers could be requested by owners of property within preexisting developments.

Response to Comments on Final EIS

Volume II of the Final EIS contains summaries of and responses to the comments TVA received during the Draft EIS process. TVA received almost 9,500 separate comments. Although not required, TVA gave the public the opportunity to provide comments about the Final EIS and the Blended Alternative. To facilitate this, TVA held 15 public information sessions about the

Final EIS and the Blended Alternative and met with and briefed numerous stakeholders including elected officials, lake associations, and conservation and environmental groups.

A total of 215 comment forms and 27 letters were received on the Final EIS. Most of these comments were similar to the comments that TVA received on the Draft EIS, except for those that commented specifically on the Blended Alternative. In general, the public supported the Blended Alternative and viewed it as a substantial improvement over TVA's earlier preferred alternative, Alternative C1. A number of commenters suggested modifications to some of the Blended Alternative standards (e.g., increasing the width of the SMZ), but these were within the range of alternatives previously considered.

Decision

The TVA Board decided to modify the Blended Alternative to include a 50-foot SMZ (an increase from 25 feet in the Final EIS). Other components of the Blended Alternative were adopted. The Blended Alternative appropriately balances residential shoreline development, recreation use, and resource conservation needs in a way that maintains the quality of life and other important values provided by the reservoir system. It recognizes the reality that previous decisions have already opened up 38 percent of TVA's shorelands to access, but commits to holding the line at this level and possibly "gaining" back some of the already opened lands in a way that would heighten their protection. The Blended Alternative also responds well to the public comments TVA received during the EIS process because it combines features from other alternatives that were generally supported, while not incorporating features that were controversial and highly objectionable to some segments of the public. During the period following publication of the Final EIS, a number of organizations questioned the adequacy of the 25-foot SMZ. These included the Department of the Interior, Kentucky Department for Fish and Wildlife Resources, Tennessee Wildlife Resources Agency, Tennessee Conservation League, and Tennessee Citizens for Wilderness Planning. In response to these comments, the Board decided to increase the size of the SMZ to 50 feet in order to further protect the Tennessee River system.

TVA will include the Blended Alternative standards in its permitting regulations. The standards and policies identified in the Blended Alternative, as

modified by the April 21, 1999, Board of Directors decision, apply to all TVA reservoirs and become effective November 1, 1999.

Environmentally Preferable Alternative

TVA has concluded that Alternative D, which seeks minimum disturbance along shoreline available for residential access and does not allow additional shoreland to be opened, is the environmentally preferable alternative. However, the purpose of SMI is to better protect the environment while allowing reasonable access to the shoreline by adjacent residents who hold outstanding access rights. The Blended Alternative better addresses the broader objectives of SMI and is also substantially better environmentally than current practices.

Environmental Consequences and Commitments

The Blended Alternative advances TVA's commitment to resource stewardship and habitat protection through strong conservation approaches, including a shoreline inventory and categorization system designed to protect certain significant habitats. By limiting future residential access to shorelines where private access rights already exist and emphasizing the need to "maintain and gain" public shoreline, TVA is offering a much higher degree of protection to public shorelines than it has offered in the past. The Blended Alternative was formulated using environmentally protective measures. These measures include:

- Protection of sensitive natural and cultural resources through a shoreline inventory and categorization system designating residential access shorelines into protection, mitigation, and managed categories.
- Promotion of conservation easements across shorelands to protect scenic landscapes, encourage clustered development, or to provide other public benefits.
- Promotion of best management practices for the construction of docks, management of vegetation, stabilization of shoreline erosion, and other shoreline alterations.
- Emphasis on education activities and incentives as important components of shoreline management.

With the implementation of the above environmental protection measures, TVA has determined that adverse environmental impacts of future residential shoreline uses would be substantially reduced. These protective measures represent all of the practicable measures to avoid or minimize environmental harm that are associated with this alternative. Alternative D has

associated with it additional protective measures such as a lower dock profile, less vegetation clearing, and a prohibition on channel excavation. This alternative was rejected for the reasons given above.

As the components of TVA's new shoreline management policy are implemented, TVA will continue to work with all affected interests to promote environmentally sound stewardship of public shorelands. TVA will also monitor shoreline development trends in order to identify any actions that may become necessary in the future.

Dated: May 24, 1999.

Ruben O. Hernandez,

Vice President, Resource Stewardship.

[FR Doc. 99-14199 Filed 6-3-99; 8:45 am]

BILLING CODE 8120-08-U

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Comments Concerning Compliance by Germany With Telecommunications Trade Agreements

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of request for public comment.

SUMMARY: Pursuant to section 1377 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3107), the Office of the United States Trade Representative (USTR) is reviewing, and requests comments on, compliance by Germany with its commitments under the World Trade Organization (WTO) Basic Telecommunications Agreement.

DATES: Comments are due by noon on Wednesday, June 16, 1999.

ADDRESSES: Comments must be submitted to Gloria Blue, Executive Secretary, Trade Policy Staff Committee, ATTN: Section 1377 Comments, Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: William Corbett, Office of Industry, (202) 395-9586; or Demetrios Marantis, Office of the General Counsel, (202) 395-3581.

SUPPLEMENTARY INFORMATION: Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 requires the USTR to review annually, by March 31, the operation and effectiveness of all U.S. trade agreements regarding telecommunications products and services of the United States that are in

force with respect to the United States. The purpose of the review is to determine whether any act, policy, or practice of a country that has entered into a telecommunications trade agreement is not in compliance with the terms of such agreement, or otherwise denies to U.S. firms, within the context of the terms of such agreements, mutually advantageous market opportunities.

Beginning in the second quarter of 1998 and after concluding a number of satisfactory interconnection agreements with early new entrants to the German telecommunications market, Deutsche Telekom (DT) appears to have slowed the pace of interconnection negotiations and imposed tougher rates, terms and conditions for subsequent prospective entrants. All new entrants have no option but to interconnect with the DT network to access the German market, and Germany committed to assure non-discriminatory and cost-oriented interconnection rates, terms and conditions by adopting the WTO Reference Paper as part of its obligations under the WTO Basic Telecommunications Agreement.

The 1999 review under section 1377, completed on March 30, 1999, established that the delay in assuring non-discriminatory and cost-oriented interconnection rates, terms, and conditions raises serious doubts about Germany's compliance with its WTO commitments. The USTR noted that regulatory proceedings in Germany during April-May 1999 were expected to set important precedents in determining interconnection rates, terms, and conditions for all competitors to Deutsche Telekom. These proceedings related to (1) a complaint by a U.S. carrier, Econophone and, (2) a proposal for new tariff surcharges by Deutsche Telekom. The USTR announced it would monitor the outcome of these proceedings, which have now concluded to determine whether Germany is acting in accordance with its WTO obligations, and to determine whether to pursue WTO dispute settlement action thereafter if the outcome of the proceedings was not consistent with those obligations.

Therefore, the USTR seeks comments on Germany's compliance with its specific commitments under the WTO Basic Telecommunications Agreement or with other WTO obligations, e.g., the WTO General Agreement on Trade in Services (GATS), including the Annex on Telecommunications, that affect market opportunities for U.S. telecommunications products and services.

WTO Basic Telecommunications Agreement

The GATS contains general obligations that apply to all Members and services whether or not listed in WTO Members' schedules and specific obligations that apply only to services scheduled by a Member. The Fourth Protocol to the GATS is the legal instrument embodying seventy WTO members' basic telecommunications services commitments under the GATS. The Fourth Protocol is generally referred to as the WTO Basic Telecommunications Agreement. The agreement entered into force on February 6, 1998.

The WTO Basic Telecommunications Agreement encompasses commitments in three areas: market access, national treatment, and pro-competitive regulatory principles (contained in the WTO Reference Paper). Germany committed to provide open market access for local, long-distance and international service and service suppliers of any other Member under the terms, limitations and conditions agreed and specified in its WTO services schedule. With respect to national treatment, Germany committed to ensure treatment no less favorable to U.S. services or service suppliers than the treatment provided to services or service suppliers of Germany. Finally, the pro-competitive regulatory principles, set forth in the WTO Reference Paper and incorporated in Germany's (and other members') schedule, committed it to establish an independent regulatory body, ensure interconnection at non-discriminatory and cost-oriented rates, maintain measures to prevent anti-competitive practices such as cross-subsidization, and mandate transparency of government regulations and licensing.

The USTR seeks comment on whether Germany has made the necessary legislative or regulatory changes to implement its commitments, or permits acts, policies, or practices in its markets that do not appear to be in compliance with these commitments. In addition, the USTR seeks comments on whether Germany permits acts, policies, or practices that do not appear to be in compliance with other WTO obligations, e.g., the GATS, that affect market opportunities for telecommunications products and services of the United States.

Public Comment: Requirements for Submissions

The USTR requests comments on the operation and effectiveness of the WTO Basic Telecommunications Agreement

with respect to Germany. All comments must be in English, identify on the first page of the comments the telecommunications trade agreement(s) discussed therein, be addressed to Gloria Blue, Executive Secretary, TPSC, ATTN: Section 1377 Comments, Trade Policy Staff Committee, Office of the U.S. Trade Representative, and be submitted in 15 copies by noon on Wednesday, June 16, 1999.

All comments will be placed in the USTR Reading Room for inspection shortly after the filing deadline, except business confidential information exempt from public inspection in accordance with 15 CFR 2003.6. Confidential information submitted in accordance with 15 CFR 2003.6, must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color ink at the top of each page on each of the 15 copies, and must be accompanied by 15 copies of a nonconfidential summary of the confidential information. The nonconfidential summary will be placed in the USTR Public Reading Room.

An appointment to review the comments may be made by calling Brenda Webb at (202) 395-6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon, and from 1 p.m. to 4 p.m., Monday through Friday, and is located in Room 101.

Frederick L. Montgomery,
Chairman, Trade Policy Staff Committee.
[FR Doc. 99-14132 Filed 6-3-99; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Announcement of Public Forum on Risk Assessment

AGENCY: Office of the Secretary, DOT.
ACTION: Announcement of Public Forum on Risk Assessment.

TIME AND DATE: 1:00 p.m.-4:00 p.m., June 16, 1999.

PLACE: Room 10234, Nassif Building, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

STATUS: Open to public with attendance limited to space available.

PURPOSE: The purpose of the forum is to have an exchange of ideas and to start a dialogue that will better enable the Department to analyze its rules. We do not want comments on specific rules or proposals, although it would be appropriate to use an existing rule to illustrate a point.

SUMMARY: The Department of Transportation will be hosting a public forum on risk assessment in rulemaking. Expert panelists for this forum will include representatives from business, labor and government. The moderator of the forum will present a series of issues to the panel for discussion; the audience will also be encouraged to ask questions or make comments. The forum will address various issues such as problems with adequately describing the hazard or risk a regulation is trying to avoid; properly using and describing the evidence of the risk, the uncertainties involved; and the value and cost of peer review. This forum is the second of three planned public forums this year. In May, the Department hosted a forum on economic analysis, and later on this year we are planning a forum on small entities.

REGISTRATION: Participants are requested to register their intent to attend this forum meeting by sending e-mail to bob.klothe@ost.dot.gov. Put the words "Risk Assessment Registration" in the Subject line and the participant's name, address, phone number, and affiliation in the body of the message. If you do not have Internet access, you can register by calling 202-366-4723 or by writing to the contact person below. Please include your name, address, and phone number in your letter/postcard. Also, remember that space is limited and registration is on a first-come-first-served basis.

FOR FURTHER INFORMATION CONTACT: Robert Klothe, Office of General Counsel (C-50), Department of Transportation, Room 10424, 400 Seventh Street, SW, Washington, DC 20590. Phone: (202) 366-4723 (voice), (202) 755-7687 (TDD); Email: bob.klothe@ost.dot.gov.

Issued in Washington, DC, this 28th day of May, 1999.

Neil Eisner,
Assistant General Counsel for Regulation and Enforcement.

[FR Doc. 99-14164 Filed 6-3-99; 8:45 am]

BILLING CODE 4910-62-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Chemung County, New York

AGENCY: Federal Highway Administration, Department of Transportation.

ACTION: Notice of intent.

SUMMARY: The action to be evaluated by this Environmental Impact Statement is the reconstruction of the U.S. Route 17

through the Town and Village of Horseheads (the Southern Tier Expressway) in Chemung County, New York. This proposed action would improve capacity of Route 17 by bringing it up to Interstate highway design standards and provide for the separation of local and regional traffic.

FOR FURTHER INFORMATION CONTACT: Peter White, Regional Director, New York State Department of Transportation, Region 6, 107 Broadway, Hornell, New York 14843, (607) 324-8404 or Harold J. Brown, Division Administrator, Federal Highway Administration, New York Division, Leo W. O'Brien Federal Building, 9th Floor, Clinton Avenue and North Pearl Street, Albany, New York 12207, (518) 431-4127.

SUPPLEMENTARY INFORMATION: The Federal Highway Administration (FHWA), in cooperation with the New York State Department of Transportation (NYSDOT) will evaluate various alternatives which will consider the upgrading of U.S. Route 17 from Exit 52 to Exit 54 in the Town and Village of Horseheads, Chemung County, New York to Interstate standards. Each build option would include the reconfiguration/reconstruction of the existing roadway to meet Interstate standards while accommodating local high volume traffic flows and local access. Additionally, there would be new expressway and ramp construction, pavement rehabilitation/reconstruction, bridge and culvert rehabilitation/replacement, drainage, lighting and signalization. The proposed project limits extend along NYS Route 17 from Exit 52 (NYS Route 14) easterly to Exit 54 (NYS Route 13) approximately one mile.

The Proposed Action is anticipated to result in a balanced transportation system that will supply sufficient capacity, improved mobility and access, meet current/future traffic demand, eliminate current bridge deficiencies, reduce or eliminate vehicular conflicts/accidents, separate local and regional traffic flows, as well as provide improved local service through the Town and Village of Horseheads.

Alternatives under consideration include:

- No build or the null alternative;
- Separation of local and expressway traffic through the Village of Horseheads and the upgrade of Route 17 to a limited access expressway;
- Development of a half or full diamond interchange at Route 13, and
- The development of collector-distributor roads along Route 17 between Exit 52 and Exit 54.

The environmental, socio-economic, and engineering viability implications of each alternative will be examined. The NO Action alternative will also be analyzed as a base line for gauging the impacts of the build alternates.

Input from Federal, State and local Governments, local agencies, private organizations, and the community will be solicited during the development of the Environmental Impact Statement (EIS). A public Environmental Scoping meeting and a formal public hearing will be scheduled. The Environmental Scoping, meeting will be held on June 30, 1999 at the Horseheads High School from 5 p.m. to 9 p.m. with a presentation at 7 p.m. Public notice will be given to identify the time and place for the public hearing. The Draft EIS will be available for public and agency review and comment prior to the public hearing.

Comments, questions and suggestions pertaining to the proposed action are invited from interested parties to ensure that all significant issues are identified and addressed. Comments should be directed to the FHWA or the NYSDOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulation implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 315; 23 CFR 771.123.

Issued on May 24, 1999.

Douglas P. Conlan,

District Engineer, Federal Highway Administration, Albany, New York.

[FR Doc. 99-14124 Filed 6-3-99; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA-99-5750]

Notice of Request for the Extension of Currently Approved Information Collection

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to extend the following currently approved information collection:

Rail Fixed Guideway Systems; State Safety Oversight.

DATES: Comments must be submitted before August 2, 1999.

ADDRESSES: All written comments must refer to the docket number that appears at the top of this document and be submitted to the United States Department of Transportation, Central Dockets Office, PL-401, 400 Seventh Street, SW, Washington, DC 20590. All comments received will be available for examination at the above address from 10:00 a.m. to 5:00 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard/envelope.

FOR FURTHER INFORMATION CONTACT: Rail Fixed Guideway Systems; State Safety Oversight—Mr. Roy Field, Office of Program Management, (202) 366-0197.

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) the necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: Rail Fixed Guideway Systems; State Safety Oversight (*OMB Number:* 2132-0558).

Background: 49 U.S.C. Section 5330 requires each State that to designate a State Safety Oversight agency to oversee the safety and security operations of "a rail fixed guideway system" within the State's jurisdiction. To comply with Section 5330, State oversight agencies must require System Safety Program Plans (SSPPs) from rail fixed guideway systems; review and approve these SSPPs; require notification of unacceptable hazardous conditions according to the American Public Transit Association (APTA) Hazard Classification Matrix; require and review corrective action plans from rail fixed guideway systems to eliminate such conditions; require an ongoing safety audit process at the rail fixed guideway systems; and submit both an annual certification to FTA that the State is in compliance with the requirements of Section 5330 and an annual report documenting safety activities. Collection of this information will enable the State oversight agency to monitor effectively the safety of the rail fixed guideway system. Without

certification from the State oversight agency, FTA would be unable to determine each State's compliance with Section 5330.

If a State fails to comply with the requirements of Section 5330, FTA may withhold up to five percent of funds apportioned under section 5307 to a State, or urbanized area within a State, beginning in Fiscal Year 1997.

Estimated Annual Burden on Respondents: Approximately 663.50 hours for each of the 56 respondents.

Estimated Total Annual Burden: 37,158 hours.

Frequency: Annual.

Issued: June 1, 1999.

Gordon J. Linton,
Administrator.

[FR Doc. 99-14166 Filed 6-3-99; 8:45 am]

BILLING CODE 4910-57-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-99-5732]

Highway Safety Programs; Model Specifications for Devices to Measure Breath Alcohol

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: This notice amends the Conforming Products List for instruments that conform to the Model Specifications for Evidential Breath Testing Devices (58 FR 48705).

EFFECTIVE DATE: June 4, 1999.

FOR FURTHER INFORMATION CONTACT: Dr. James F. Frank, Office of Traffic Injury Control Programs, Impaired Driving Division (NTS-11), National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; Telephone: (202) 366-5593.

SUPPLEMENTARY INFORMATION: On November 5, 1973, the National Highway Traffic Safety Administration (NHTSA) published the Standards for Devices to Measure Breath Alcohol (38 FR 30459). A Qualified Products List of Evidential Breath Measurement Devices comprised of instruments that met this standard was first issued on November 21, 1974 (39 FR 41399).

On December 14, 1984 (49 FR 48854), NHTSA converted this standard to Model Specifications for Evidential Breath Testing Devices, and published a Conforming Products List (CPL) of instruments that were found to conform to the Model Specifications as

Appendix D to that notice (49 FR 48864).

On September 17, 1993, NHTSA published a notice (58 FR 48705) to amend the Model Specifications. The notice changed the alcohol concentration levels at which instruments are evaluated, from 0.000, 0.050, 0.101, and 0.151 BAC, to 0.000, 0.020, 0.040, 0.080, and 0.160 BAC; added a test for the presence of acetone; and expanded the definition of alcohol to include other low molecular weight alcohols including methyl or isopropyl. On February 27, 1998, the most recent amendment to the Conforming Products List (CPL) was published (63 FR 10066), identifying those instruments found to conform with the Model Specifications.

Since the last publication of the CPL, three (3) instruments have been evaluated and found to meet the model specifications, as amended on September 17, 1993, for mobile and non-mobile use. They are: (1) Seres Alcopro, which is listed twice on the CPL, once under Sound-Off, Inc., of Hudsonville, Michigan, which sells this device in the United States, and also under Seres, of Paris, France, the manufacturer. This device is the first infra-red handheld breath tester on the CPL; (2) Phoenix, manufactured by Lifeloc Technologies, Inc. of Wheat Ridge, Colorado; and (3) Alco-Sensor AZ and the RBT-AZ, manufactured by Intoximeters, Inc. of St. Louis, Missouri, two versions of the same handheld fuel cell device, the first sold without a printer, and the latter with a printer.

The CPL has been amended to add these three instruments to the list. The CPL has also been amended to reflect the following changes:

(1) Lifeloc, Inc. has changed its name to Lifeloc Technologies, Inc. Hence, all devices listed under Lifeloc, Inc. are now listed under Lifeloc Technologies, Inc. (formerly Lifeloc, Inc.), Wheat Ridge, Colorado;

(2) Two items listed under Intoximeters, Inc. had typographical errors that needed correction. The item listed as the Intoximeter Model 03000 D* has been changed to read: Intoximeter Model 3000D*. The items listed as the Intox EC-IR and the Portable Intox EC-IR have been changed to read: Intox EC/IR and Portable Intox EC/IR.

(3) The National Draeger, Inc. added the "Alcotest 7410 Plus" to the last CPL on February 27, 1998. However, it was listed on the CPL as the "Breathalyzer 7410 Plus" when it should have been listed as the "Alcotest 7410 Plus". The CPL has been corrected to reflect this more appropriate listing.

(4) In addition, "National Draeger, Inc." of Durango, Colorado changed its name to "Draeger Safety, Inc." All devices under "National Draeger" will remain on the list. However, a new listing for "Draeger Safety, Inc." will also be created with the same devices also listed. Future additions of Draeger Safety, Inc. equipment will only be added to the "Draeger Safety, Inc." listing.

(5) A sentence has been added to the footnote to the CPL indicating that any devices on this CPL that meet the model specifications for evidential breath testing devices that was published in the **Federal Register** on September 17, 1993 (58 FR 48705), also meet the requirements of the Model Specifications for Screening Devices to Measure Alcohol in Bodily Fluids that was published on August 2, 1994 (59 FR 39382).

(6) The typographical error under the Smith and Wesson listing, where the location of the company was listed as "pringfield" has been corrected to read "Springfield".

In accordance with the foregoing, the CPL is therefore amended, as set forth below.

Conforming Products List of Evidential Breath Measurement Devices

Manufacturer and model	Mobile	Nonmobile
Alcohol Countermeasure Systems Corp. Mississauga, Ontario, Canada:		
Alert J3AD*	X	X
PBA3000C	X	X
BAC Systems, Inc., Ontario, Canada:		
Breath Analysis Computer*	X	X
CAMEC Ltd., North Shields, Tyne and Ware, England:		
IR Breath Analyzer*	X	X
CMI, Inc., Owensboro, KY:		
Intoxilyzer Model:		
200	X	X
200D	X	X
300	X	X
400	X	X
1400	X	X
4011*	X	X
4011A*	X	X
4011AS*	X	X
4011AS-A*	X	X
4011AS-AQ*	X	X
4011 AW*	X	X
4011A27-10100*	X	X
4011A27-10100 with filter*	X	X
5000	X	X
5000 (w/Cal. Vapor Re-Circ.)	X	X
5000 (w ³ / ₈ " ID Hose option)	X	X
5000CD	X	X
5000CD/FG5	X	X
5000EN	X	X
5000 (CAL DOJ)	X	X
5000VA	X	X
PAC 1200*	X	X
S-D2	X	X
Decator Electronics, Decator, IL:		
Alco-Tector model 500*		X
Draeger Safety, Inc., Durango, CO:		
Alcotest Model:		
7010*	X	X
7110*	X	X
7110 MKIII	X	X
7110 MKIII-C	X	X
7410	X	X
7410 Plus	X	X
Breathalyzer Model:		
900*	X	X
900A*	X	X
900BG*	X	X
7410	X	X
7410-II	X	X
Gall's Inc., Lexington, KY:		
Alcohol Detection System-A.D.S. 500	X	X
Intoximeters, Inc., St. Louis, MO:		
Photo Electric Intoximeter*		
GC Intoximeter MK II*	X	X
GC Intoximeter MK IV*	X	X
Auto Intoximeter*	X	X
Intoximeter Model:		
3000*	X	X
3000 (rev B1)*	X	X
3000 (rev B2)*	X	X
3000 (rev B2A)*	X	X

Manufacturer and model	Mobile	Nonmobile
3000 (rev B2A) w/FM option*	X	X
3000 (Fuel Cell)*	X	X
3000 D*	X	X
3000 DFC*	X	X
Alcomonitor		X
Alcomonitor CC	X	X
Alco-Sensor III	X	X
Alco-Sensor IV	X	X
Alco-Sensor AZ	X	X
RBT-AZ	X	X
RBT III	X	X
RBT III-A	X	X
RBT IV	X	X
RBT IV with CEM (cell enhancement module)	X	X
Intox EC/IR	X	X
Portable Intox EC/IR	X	X
Komyo Kitagawa, Kogyo, K.K.:		
Alcolyzer DPA-2*	X	X
Breath Alcohol Meter PAM 101B*	X	X
Lifelog Technologies, Inc., (formerly Lifelog, Inc.), Wheat Ridge, CO:		
PBA 3000B	X	X
PBA 3000-P*	X	X
PBA 3000C	X	X
Alcohol Data Sensor	X	X
Phoenix	X	X
Lion Laboratories, Ltd., Cardiff, Wales, UK:		
Alcolmeter Model:		
300	X	X
400	X	X
AE-D1*	X	X
SD-2*	X	X
EBA*	X	X
Auto-Alcolmeter*		X
Intoxilyzer Model:		
200	X	X
200D	X	X
1400	X	X
5000 CD/FG5	X	X
5000 EN	X	X
Luckey Laboratories, San Bernadino, CA:		
Alco-Analyzer Model:		
1000*		X
2000*		X
National Draeger, Inc., Durango, CO:		
Alcotest Model:		
7010*	X	X
7110*	X	X
7110 MKIII	X	X
7110 MKIII-C	X	X
7410	X	X
7410 Plus	X	X
Breathalyzer Model:		
900*	X	X
900A*	X	X
900BG*	X	X
7410	X	X
7410-II	X	X
National Patent Analytical Systems, Inc., Mansfield, OH:		
BAC DataMaster (with or without the Delta-1 accessory)	X	X
BAC Verifier Datamaster (with or without the Delta-1 accessory)	X	X
DataMaster cdm (with or without the Delta-1 accessory)	X	X
Omicron Systems, Palo Alto, CA:		
Intoxilyzer Model:		
4011*	X	X
4011AW*	X	X
Plus 4 Engineering, Minturn, CO:		
5000 Plus4*	X	X
Seres, Paris, France:		
Alco Master	X	X
Alcopro	X	X
Siemens-Allis, Cherry Hill, NJ:		
Alcomat*	X	X
Alcomat F*	X	X
Smith and Wesson Electronics, Springfield, MA:		

Manufacturer and model	Mobile	Nonmobile
Breathalyzer Model:		
900*	X	X
900A*	X	X
1000*	X	X
2000*	X	X
2000 (non-Humidity Sensor)*	X	X
Sound-Off, Inc., Hudsonville, MI:		
AlcoData	X	X
Seres Alco Master	X	X
Seres Alcopro	X	X
Stephenson Corp.:		
Breathalyzer 900*	X	X
U.S. Alcohol Testing, Inc./Protection Devices, Inc., Rancho Cucamonga, CA:		
Alco-Analyzer 1000		X
Alco-Analyzer 2000		X
Alco-Analyzer 2100	X	X
Verax Systems, Inc., Fairport, NY:		
BAC Verifier*	X	X
BAC Verifier Datamaster	X	X
BAC Verifier Datamaster II*	X	X

Instruments marked with an asterisk () meet the Model Specifications detailed in 49 FR 48854 (December 14, 1984) (i.e., instruments tested at 0.000, 0.050, 0.101, and 0.151 BAC.) Instruments not marked with an asterisk meet the Model Specifications detailed in 58 FR 48705 (September 17, 1993), and were tested at BACs = 0.000, 0.020, 0.040, 0.080, and 0.160. All instruments that meet the Model Specifications currently in effect (dated September 17, 1993) also meet the Model Specifications for Screening Devices to Measure Alcohol in Bodily Fluids.

(23 U.S.C. 402; delegations of authority at 49 CFR 1.50 and 501.1)

Issued on: May 28, 1999.

Rose A. McMurray,

Associate Administrator for Traffic Safety Programs.

[FR Doc. 99-14165 Filed 6-3-99; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[DP99-003]

Denial of Motor Vehicle Defect Petition

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for a defect investigation.

SUMMARY: This notice sets forth the reasons for the denial of a petition submitted to NHTSA under 49 U.S.C. 30162, requesting that the agency commence a proceeding to determine the existence of a defect related to motor vehicle safety. The petition is hereinafter identified as DP99-003.

FOR FURTHER INFORMATION CONTACT: Dr. George Chiang, Office of Defects Investigation (ODI), NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Telephone: (202) 366-5206.

SUPPLEMENTARY INFORMATION: Dr. Mary Halas of Alexandria, Virginia, submitted a petition to NHTSA by letter dated April 15, 1999, requesting that an investigation be initiated to determine whether to issue an order concerning

the notification and remedy of a defect in model year 1992 Acura Legend vehicles (subject vehicles) manufactured by Honda Motor Company (Honda) because of concerns related to their brake deficiency. The Petitioner alleges that the brake pedal on her vehicle stuck while driving, resulting in a crash. The Petitioner further alleges that she had no warning of any brake problem prior to the crash. In addition, the Petitioner alleges that there have been a number of complaints and service bulletins in NHTSA's database concerning the braking system on the subject vehicles. The Petitioner, however, did not identify a specific vehicle subsystem or component that might have been involved in or caused the brake failure.

During our review, we discovered that Honda had issued Technical Service Bulletin (TSB) 91-031 on August 18, 1992, for the model year 1991-1992 Acura Legend to correct a condition identified as "ABS Problem Code 1-8." The TSB states that when the ABS indicator light activates and the system is checked, problem code 1-8 appears. The light is activated inappropriately due to an overly sensitive sensor. To eliminate this inappropriate warning light, Honda implemented the TSB directing technicians to install a new pressure switch which ensures that the ABS light only comes on when appropriate. Thus, the issue addressed by this TSB has no effect on the vehicle's braking performance, and it is not related to the complaint filed by Dr. Halas.

A review of agency data files, including information reported to the Auto Safety Hotline by consumers,

indicates that there are six complaints about the brake system on the subject vehicles. Five of the six complaints were received prior to May 1996. The most recent complaint, received in March 1999, concerns illumination of the anti-lock brake warning light which is discussed in the TSB referenced in the above paragraph. None of these six complaints indicated that the complainants experienced difficulty in depressing the brake pedal. In addition, the number of complaints compared to the vehicle population (complaint rate) is lower for the model year 1992 Acura Legend than for five peer vehicles. Furthermore, there have been no safety recalls concerning the braking systems on the Acura Legend vehicles, regardless of the model year. On April 29, 1999, an ODI staff engineer inspected the Petitioner's vehicle at a local body shop. The staff was unable to test the operation of the vehicle's braking system vacuum booster because the crash rendered the engine inoperable. Visual inspection showed that the vacuum hose remains connected to the vacuum booster and to the engine, and that the brake pedal linkages appear to be free of obstruction or binding.

In view of the foregoing, it is unlikely that NHTSA would issue an order for the notification and remedy of a safety-related defect in the subject vehicles at the conclusion of the investigation requested in the petition. Therefore, in view of the need to allocate and prioritize NHTSA's limited resources to best accomplish the agency's safety mission, the petition is denied.

Authority: 49 U.S.C. 30162(d); delegations of authority at CFR 1.50 and 501.8.

Issued on: June 1, 1999.

Kenneth N. Weinstein,
Associate Administrator for Safety Assurance.

[FR Doc. 99-14213 Filed 6-3-99; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33750]

Wisconsin Central Ltd.—Trackage Rights Exemption—Grand Trunk Western Railroad Incorporated

Grand Trunk Western Railroad Incorporated (GTW) has agreed to grant limited, non-exclusive overhead trackage rights to Wisconsin Central Ltd. (WC), over a segment of GTW's South Bend Division between GTW's connection to the Belt Railway of Chicago at GTW milepost 12.8 at Hayford, IL, and GTW milepost 25.1 at Harvey, IL, including the connections to the Illinois Central Railroad Company at Harvey, a total distance of approximately 12.3 miles.¹ The purpose of the trackage rights is to allow WC to move traffic in Canadian National Railway Company's (CN) account as part of WC's haulage of CN traffic between Superior, WI and Chicago, IL. The transaction is scheduled to be consummated on or after May 28, 1999, the effective date of the exemption (7 days after the exemption was filed.)

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk & Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease & Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33750, must be filed with the Surface Transportation Board, Office

¹ A redacted version of the draft trackage rights agreement between WC and GTW was filed with the notice of exemption. The full version of the agreement was concurrently filed under seal along with a motion for a protective order, which will be addressed in a separate decision. A copy of the executed trackage rights agreement will be filed in accordance with 49 CFR 1180.6(a)(7)(ii).

of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Janet H. Gilbert, Wisconsin Central Ltd., 6250 N. River Road, Suite 9000, Rosemont, IL 60018.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: May 28, 1999.

By the Board, David M. Konschnik,
Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. 99-14187 Filed 6-3-99; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1120-H

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1120-H, U.S. Income Tax Return for Homeowners Associations.

DATES: Written comments should be received on or before August 3, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622-3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: U.S. Income Tax Return for Homeowners Associations.

OMB Number: 1545-0127.

Form Number: 1120-H.

Abstract: Homeowners associations file Form 1120-H to report income, deductions, and credits. The form is also used to report the income tax

liability of the homeowners association. The IRS uses Form 1120-H to determine if the income, deductions, and credits have been correctly computed. The form is also used for statistical purposes.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Respondents: 112,311.

Estimated Time Per Respondent: 32 hours, 10 minutes.

Estimated Total Annual Burden Hours: 3,611,922.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 28, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99-14226 Filed 6-3-99; 8:45 am]

BILLING CODE 4830-01-U

DEPARTMENT OF THE TREASURY**Internal Revenue Service****Proposed Collection; Comment Request for Form 1040X**

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1040X, Amended U.S. Individual Income Tax Return.

DATES: Written comments should be received on or before August 3, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622-3945, Internal Revenue

Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Amended U.S. Individual Income Tax Return.

OMB Number: 1545-0091.

Form Number: 1040X.

Abstract: Form 1040X is used by individuals to amend an original tax return to claim a refund of income taxes, pay additional income taxes, or designate \$3 to the Presidential Election Campaign Fund. The information provided on the form is needed to help verify that taxpayers have correctly figured their income tax.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals, business or other for-profit organizations, and farms.

Estimated Number of Respondents: 2,929,311.

Estimated Time Per Respondent: 3 hours, 30 minutes.

Estimated Total Annual Burden Hours: 10,252,589.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection

of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 27, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99-14227 Filed 6-3-99; 8:45 am]

BILLING CODE 4830-01-U

Corrections

Federal Register

Vol. 64, No. 107

Friday, June 4, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 774

[Docket No. 990416098-9098-01]

RIN 0694-AB67

Implementation of the Chemical Weapons Convention; Revisions to the Export Administration Regulations

Correction

In rule document 99-12281 beginning on page 27138 in the issue of Tuesday, May 18, 1999, make the following correction(s):

PART 774-[CORRECTED]

1. On page 27148, in the second column, in the second line, "a.28.(C.A.S. #667-83-5)" should read "a.28.(C.A.S. #676-83-5)".

2. On the same page, in the same column, in the eighth line, "a.30.(C.A.S. #767-97-1)" should read "a.30.(C.A.S. #676-97-1)".

[FR Doc. C9-12281 Filed 6-3-99; 8:45 am]

BILLING CODE 1505-01-D

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 30

Representations and Disclosures Required by Certain IBs, CPOs and CTAs

Correction

In notice document 99-13573 beginning on page 28910 in the issue of Friday, May 28, 1999, make the following correction:

On page 28913, in the third column, under the second "Average burden hours per response:" entry, "100." should read "1.0".

[FR Doc. C9-13573 Filed 6-3-99; 8:45 am]

BILLING CODE 1505-01-D

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

[FAC 97-11; FAR Case 96-013; Item I]

RIN 9000-AH97

Federal Acquisition Regulation; Review of FAR Representations

Correction

In rule document 99-5203 beginning on page 10531, in the issue of Thursday, March 4, 1999, make the following correction:

52.204-5 [Corrected]

On page 10533, in the second column, in the second line, "□ is not" should be removed.

[FR Doc. C9-5203 Filed 6-3-99; 8:45 am]

BILLING CODE 1505-01-D

DEPARTMENT OF EDUCATION

National Advisory Committee on Institutional Quality and Integrity; Notice of Members

Correction

In notice document 99-13553 beginning on page 28810 in the issue of Thursday, May 27, 1999, make the following correction(s):

On page 28810, in the third column, in the last line, "[insert 45 days from date of publication]" should read "July 12, 1999".

[FR Doc. C9-13553 Filed 6-3-99; 8:45 am]

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99-106-000]

TransColorado Gas Transmission Company; Notice of Informal Settlement Conference

Correction

In notice document 99-13508 appearing on page 28816, in the issue of

Thursday, May 27, 1999, the docket number should read as set forth above. [FR Doc. C9-13508 Filed 6-3-99; 8:45 am]

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

[INS No. 1881-97]

RIN 1115-AE96

Adjustment of Status; Continued Validity of Nonimmigrant Status, Unexpired Employment Authorization, and Travel Authorization for Certain Applicants Maintaining Nonimmigrant H or L Status

Correction

In rule document 99-13759 beginning on page 29208 in the issue of Tuesday, June 1, 1999, make the following correction(s):

§ 214.2 [Corrected]

On page 29211, in the second column, in § 214.2(h)(16)(i), the existing paragraph (C) should be removed and paragraphs (C) and (D) should be added to read as follows:

* * * * *

(h) * * *

(16) * * *

(i) * * *

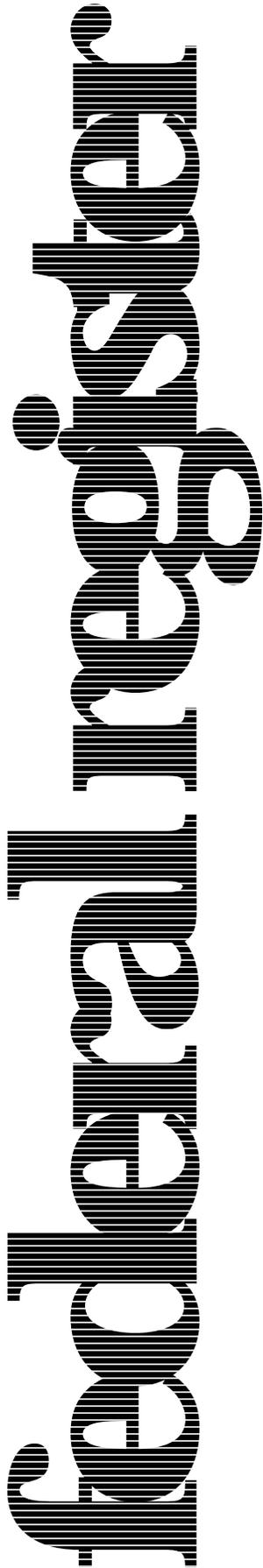
(C) The H-1 alien's application (and that of their dependent family members) for admission,

(D) The H-1 alien's application (and that of their dependent family members) for change of status to a different H-1 or L classification, or a dependent of an H-1 or L nonimmigrant, or

* * * * *

[FR Doc. C9-13759 Filed 6-3-99; 8:45 am]

BILLING CODE 1505-01-D



Friday
June 4, 1999

Part II

**Department of
Education**

Privacy Act of 1974; Systems of
Records; Notice

DEPARTMENT OF EDUCATION**Privacy Act of 1974; Systems of Records**

AGENCY: Department of Education.

ACTION: Notice of new, amended, altered and deleted systems of records.

SUMMARY: The Acting Chief Information Officer for the Department of Education publishes this notice of New, Amended, Altered and Deleted Systems of Records. On May 14, 1998, the President directed executive departments and agencies to, among other things, review all systems for accuracy, completeness and to ensure that all routine uses are needed and consistent with the purposes for which the records were collected in each system. This document is a result of that review.

DATES: Comments on the proposed routine uses for the systems of records included in this notice must be received by the Department on or before July 6, 1999. The Department filed a report describing the new and altered systems of records covered by this notice with the Chair of the Committee on Governmental Affairs of the Senate, the Chair of the Committee on Government Reform and Oversight of the House, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on May 14, 1999. The changes made in this notice will become effective after the 30-day period for OMB review of the systems expires on June 14, 1999; unless OMB gives specific notice within the 30 days that the changes are not approved for implementation or requests an additional 10 days for its review. The routine uses become effective 30 days after publication unless they need to be changed as a result of public comment or OMB review. The Department will publish any changes to the routine uses.

ADDRESSES: All comments on the proposed routine uses should be addressed to Bill Burrow, Office of Chief Information Officer, Acting Information Management Group Leader, U.S. Department of Education, Room 5624 Regional Office Building, 400 Maryland Avenue, SW., Washington, DC 20202-4580. Telephone: 202-401-0250. Comments may also be sent through the Internet to:

Comments@ed.gov

You must include the term "System of Records" in the subject line of the electronic comment.

All comments submitted in response to this notice will be available for public inspection, during and after the

comment period, in Room 5624 Regional Office Building, 7th and D Streets, S.W., Washington, DC, between the hours of 8 a.m. and 4:30 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

On request the Department supplies an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking docket for this notice. An individual with a disability who wants to schedule an appointment for this type of aid may call (202) 205-9265 or (202) 260-0250. An individual who uses a TDD may call the Federal Information Relay Service at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Bill Burrow, Office of Chief Information Officer, Acting Information Management Group Leader, U.S. Department of Education, Room 5624 Regional Office Building, 400 Maryland Avenue, SW., Washington, DC 20202-4580. Telephone: 202-401-0250. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:**Electronic Access to This Document**

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Portable Document Format (PDF) on the World Wide Web at either of the following sites:

<http://ocfo.ed.gov/fedreg.htm>
<http://www.ed.gov/news.html>

To use the PDF you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using 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**.

Introduction

In a memorandum dated May 14, 1998, President Clinton directed executive departments and agencies (agencies) to conduct a thorough review for accuracy and completeness of all agency systems of records. The President specifically directed agencies to consider changes in technology, function and organization that may have made the systems out of date and to review the routine uses published in the system notices to make sure that they continue to be necessary and compatible with the purposes for which they were collected. He also directed agencies to identify systems that may not have been described in a notice published in the **Federal Register** and to publish notices for any changes to the agency systems of records and report to the Office of Management and Budget within one year regarding the results of their efforts.

The Act (5 U.S.C. 552a)(e)(4) requires the Department to publish in the **Federal Register** this notice of changes to systems of records managed by the Department. The Department's regulations implementing the Act are contained in the Code of Federal Regulations (CFR) in 34 CFR part 5b.

The Privacy Act of 1974 (Privacy Act), 5 U.S.C. 552a, applies to information about individuals that contain individually identifiable information and that may be retrieved by a unique identifier associated with each individual, such as a name or social security number. The information about each individual is called a "record" and the system, whether manual or computer-driven, is called a "system of records." The Act requires each agency to publish notices of systems of records in the **Federal Register** and to prepare reports to the Office of Management and Budget (OMB) whenever the agency publishes a new or "altered" system of records. A system is considered altered whenever certain fundamental changes are made to the system such as changing from a manual to automated system of records or whenever certain disclosures, called "routine uses," are changed in the system of records.

Most of the changes made by this notice are technical in nature, reflecting the current name and address of the office responsible for each system. Every effort has been made to update the notices to make them more "reader friendly," dispensing with traditional bureaucratic language. As part of that process, all the routine uses have been updated and, where the Department

intends to apply the same routine use to more than one system, the same language is used for all systems that use the routine use. The intent is not to substantively change any of the routine uses but to make them clearer and consistent. However, because the Department is applying these revisions to all of its systems of records, the Chief Information Officer decided to treat all systems included in this notice as altered systems of records.

Many of the system notices included in this **Federal Register** notice have not been updated since they were published in a **Federal Register** compilation of Department system notices on April 20, 1982. As a result, revisions are needed to accurately describe the current systems of records.

Deleted Systems

The Department identified 22 systems to be deleted after finding that they are either no longer needed to administer the Department's programs or activities or that they duplicate other systems maintained by the Department or other agencies such as the Office of Personnel Management. The numbers for these systems are based on the identification system used by the Department up to this date.

- 18-07-0002 Congressional Correspondence.
- 18-11-0005 Safety Management Information System (Department of Education Accident, Injury and Illness Reporting System).
- 18-11-0007 Applicants for Employment Records.
- 18-11-0010 Employee Alcoholism, Drug Abuse and Emotional Problem Counseling and Referral Records.
- 18-11-0011 Employee Appraisal Program Records.
- 18-11-0012 Executive Development Records System.
- 18-11-0018 Personnel Records in Operating Offices.
- 18-11-0019 Special Employment Programs.
- 18-11-0020 Suitability for Employment Records.
- 18-11-0025 Employee Suggestion Program Records.
- 18-20-0001 Fund for the Improvement of Postsecondary Education; FIPSE Field Readers to Review Proposals for the Department.
- 18-40-0002 Registry of Deaf-Blind Children/Regional-National.
- 18-40-0003 Students Participation in Deaf-Blind Programs Under Centers and Services for Deaf-Blind Children.
- 18-40-0004 Parent Participants in Deaf-Blind Programs Provided by Regional Centers for Deaf-Blind Children.
- 18-40-0005 Participant Waiting List for Projects Serving Severely Handicapped Children and Youth.
- 18-40-0006 Participants of Projects Serving Severely Handicapped Children and Youth.

- 18-40-0007 Participants in Workshops Concerning Severely Handicapped Children and Youth.
- 18-40-0009 Selective Service Registration Compliance File.
- 18-40-0021 Student Financial Assistance—Compliance Files.
- 18-40-0032 Record of Advances of Funds for Employees Traveling for the Department of Education.
- 18-40-0038 National Science Scholars Program.
- 18-42-0065 NIE Outside Experts.

New Numbering System

The Department establishes a new numbering system for its systems of records. The following list identifies each system notice published in this document based on the new numbering system.

- 18-01-01 Secretary's Communication Control System.
- 18-01-02 Education Senior Management Biographies.
- 18-02-01 Even Start Performance Information Reporting System and Experimental Design Study.
- 18-03-01 Debarment and Suspension Proceedings Under Executive Order 12549, the Drug-Free Workplace Act, and the Federal Acquisition Regulations.
- 18-03-02 Education's Central Automated Processing System (EDCAPS).
- 18-03-03 Receivables Management System.
- 18-03-04 Files and Lists of Potential and Current Consultants, Grant Application Reviewers, Peer Reviewers, and Site Visitors.
- 18-04-01 Freedom of Information, Correspondence and Case Files.
- 18-04-02 Freedom of Information Act and Privacy Act Tracking System.
- 18-05-01 Departmental Parking Control Policy.
- 18-05-02 Family Educational Rights and Privacy Act (FERPA) and Protection of Pupil Rights Amendment (PPRA) Record Systems.
- 18-05-03 Federal Personnel Payroll System.
- 18-05-04 Discrimination Complaints Records System.
- 18-05-05 Grievances Filed Formally Under the Administrative Grievance Procedures.
- 18-05-06 Grievance Records Filed Under Procedures Established by Labor-Management Negotiations.
- 18-05-07 Unfair Labor Practice Records.
- 18-05-08 Official Time Records of Union Officials and Bargaining Unit Employees at the Department of Education.
- 18-05-09 Voluntary Leave Transfer Program.
- 18-05-10 General Performance Appraisal System (GPAS).
- 18-05-11 Training Registration and Information System (TRAINS).
- 18-05-12 Grievances Filed Informally through the Informal Dispute Resolution Center (IDR).
- 18-06-01 Federal Advisory Committee Membership Files.
- 18-06-02 Telephone Directory/Locator System.
- 18-06-03 Presidential Scholars Files of Selected Participants.
- 18-07-01 Congressional Members' Biographies.
- 18-07-02 Congressional Grant Notification Control System.
- 18-08-01 Case Information System.
- 18-08-02 Complaint Files and Log.
- 18-09-01 Administrative Claims.
- 18-09-02 OGC-Attorney Applicant Files.
- 18-09-03 Employee Conduct—Government Ethics.
- 18-09-04 Litigation Files, Administrative Complaints, and Adverse Personnel Actions.
- 18-10-01 Investigative Files of the Inspector General.
- 18-10-02 Investigatory Material Complied for Personnel Security and Suitability Purposes.
- 18-10-03 OIG Non-Federal Auditor Referral, Suspension, and Debarment File.
- 18-10-04 Hotline Complaint Files of the Inspector General.
- 18-11-01 Federal Student Aid Application File.
- 18-11-02 Recipient Financial Management System.
- 18-11-03 Student Financial Assistance Validation File.
- 18-11-04 Student Financial Assistance—Student Complaint Files.
- 18-11-05 Title IV Program Files.
- 18-11-06 National Student Loan Data System.
- 18-11-07 Student Financial Assistance Collection Files.
- 18-11-08 Student Account Management System. (Previously published in the **Federal Register** of June 1, 1999).
- 18-11-09 Postsecondary Education Participants System (PEPS).
- 18-12-01 Title IV Foreign Language and Area Studies Program.
- 18-12-02 Fulbright-Hays Doctoral Dissertation Research Abroad, Fulbright-Hays Faculty Research Abroad, and Fulbright-Hays Seminars Abroad.
- 18-12-03 Jacob K. Javits Fellows System.
- 18-12-04 Title VI International Research and Studies Program.
- 18-13-01 National Center for Education Statistics Longitudinal Studies and the School and Staffing Surveys.
- 18-13-02 National Center for Education Statistics Affidavits of Nondisclosure.
- 18-13-03 National Center for Education Statistics' National Assessment of Educational Progress.
- 18-13-04 Outcomes of Diversity in Higher Education Surveys.
- 18-14-01 Educationally Disadvantaged Students Attending Private Schools Served Through Bypass Contracts.
- 18-14-02 Fellowships for Indian Students—Applications and Awards.
- 18-15-01 Bilingual Education Graduate Fellowship Program.

New Systems of Records

Of the systems identified in the preceding list, the following systems of records have been identified as new:

- 18-02-01 Even Start Performance Information Reporting System and Experimental Design Study.
- 18-04-02 Freedom of Information Act and Privacy Act Tracking System.
- 18-05-09 Official Time Records of Union Officials and Bargaining Unit Employees at the Department of Education.
- 18-05-10 Voluntary Leave Transfer Program.
- 18-05-11 General Performance Appraisal System (GPAS).
- 18-05-12 Training Registration and Information System (TRAINS).
- 18-07-01 Congressional Members' Biographies.
- 18-07-01 Congressional Grant Notification Control System.
- 18-11-07 Student Account Manager.
- 18-11-08 Postsecondary Education Participants System (PEPS).
- 18-12-03 Title VI International Research and Studies Program.
- 18-13-04 Outcomes of Diversity in Higher Education Surveys.
- 18-15-01 Bilingual Education Graduate Fellowship Program.

The following systems of records are in the current compilation of systems of records and continue to be necessary for operation of Department programs or activities. However, technical issues delayed their inclusion in this publication. The Department will publish revised notices for these systems as soon as the technical issues can be resolved.

- 18-05-03 Federal Personnel Payroll System.
- 18-06-03 Presidential Scholars Files of Selected Participants.
- 18-11-04 Student Financial Assistance—Student Complaint Files.
- 18-11-06 National Student Loan Data System.

Dated: May 14, 1999.

Thomas P. Skelly,

Acting Chief Information Officer.

The Chief Information Officer of the U.S. Department of Education publishes notice of the following systems of records managed by the Department:

18-01-01

SYSTEM NAME:

Secretary's Communications Control System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of the Executive Secretariat, Office of the Secretary, U.S. Department of Education, 400 Maryland Avenue, SW., Room 7C114, Washington, DC 20202. See the Appendix at the end of this system notice for additional system locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records about individuals who have contacted the Secretary, Deputy Secretary, Senior Officers or other officials of the Department for whom the Department controls responses.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system includes the following types of records: (1) The official correspondence files of each principal office within the Department, and where applicable, a principal office's component office, specifically the hard copies of official documents and electronic images of certain incoming and outgoing documents; (2) control information from the Secretary's, Deputy Secretary's, Senior Officers' and other officials' correspondence that include a subject narrative, the name of the organization drafting the response and the type of action required from the Department; and (3) records of responses to some telephone inquiries where officials determine that a written response should be controlled.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

This system of records is maintained to account for the correspondence received by the Department, including correspondence regarding individual concerns and complaints regarding programs administered by the Secretary.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purpose for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Government and Privacy Organization Disclosure.* The Department may disclose records to governmental entities and private organizations as necessary to resolve complaints, provide guidance, respond to requests for documents and information, and address concerns regarding those entities and organizations.

(2) *Congressional Disclosure.* The Department may disclose records to a

member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(3) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) or (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department of Education, any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee; or

(iv) Any Department employee in his or her official capacity where the agency has agreed to represent the employee; or

(v) The United States where the

Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosure.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in litigation or an administrative proceeding in which the Department has an interest is relevant and necessary to the litigation or proceeding, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b) (12): The Department may disclose to a consumer reporting agency

information regarding a claim by the Department which is determined to be valid and overdue as follows: (1) The name, address, taxpayer identification number and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in subsection 31 U.S.C. 3711(e). A consumer reporting agency to which these disclosures may be made is defined at 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in hard copy filed in standard file cabinets; those stored electronically are located on computer disks and on backup media.

RETRIEVABILITY:

Files are indexed and retrievable by subject, name of the individual or by the document's control number that is assigned at the time the correspondence is logged into the Department.

SAFEGUARDS:

All physical access to the Department of Education sites are controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge. During working hours, direct access to the file cabinets is limited to authorized staff. During non-working hours, the rooms in which the file cabinets are located are locked and only those individuals with access to those rooms can access the hard copies of records.

The computer systems employed by the Department of Education offer a high degree of resistance to tampering and circumvention.

RETENTION AND DISPOSAL:

Hard copy records are transferred to the Washington National Records Center one year after cutoff then transferred to the National Archives and Records Administration 10 years after cutoff. Control records on computer are stored indefinitely. Electronic images are retained based on regular records disposal or retention policies identical to hard copies.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Secretariat, Office of the Secretary, 400 Maryland Avenue, SW.,

Room 7C114, Washington, DC 20202. See Appendix the end of this system notice for additional system managers.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in this system of records, contact the system manager at the address listed in the Appendix at the end of this system notice. You should indicate your name, the date of the subject documents and reasonable description of the subject matter of the issue involved. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

To gain access to records regarding you in this system of records, follow the Notification Procedure described above. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record regarding you in this system of records, contact the system manager at the address listed in the Appendix at the end of this system notice, and reasonably identify the record and specify the information to be contested. Your request must meet the requirements of the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Records are derived from documents addressed to or by the Secretary, the Deputy Secretary, Senior Officials or other officials of the Department.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix to 18-01-01

Additional System Locations and System Managers

Director, Correspondence & Communication Control Unit, Office of the Executive Secretariat, Office of the Secretary, U.S. Department of Education, 400 Maryland Avenue, SW., Room 7C114, Washington, DC 20202.

Management Analyst, Office of Chief Financial and Chief Information Office, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4E213, Washington, DC 20202.

Supervisor, Management and Program Analyst, Office for Civil Rights, U.S. Department of Education, 330 C Street, SW., Room 5026, Washington, DC 20202.

Staff Assistant, Office of the Deputy Secretary, U.S. Department of Education, 400 Maryland Avenue, SW., Room 7W210, Washington, DC 20202.

Program Management Analyst, Office of Educational Research and Improvement, U.S. Department of Education, 555 New Jersey Avenue, NE., Room 602, Washington, DC 20202.

Policy Coordinator Analyst, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3W337, Washington, DC 20202.

Operations Officer, Office of General Counsel, U.S. Department of Education, 400 Maryland Avenue, SW., Room 6E353, Washington, DC 20202.

Staff Assistant, Office of Intergovernmental and Interagency Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., Room 5E317, Washington, DC 20202.

Director, Congressional Affairs, Office of Legislation and Congressional Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., Room 7E301, Washington, DC 20202.

Director, Office of Management, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2W300, Washington, DC 20202.

Deputy Director, Office of Public Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., Room 7E231, Washington, DC 20202.

Management and Program Analyst, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4082, Washington, DC 20202.

Customer Service Specialist, Office of Special Education and Rehabilitative Services, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3113, Washington, DC 20202.

Executive Secretariat Liaison, Office of Vocational and Adult Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4090, Washington, DC 20202.

18-01-02

SYSTEM NAME:

Education Senior Management Biographies.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of the Secretary, Office of Public Affairs (OPA), U.S. Department of Education, 400 Maryland Avenue, SW., Room 7E200, Washington, DC 20202.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains information on Department of Education (Department) senior management officials, including the Secretary, Deputy Secretary, Under Secretary, General Counsel, and Assistant Secretaries.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a short biography and a standard portrait photograph, both of which the senior Department official may elect to provide. The biography includes the official's name, title, office, and a brief overview of the duties performed at the Department.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301

PURPOSES(S):

The information contained in this system is made available to the public and staff of the Department who have an interest in seeing the photographs or reading the background information on senior Department officials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *General Interest Disclosure.* The records in this system may be released to the public who have an interest in the background or photographs or both of Department senior officials.

(2) *Media Disclosure.* The Department may disclose records in this system for use by the news media and education organizations when preparing articles, interviews or presentations at meetings with senior Department officials.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable to this system notice.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

The biographies and photographs are available in electronic format on the Department's Internet website (<http://www.ed.gov>). Hard copies of the biographies and photographs are kept in file cabinets in OPA and in the individual offices of the respective Department senior officials.

RETRIEVABILITY:

The biographies and photographs are indexed by the officials' last names in alphabetical order. The general public is

encouraged to access this information via the Department's website (<http://www.ed.gov>). Hard copies are retrieved by the last name of the senior Department official.

SAFEGUARDS:

No safeguards are in place since the Department senior management officials agree to the release of this information to the general public.

RETENTION AND DISPOSAL:

Paper copies of biographical information of senior level officials are transferred to the National Archives and Records Administration for permanent preservation at the end of each calendar year. Electronic copies of biographical information are periodically updated as circumstances warrant due to promotions, reassignments, resignations and death.

SYSTEM MANAGER AND ADDRESS:

Deputy Director, Office of Public Affairs (OPA), U.S. Department of Education, 400 Maryland Avenue, SW., 7E200, Washington, DC 20202.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in this system of records, provide the system manager with your name, title and office at the time your biographical information was submitted. Requests for notification about an individual must meet the requirements of the regulations at 34 CFR 5b.5.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record in this system, contact the system manager and provide the information described above in the Notification Procedure.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record, contact the system manager. Any requests to amend a record must meet the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from the Offices of the Secretary, the Deputy Secretary, the Under Secretary, the General Counsel and the Assistant Secretaries.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18-02-01

SYSTEM NAME:

Even Start Performance Information Reporting System and Experimental Design Study.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION(S):

Division of the Planning and Evaluation Service, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 6W231, Washington, DC 20202.

Fu Associates, Ltd., 2300 Clarendon Boulevard, Suite 1400, Arlington, VA 22201.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on the families and individuals (parents and children) who are participants in the study.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of the names and addresses of the program participants as well as their responses to interview questions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

20 U.S.C. 6369.

PURPOSE(S):

The information in this system is used for the following purposes: (1) To fulfill the requirement in the Even Start legislation for evaluation of the effectiveness of the Even Start program; (2) To respond to the requirements of the Government Performance and Results Act (GPRA) to report out annually on indicators of program performance; (3) To meet the evaluation requirements of the Education Department's General Administrative Regulations (EDGAR) which stipulate that all grantees conduct annual evaluations; (4) To provide performance data useful to local, State, and Federal administrators, legislators, and policy-makers for program improvement and policy development; (5) To improve on performance indicators that can be used to review the program's implementation and impact; (6) To add to the knowledge base on the effects of family literacy programs by investigating the relationships between program processes and outcomes; (7) To provide evaluation data that can serve as a base on which additional evaluation studies that might be funded separately could build; and (8) To provide an analysis of changes over time in areas such as the types of families served by Even Start, the nature of Even Start projects, and the estimated gains made by adults and children while in the program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

- (i) The Department of Education, or any component of the Department; or
- (ii) Any Department employee in his or her official capacity; or
- (iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the

Department may disclose those records as a routine use to the party, counsel, representative or witness.

(2) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(3) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(4) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(5) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of

records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(6) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(7) *Employee Grievance, Complaint or Conduct Disclosure.* The Department may disclose a record in this system of records to another agency of the Federal Government if the record is relevant to one of the following proceedings regarding a present or former employee of the Department: complaint, grievance, discipline or competence determination proceedings. The disclosure may only be made during the course of the proceeding.

(8) *Labor Organization Disclosure.* A component of the Department may disclose records to a labor organization if a contract between the component and a labor organization recognized under Title V of the United States Code, Chapter 71, provides that the Department will disclose personal records relevant to the organization's mission. The disclosures will be made only as authorized by law.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable to this system notice.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The Department maintained records on CD-ROM and the contractor maintains data for this system on computers and in hard copy.

RETRIEVABILITY:

Records in this system are indexed by a number assigned to each individual which is cross referenced by the individual's name on a separate list.

SAFEGUARDS:

All physical access to the Department of Education site, and the sites of Department contractors where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge. The computer system employed by the Department

offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department and contract staff on a "need-to-know" basis, and controls individual users' ability to access and alter records within the system. All users of this system of records are given a unique user ID with personal identifiers. All interactions by individual users with the system are recorded.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with the Department of Education's Records Disposition Schedules (ED/RDS).

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of the Planning and Evaluation Service, Office of the Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 6W231, Washington, DC 20202.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, contact the system manager. Your request must meet the requirements of regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record regarding you in the system of records, contact the system manager. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record regarding you in the system of records, contact the system manager. Your request must meet the requirements of the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Responses from program participants.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18-03-01

SYSTEM NAME:

Debarment and Suspension Proceedings under Executive Order (E.O.) 12549, the Drug-Free Workplace Act, and the Federal Acquisition Regulation.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

For records regarding actions under E.O. 12549 against individuals who are involved in nonprocurement transactions related to Department of Education programs, actions under the Drug-Free Workplace Act, and actions under the FAR 9.4: Contracts & Purchasing Office, Office of the Chief Financial Officer, U.S. Department of Education, Seventh and D Streets, SW., Room 3600, ROB-3, Washington, DC 20202-4249.

For records regarding actions under E.O. 12549 against an individual certified public accountant or principals of a CPA firm: Planning, Analysis, and Management Services, Office of Inspector General, U.S. Department of Education, 330 C Street, SW., Room 4022, Switzer Building, Washington, DC 20202-1510.

For records regarding actions under E.O. 12549 against principals of institutions of higher education, principals of lenders, or principals of guarantee agencies: Administrative Actions and Appeals Division, Institutional Participation and Oversight Service, Office of Student Financial Assistance Programs, U.S. Department of Education, Seventh & D Streets, SW., Room 3082, ROB-3, Washington, DC 20202-5267.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Principals undergoing debarment or suspension proceedings and principals that have been debarred or suspended. Principals are officers, directors, owners, partners, key employees, or other persons who have a critical influence on or substantive control over a covered transaction, whether or not employed by a participant. A participant is any person who submits a proposal for, enters into, or reasonably may be expected to enter into a covered transaction. A covered transaction is described in the Department's regulations at 34 CFR 85.110(a)(1). Individuals receiving grants subject to requirements under the Drug-Free Workplace Act. Individual contractors undergoing debarment or suspension proceedings and contractors that have been debarred or suspended. Contractors covered by this system of records are individuals that directly or indirectly submit offers for or are awarded, or may reasonably be expected to submit offers for or be awarded, a government contract, or who conduct business, or may reasonably be expected to conduct business with the Department as an agent or representative of another contractor.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains documents including written referrals, communications between the Department and the respondent, intra-agency and inter-agency communications regarding proposed or completed debarments or suspensions, and a record of any findings from debarment or suspension proceedings against individuals under E.O. 12549, the Drug-Free Workplace Act, and the FAR 9.4.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 12549, Debarment and Suspension; secs. 5151-5160 of the Drug-Free Workplace Act; and the Federal Acquisition Regulation, 48 CFR part 9, subpart 9.4, Debarment, Suspension, and Ineligibility; Pub. L. 103-355, sec. 2455.

PURPOSE(S):

Information contained in this system of records is used to protect the Federal Government from the actions prohibited under the Department of Education (Department) debarment and suspension regulations, Drug-Free Workplace regulations, and the FAR; make decisions regarding debarments and suspensions; and ensure that other Federal agencies give effect to debarment or suspension decisions rendered by the Department.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Litigation Disclosure*. In the event that one of the parties listed below is involved in litigation, or has an interest in litigation, the Department may disclose certain records to the parties described in paragraphs (2), (3), and (4) of this routine use under the conditions specified in those paragraphs:

- (i) The Department of Education, or any component of the Department; or
- (ii) Any Department employee in his or her official capacity; or
- (iii) Any employee of Department in his or her individual capacity where the Department of Justice has agreed to provide or arrange for representation for the employee; or

(iv) Any employee of Department in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where Department determines that the litigation is likely to affect the Department or any of its components.

(2) *Disclosure to the Department of Justice.* If the Department determines that disclosure of certain records to the Department of Justice or attorneys engaged by the Department of Justice is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the Department of Justice.

(3) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, individual or entity designated by the Department or otherwise empowered to resolve disputes is relevant and necessary to the administrative litigation and is compatible with the purposes for which the records were collected, the Department may disclose those records as a routine use to the adjudicative body, individual or entity.

(4) *Opposing counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to an opposing counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the counsel, representative or witness.

(5) *Disclosure to the General Services Administration.* The Department makes information contained in this system of records available to the General Services Administration for inclusion in the Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs.

(6) *Disclosure to the Public.* The Department provides information to persons inquiring about individuals who have been debarred or suspended by the Department as necessary to enforce debarment and suspension actions.

(7) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the relevant records in the system of records may be referred, as a routine use, to the

appropriate agency, whether foreign, Federal, State, tribal, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or executive order or rule, regulation, or order issued pursuant thereto.

(8) *FOIA Advice Disclosure.* In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice.

(9) *Contract disclosure.* If the Department contracts with an entity for the purpose of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records as a routine use to those employees. Before entering such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(10) *Research Disclosure.* Where the appropriate official of the Department determines that an individual or organization is qualified to carry out specific research, that official may disclose information from this system of records to that researcher solely for the purpose of carrying out that research. The researcher shall be required to maintain Privacy Act safeguards with respect to such records.

(11) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are kept in file folders in locked file cabinets.

RETRIEVABILITY:

The records are indexed by the names of the individuals.

SAFEGUARDS:

All physical access to the site where this system of records is maintained is controlled and monitored by security personnel who check each individual entering the building for his or her employee badge. Files are kept in locked

file cabinets. Immediate access to these records is restricted to authorized staff.

RETENTION AND DISPOSAL:

Pending disposal, Debarment and Suspension records are retained at the system location. The Department will retain and dispose of the records in accordance with the Department of Education Records Disposition Schedules (ED/RDS).

SYSTEM MANAGER(S) AND ADDRESS:

Director, Grants Policy & Oversight Staff, Contracts & Purchasing Office, Office of the Chief Financial Officer, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3652, ROB-3, Washington, DC 20202-0498.

Assistant Inspector General for Planning, Analysis, and Management Services, Office of Inspector General, U.S. Department of Education, Maryland Avenue, SW., Room 4022, Mary E. Switzer Building, Washington, DC 20202-1510.

Director, Administrative Actions and Appeals Division, Institutional Participation and Oversight Service, Office of Student Financial Assistance Programs, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3082, ROB-3, Washington, DC 20202-5267.

NOTIFICATION PROCEDURE:

If an individual wishes to determine whether a record exists regarding him or her in this system of records, the individual must provide the system manager his or her name, date of birth and social security number. Requests for notification about an individual record must meet the requirements of the regulations at 34 CFR 5b.5.

RECORD ACCESS PROCEDURES:

If an individual wishes to gain access to a record in this system, he or she must contact the system manager and provide information as described in the notification procedure. Requests for access to an individual's record must meet the requirements of the regulations at 34 CFR 5b.5. Consistent with 5 U.S.C. 552a(e)(5), the Department retains the discretion not to disclose records to an individual during the course of a debarment or suspension proceeding against the individual.

CONTESTING RECORD PROCEDURES:

If an individual wishes to change the content of a record in the system of records, he or she must contact the system manager with the information described in the notification procedure, identify the specific item(s) to be changed, and provide a written justification for the change, including

any supporting documentation. Requests to amend a record must meet the requirements of the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Department employees involved in the management of grants and contracts, and other organizations or persons that may have relevant information regarding participants and their principals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18-03-02

SYSTEM NAME:

Education's Central Automated Processing System (EDCAPS).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION(S):

Recipient System (RS), Payment Management Service & Reporting Unit, Financial Payments & Cash Management Operations, Office of the Chief Financial Officer, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4W202, Washington, DC 20202.

Financial Management Software System (FMSS), General Ledger Systems Group, Financial Reporting and Systems Operations, Office of the Chief Financial Officer, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4W202, Washington, DC 20202.

Contracts and Purchasing Support System, Support Services Group, Contracts and Purchasing Operations, Office of the Chief Financial Officer, U.S. Department of Education, Seventh & D Streets, SW., Room 3616, ROB-3, Washington, DC 20202-4651. Contracts and Purchasing Support System (CPSS) National Finance Center, Department of Agriculture, New Orleans, Louisiana.

Grants Administration and Payments System (GAPS) Grants and Contract Management System (GCMS) and the Payment Management System (PMS). The grant application portion of GAPS will be managed by the Grants Policy & Oversight Staff, Office of the Chief Financial Officer, GSA Regional Office Building 3, Seventh & D Streets, SW, Room 3652, Washington, DC 20202-4651. The GAPS payment process will be managed by Payment Management Service & Reporting Unit, Financial Payments & Cash Management Operations, Office of the Chief Financial Officer, Washington, DC 20202.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals include employees of the Department, consultants, contractors, grantees, advisory committee members, and other individuals receiving funds from the department for performing services for the Department. Although EDCAPS contains information about institutions associated with individuals, the purpose for which the Department collects and maintains information under this system of records, and its usage of this information, pertains only to individuals protected under the Privacy Act of 1974 (5 U.S.C. 552a).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system contain the individual's name, address, Social Security number, eligibility codes, detailed and summary obligation data, reports of expenditures, and grant management data, including application and close out information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 301.

PURPOSE(S):

The purpose of EDCAPS is to maintain financial and management records associated with the normal operations of the Department. Records are used for managing grant and contract awards, making payments, accounting for goods and services provided and received, enforcing eligibility requirements, conditions in awards and U.S. law relating to transactions covered by the system, and defending the Department in actions relating to those transactions. EDCAPS consists of four subsystems, as follows:

RS (Recipient System)

RS serves as the recipient database for EDCAPS and the central repository of recipients having a relationship with the Department (e.g., receiving grantees.) It maintains core information about a recipient and tracks reference data to support information on recipients (e.g., countries, states, and congressional districts).

FMSS (Financial Management Software System)

The purpose of FMSS is to serve as the official general ledger for the Department. It also performs all funds control checks for all EDCAPS obligations, either by the GAPS or by a contractor of the Department. FMSS maintains detailed information about obligations paid to the contractor and maintains general ledger level balance information for obligations paid directly by the Department through GAPS.

GAPS (Grants Administration and Payment System)

The purpose of GAPS is to administer the grants award processing from planning through closeout including disbursing funds to grants recipients for certain Department programs. Summary payment data are returned to FMSS for processing. GAPS maintains a record of grant awards by the Department, including management information collected during the award process. Payment information is retrievable in GAPS by Taxpayer Identification Number (TIN). The TIN for an individual is the social security number. The name, mailing address and other characteristic data related to federal grants or institutional loans are also maintained.

CPSS (Contract and Purchasing Support System)

The purpose of CPSS is to administer the contracts award process from planning to closeout. CPSS shares information with FMSS. CPSS maintains a record of contact awards by the Department, including management information collected during the award process.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching agreement.

(a) *Litigation disclosure.*

(1) *Disclosure to the Department of Justice.* If the Department determines that disclosure of certain records to the Department of Justice is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the Department of Justice. Such a disclosure may be made in the event that one of the parties listed below is involved in the litigation, or has an interest in such litigation:

(i) The Department or any component of the Department; or

(ii) Any employee of the Department in his or her official capacity; or

(iii) Any employee of the Department in his or her individual capacity where the Department of Justice has agreed to represent the employee; or

(iv) Any employee of the Department in his or her individual capacity where the agency has agreed to represent the employer; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(2) *Other litigation disclosures.* If the Department determine that disclosure of certain records to a court, adjudicative body before which the Department is authorized to appear, individual or entity designated by the Department or otherwise empowered to resolve disputes, counsel or other representative, or potential witness is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the court, adjudicative body individual or entity, counsel or other representative, or witness. Such a disclosure may be made in the event that one of the parties listed below is involved in the litigation, or has an interest in the litigation;

(i) The Department or any component of the Department; or

(ii) Any employee of the Department in his or her official capacity; or

(iii) Any employee of the Department in his or her individual capacity where the Department has agreed to represent the employee; or

(iv) The United States where the Department determines that litigation is likely to affect the Department or any of its components.

(b) *FOIA advice of disclosure.* In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act or other authority permitting disclosure of records, disclosure may be made to the Department of Justice for the purpose of obtaining its advice.

(c) *Contract disclosure.* The Department may disclose information from this system of records as a routine use to the private firm or contractor with which the Department contemplates it will contract or with which it has contracted for the purpose of performing any functions or analyses that facilitate or are relevant to an investigation, audit, inspection, or other inquiry. Such contract or private firm shall be required to maintain Privacy Act safeguards with respect to such information.

(d) *Enforcement disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation or any

applicable statute, regulation, or order of a competent authority, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or executive order or rule, regulation, or order issued pursuant thereto.

(e) *Congressional member disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

DISCLOSURE TO A CONSUMER REPORTING AGENCY:

Disclosures pursuant to 5 U.S.C. 552(a)(b)(12): The Department may disclose to a consumer reporting agency information regarding a claim by the Department which is determined to be valid and overdue as follows: (1) The name, address, taxpayer identification number and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(e)(4) and the procedures contained in subsection 31 U.S.C. 3711(f). A consumer reporting agency to which these disclosures may be made is defined at 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEMS:

STORAGE:

Records are maintained on microfilm, microfiche, disk packs and magnetic tapes and stored in a retrievable file system.

RETRIEVABILITY:

Records are indexed by name, or other individual identifier, and TIN. The records are retrieved by a manual or computer search by indices.

SAFEGUARDS:

Direct access is restricted to authorized Department staff performing official duties. Authorized staff are assigned passwords which must be used for access to computerized data. Also, an additional password is necessary to gain access to the system. The system-access password is changed frequently.

The data is maintained in a secured-access area.

RETENTION AND DISPOSAL:

Files are regularly updated. Records are maintained for ten years. Inactive records are purged from the automated file every five years.

SYSTEM MANAGER(S) AND ADDRESS:

The Registry System is managed by the Payment Management Service & Reporting Unit, Financial Payments & Cash Management Operations, Office of the Chief Financial Officer, U.S. Department of Education, Washington, DC 20202.

The Financial Management Software System is managed by the General Ledger Systems Group, Financial Reporting and Systems Operations, Office of the Chief Financial Officer, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202.

The Contracts and Purchasing Support System is managed by the Support Services Group, Contracts and Purchasing Operations, Office of the Chief Financial Officer, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3616, ROB-3, Washington, DC 20202-4651.

The grant application portion of the Grants Administration and Payments System will be managed by the Grants Policy & Oversight Staff, Office of the Chief Financial Officer, U.S. Department of Education, Room 3652, ROB-3, Washington, DC 20202-4651. The GAPS payment process will be managed by Payment Management Service & Reporting Unit, Financial Payments & Cash Management Operations, Office of the Chief Financial Officer, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3332, Washington, DC 20202.

NOTIFICATION PROCEDURE:

If an individual wishes to determine whether a record pertaining to him or herself is the system of records, the individual should provide his or her name and Social Security number to the appropriate system manager. Such request must meet the requirements in the regulations at 34 CFR 5b.5.

RECORD ACCESS PROCEDURES:

If an individual wishes to gain access to a record in this system, he or she should contact the appropriate system manager and provide information as described in the notification procedure. Requests by an individual for access to a record must meet the requirements in the regulations at 34 CFR 5b.5.

CONTESTING RECORD PROCEDURES:

If an individual wishes to change the content of a record pertaining to himself or herself that is contained in the system or records, he or she should contact the appropriate system manager with the information described in the notification procedure, identify the specific items requested to be changed, and provide a justification for such change. A request to amend a record must meet the requirements in the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information in this system will be obtained from applicants applying for a Department contract, grant, or loan at the time of application. Information will also be obtained from Department program offices, employees, consultants, and others performing personnel services for the Department.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18-03-03

SYSTEM NAME:

Receivables Management System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATIONS:

Office of the Chief Financial Officer, Financial Improvement and Receivables Group, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202-4330.

Office of the Chief Information Officer, U.S. Department of Education, Seventh and D Streets, SW., Washington, DC 20202.

Nationwide Credit, Inc., Credit Claims and Collection, 2253 Northwest Parkway, Marietta, GA 30067.

Payco American Corporation, 180 N. Executive Drive, Brookfield, WI 53005-6011.

CSC Credit Services, Inc., 7909 Parkwood Circle, Suite 200, Houston, TX 77036-6565.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system include: Persons billed by the Department of Education (Department) for materials and services such as Freedom of Information Act requests and computer tapes of statistical data, persons ordered by a court of law to pay restitutions to the Department, individuals who received grants under the Bilingual Education Fellowship Program and who have not provided evidence to the Department of fulfilling

their work requirements as described in the Bilingual Education Fellowship Program Contract, individuals who have received funds through the Rehabilitation Services Administration (RSA) Scholarship program and who have not provided evidence of fulfilling their obligations under that program, current and former Department employees who received overpayments on travel allowances or who received salary overpayments and the overpayments have not been waived by the Department, individuals who were overpaid or inappropriately paid under grant programs administered by the Department other than Title IV of the Higher Education Act of 1965, as amended (HEA) and claims against individuals, including orders by a court or other authority to make restitution for the misuse of Federal funds in connection with any program administered by the Department.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents maintained in the system include: activity logs, copies of checks, contracts, court orders, letters of notice, promissory notes, telephone logs, and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Claims Collection Act of 1966; Debt Collection Act of 1982; and the Debt Collection Improvement Act of 1996.

PURPOSE(S):

The Receivables Management System is a database system that is kept for servicing general consumer debts owed to the Department and issuing reports of operations and the status of accounts to the U.S. Department of Treasury (Treasury) and the Office of Management and Budget. The receivables are generated from bills to individuals for materials and services from the Department, claims arising from court-ordered restitutions for any program administered by the Department, loans and overpayments to individuals under programs other than the student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended.

Records will be used by debt servicing staff to bill debtors to the Department and collect the debts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the

consent of the individual if the disclosure is compatible with the purposes for which the record was collected. Disclosures under the following routine uses may be made on a case-by-case basis or, in appropriate circumstances under computer matching agreements authorized under the Privacy Act of 1974 (5 U.S.C. 552a). Records may be disclosed for the following debt servicing program purposes:

(a) *Program purposes:* (1) To verify the identity and location of the debtor, disclosures may be made to credit agencies and Federal agencies. (2) To enforce the terms of a loan or where disclosure is required by Federal law, disclosure may be made to credit agencies, educational and financial institutions, and Federal, State, or local agencies.

(b) *Debt servicing.* Records under routine use may be disclosed to the United States Department of the Treasury and privately contracted collection companies for debt servicing.

(c) *Litigation disclosure.* (1) In the event that one of the parties listed below is involved in litigation, or has an interest in litigation, the Department may disclose certain records to the parties described in paragraphs (2), (3) and (4) of this routine use under the conditions specified in those paragraphs:

(i) The Department, or any component of the Department;

(ii) Any Department employee in his or her official capacity;

(iii) Any employee of the Department in his or her individual capacity where the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any employee of the Department in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(2) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the DOJ.

(3) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve disputes is relevant and necessary to the

administrative litigation and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the adjudicative body, individual or entity.

(4) *Opposing counsel, representatives and witnesses.* If the Department determines that disclosure of certain records to an opposing counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the counsel, representative or witness.

(5) *Enforcement disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting this violation or charged with enforcing or implementing the statute, or executive order or rule, regulation, or order issued pursuant thereto.

(6) *Contract disclosure.* If the Department contracts with an entity for the purpose of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records as a routine use to those employees. Before entering into a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(7) *Disclosure to the Office of Management and Budget (OMB) for Credit Reform Act (CRA) Support.* The Department may disclose individually identifiable information to OMB as necessary to fulfill CRA requirements.

(8) *Employee grievance, complaint or conduct disclosure.* Records may be disclosed if a record maintained in this system of records is relevant to present or former employee grievance, complaint, discipline or competence determination proceedings of another agency of the Federal Government. In this case, the Department may disclose the record as a routine use in the course of the proceedings if the disclosure is compatible with the purposes for this system of records.

(9) *Labor organization disclosure.* Records under this routine use may be

disclosed whenever a contract between a component of the Department and a labor organization recognized under Title V of the United States Code, Chapter 71, provides that the Department will disclose personal records relevant to the organization's mission. The disclosures will be made only as authorized by law.

(10) *Research disclosure.* Records under this routine use may be disclosed whenever an appropriate official of the Department determines that an individual or organization is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher is required to maintain Privacy Act safeguards with respect to these records.

(11) *Freedom of Information Act (FOIA) Advice Disclosure.* Records under this routine use may be disclosed to the DOJ and the OMB in the event that the Department deems it desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(12) *Disclosure to the Department of Justice.* Records may be disclosed under this routine use to the DOJ from this system of records as a routine use to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(13) *Congressional member disclosure.* The Department may disclose information from this system of records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The Members' right to the information is no greater than the right of the individual who requested it.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records under this system will be kept on paper files in metal file cabinets and in data files in computers. They are stored in desk top and mainframe computers with records backed up on magnetic media.

RETRIEVABILITY:

The data will be retrieved by name, loan or case number, or Social Security number.

SAFEGUARDS:

All physical access to the sites of the Department of Education and the contractors where this system of records is maintained, are controlled and monitored by security personnel who check each individual entering the building for an employee's or visitor's badge.

The computer system employed by the Department offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department of Education and contract staff on a "need-to-know" basis, and controls individual users' ability to access and alter records within the system. All users of this system are given a unique user ID. All interactions by individual users with the system are recorded.

At contractor sites, access to all automated data processing facilities are restricted by photo identification, sign-in and out logs, CYPHER locks, or ID card readers. Smoke and fire detection devices are installed and maintained operational on all facilities including tape and disk library areas. Physical security of the building involves restricted access as well as 24-hour security guard at the ground-floor entrance to the building. Access to building is obtained through the use of key entry doors. The system permits entry to an individual only with an access code.

RETENTION AND DISPOSAL:

Records are disposed of in accordance with the National Archives and Records Administration's General Records Schedule (GRS) 6, items 1a, 10b, and 10c; and GRS 7.

SYSTEM MANAGERS AND ADDRESS:

Director, Financial Improvement and Receivables Group, Office of the Chief Financial Officer, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3117, Washington, DC 20202-4330.

NOTIFICATION PROCEDURE:

If an individual wishes to determine whether a record exists regarding him or her in this system of records, the individual should provide the system manager his or her name, Social Security number, case or loan number, or other debt identifying number. Requests for notification about an individual must meet the requirements in the regulations at 34 CFR 5b.5.

RECORD ACCESS PROCEDURES:

If an individual wishes to gain access to a record in this system, he or she should contact the system manager and

provide information described in the notification procedure. Requests by an individual for access to a record must meet the requirements in the regulations at 34 CFR 5b.5.

CONTESTING RECORD PROCEDURES:

If an individual wishes to change the content of a record in the system of records, he or she should contact the system manager with the information described in the notification procedure, identify the specific item(s) to be changed, and provide a written justification for the change. Requests to amend a record must meet the requirements of the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information is obtained from Department program offices, debtors, court orders, and probation officers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

18-03-04

SYSTEM NAME:

Files and Lists of Potential and Current Consultants, Grant Application Reviewers Peer Reviewers, and Site Visitors.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

See the Appendix attached to this system notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been or may be used by the Department as consultants, field readers, grant application reviewers, peer reviewers or site visitors, to review and evaluate various program activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, telephone number, title, institutional or agency affiliation, resume, social security number or other individual identifier, compensation and/or reimbursement information (if any), and area(s) of individual expertise of each individual serving as a consultant, field reader, grant application reviewer or site visitor. Records of past performance of individuals covered by this notice. Disability (if special arrangement need to be made).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

20 U.S.C. 1221e-3(a)(1), (b), 1232, and 3474.

PURPOSE(S):

The Department uses the information in this system of records to determine qualification and fitness of individuals the Department may use to review and evaluate documents, programs, and projects of the Department of Education, its grantees and contractors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The Department may disclose personally identifiable information from this record system for the following purposes:

(1) *Congressional member disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(2) *Enforcement disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, The Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(3) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, The Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department of Education, or any component of the Department; or
 (ii) Any Department employee in his or her official capacity; or
 (iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;
 (iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or
 (v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If The Department determines that disclosure

of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(4) *Employment, benefit, and contracting disclosure.*

(5) *For decisions by the Department.* A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal or other relevant enforcement records or other pertinent records, such as current licenses, if necessary to obtain a record relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(6) *For decisions by other Federal agencies.* A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter.

(7) *Employee conduct disclosure.* If a record maintained by The Department is relevant to an employee discipline or competence determination proceeding of another agency of the Federal Government, The Department may disclose the record in the course of the proceeding.

(8) *Labor organization disclosure.* Where a contract between a component of the Department and a labor organization recognized under Chapter 71, U.S.C. Title V provides that the agency will disclose personal records relevant to the organization's mission, records in this system of records may be disclosed to such an organization.

(9) *FOIA advice disclosure.* In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice.

(10) *Contract disclosure.* When the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

(11) *Research disclosure.* The Department may, if the disclosure of a record is compatible with the purpose for which the record was collected, disclose a record from this system of records as a routine use to individuals and organizations deemed qualified by the Secretary to carry out specific research solely for the purpose of carrying out such research.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file cabinets or card files and (in limited locations) computer tapes and disks.

RETRIEVABILITY:

By name, title, area(s) of individual expertise, dates served, institutional or agency affiliation, or social security number of potential, current or past consultant, field reader, grant application reviewer, or site visitor.

SAFEGUARDS:

Direct access is restricted to persons designated by system managers to be responsible for maintenance of file(s) or decisions regarding selection of consultants, field readers, grant application reviewers, or site visitors. Automated locations are protected by requiring a password as well as ID users' code.

RETENTION AND DISPOSAL:

Records regarding an individual are destroyed 5 years after the last time the Department makes use of the individual's services.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Office, Office of Chief Financial and Chief Information Office, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4E213, Washington, DC 20202. See the Appendix to this system notice for additional system managers.

NOTIFICATION PROCEDURE:

Contact system manager of pertinent organizational component(s) and provide identification information required under 34 CFR 5b.5.

RECORD ACCESS PROCEDURES:

Same as notification procedure above.

RECORD SOURCE CATEGORIES:

Information provided voluntarily by individuals interested in serving as consultants, field readers, grant application reviewers, or site visitors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix to 18-03-04

Additional System Managers and System Locations

Supervisor, Management and Program Analyst, Office for Civil Rights, U.S. Department of Education, 330 C Street, SW., Room 5026, Washington, DC 20202.

Supervisor, Management and Program Analyst, Office for Civil Rights, U.S. Department of Education, 330 C Street, SW., Room 5026, Washington, DC 20202.

Policy Coordinator Analyst, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3W337, Washington, DC 20202.

Director, Office of Management, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2W300, Washington, DC 20202.

Management and Program Analyst, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4082, Washington, DC 20202.

Customer Service Specialist, Office of Special Education and Rehabilitative Services, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3113, Washington, DC 20202.

Executive Secretariat Liaison, Office of Vocational and Adult Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4090, Washington, DC 20202.

Director, International Education and Graduate Programs Service, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202-5247.

Director, Office of Indian Education, Office of Elementary and Secondary Education, 400 Maryland Avenue, SW., Room 4300, Portal Building, Washington, DC 20202-6335.

18-04-02

SYSTEM NAME:

Freedom of Information Act and Privacy Act Tracking System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Information Management Group, Office of the Chief Information Officer, U.S. Department of Education, Seventh and D Streets, Room 5624, ROB-3, Washington, DC 20202-4651. See the Appendix at the end of this notice for additional system locations at Headquarters and Regional Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on individuals who have submitted or were the subjects of requests made under the provisions of the Freedom of Information Act and under the Privacy Act of 1974.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of names, addresses, dates of request and responses, descriptions or identifications of records requested, amount of fees paid, if any; payment delinquencies, if any; final determinations of appeals or denials and summary of log. Copies of requested records are not maintained in the system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Freedom of Information Act (5 U.S.C. 552) and the Privacy Act of 1974 (5 U.S.C. 552a).

PURPOSE(S):

This system is used to document and track the status of requests made under both the Freedom of Information Act and the Privacy Act. This system is also used to generate the annual report to the Department of Justice (DOJ) as required by the Freedom of Information Act and the biennial report to the Office of Management and Budget (OMB) and Congress as required by the Privacy Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(2) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department of Education, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(3) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(4) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(5) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(6) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in machine-readable media.

RETRIEVABILITY:

Records are retrieved by the name of the individual, the date of the request, the control tracking number and the associated principal office.

SAFEGUARDS:

Access to the tracking system requires a user-ID and is strictly limited to authorized individuals.

RETENTION AND DISPOSAL:

Information in the system is erased after 2 years.

SYSTEM MANAGER(S) AND ADDRESS:

Freedom of Information Officer and Privacy Act Officer, Information Management Group, Office of the Chief Information Officer, 400 Maryland Avenue, SW., Room 5624, ROB-3, Washington, DC 20202-2651. See the Appendix at the end of this notice for a list of FOIA Coordinators.

NOTIFICATION PROCEDURE:

If you wish to inquire whether a record exists regarding you in this system, you should contact the appropriate system manager. Inquiries must provide your name, date of the request, name of organization, and subject matter. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5.

RECORD ACCESS PROCEDURES:

The Department systems of records that are exempt from certain Privacy Act requirements may be included in this system as part of a FOIA/PA case record. Such material retains its exemption if it is included in this system of records. The section of this notice titled, "Systems Exempted from Certain Provisions of the Act," explains the exemptions for this system. Individuals wishing to request access to their records should contact the system manager at the appropriate office or region where their original Privacy Act and/or Freedom of Information Act request was sent or from which they received responses to such requests. Individuals requesting access must comply with the Department's Privacy Act regulations regarding verification of identity and access to records 34 CFR 5b.5.

CONTESTING RECORD PROCEDURES:

The Department systems of records that are exempt from certain Privacy Act requirements may be included in this system as part of a FOIA/PA case record. Such material retains its exemption if it is included in this system of records. The section of this notice titled, "Systems Exempted from Certain Provisions of the Act," explains the exemptions for this system. Individuals wishing to request amendment to their records should contact the system manager at the appropriate office or region where their original Freedom of Information and/or

Privacy Act requests were sent or from which they received responses to such requests. Individuals must furnish the following information for their records to be located and identified:

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from the individual to whom the information applies, officials of the Department, official Department documents.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Department has claimed exemptions for several of its other systems of records under 5 U.S.C. 552a(k) (1), (2), (3), (4), (5), (6), and (7). During the course of a FOIA/PA action, exempt materials from those other systems may become part of the case records in this system. To the extent that copies of exempt records from those other systems are entered into these FOIA/PA case records, the office has claimed the same exemptions for the records as they have in the original primary systems of records of which they are a part.

Appendix to 18-04-02

FOIA Coordinators

- Office of the Secretary, U.S. Department of Education, 400 Maryland Avenue, SW., 400 Maryland Avenue, SW., Room 7C122, FOB-6, Washington, DC 20202.
- Office of the Chief Financial Officer, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4E223, Washington, DC 20202.
- Office of Educational Research and Improvement, 555 New Jersey Avenue, NW., Room 602E, Capitol Place, Washington, DC 20208.
- Office of Special Education and Rehabilitative Services, U.S. Department of Education, 330 C Street, SW., Room 3613, Switzer Building, Washington, DC 20202.
- Office of Vocational and Adult Education, U.S. Department of Education, 330 C Street, SW., Room 4064, Switzer Building, Washington, DC 20202.
- Office of the General Counsel, U.S. Department of Education, 400 Maryland Avenue, SW., Room 6C142, FOB-6, Washington, DC 20202.
- Office of Management, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2W211, FOB-6, Washington, DC 20202.
- Office of Special Education and Rehabilitative Services, U.S. Department of Education, 330 C Street, SW., Room 3112, Switzer Building, Washington, DC 20202.
- Office of Inspector General, U.S. Department of Education, 330 C Street, SW., Room 4200, Switzer Building, Washington, DC 20202.

Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3W341, FOB-6, Washington, DC 20202.

Office of Public Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., Room 7E201, FOB-6, Washington, DC 20202.

Office of Student Financial Assistance Programs, U.S. Department of Education, Seventh and D Streets, SW., Room 4913, ROB-3, Washington, DC 20202.

Office for Civil Rights, U.S. Department of Education, 330 C Street, SW., Room 5424, Switzer Building, Washington, DC 20202.

Office of Bilingual Education and Minority Affairs, U.S. Department of Education, 330 C Street, SW., Room 5616, Switzer Building, Washington, DC 20202.

Office of Educational Research and Improvement, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4W332, FOB-6, Washington, DC 20202.

Regional FOIA Review Officers

Region I: Deputy Regional Director, OCR, John W. McCormack P.O. and Courthouse, Room 540, Post Office Square, Boston, MA 02105-4557.

Region II: Regional Director, OCR, 75 Park Place, 12th Floor, New York NY 10278-0043.

Region III: Assistant to the Secretary's Regional Representative, 3535 Market Street, Room 16350, Philadelphia 19104-3398.

Region IV: Regional Director, OCR, 61 Forsyth Street, SW, Suite 19T40, Atlanta, GA 30303.

Region V: Education Program Specialist, Division of Dissemination, OSFAP, 111 N. Canal Street, Suite 1094, Chicago, IL 60606.

Region VI: Education Program Specialist, 1200 Main Tower Building, #2260, Dallas, TX 75202-4309.

Region VII: Education Program Specialist, OSFAP, 10220 N. Executive Hills Blvd., 8th Floor, Kansas City, MO 64153-1367.

Region VIII: Public Information Specialist, Federal Office Building, 1244 Speer Blvd., Room 300, Denver, CO 80204-3582.

Region IX: Education Program Specialist, OSFAP, 50 United Nations Plaza, San Francisco, CA 94102

Region X: Education Program Specialist, OSFAP, Room 3362, Mail Code 10-9060, 915 2nd Avenue, Seattle, WA 98174-1099.

Metro Region: Program Specialist, Office for Civil Rights, U.S. Department of Education, 1100 Pennsylvania Avenue, NW, Washington, DC 20044.

18-04-02

SYSTEM NAME:

Freedom of Information Act and Privacy Act Tracking System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of the Chief Information Officer, Information Management Group, U.S. Department of Education, 400 Maryland Avenue, SW, Room 5624, ROB-3, Washington, DC 20202-4651. See the Appendix at the end of this system notice for additional system locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records and related correspondence on individuals who have submitted: Requests for information under the provisions of the Freedom of Information Act (5 U.S.C. 552), including requests for review of initial denials. Requests under the provisions of the Privacy Act (5 U.S.C. 552a) for records about themselves, including: Requests for notification of the existence of records about them. Requests for access to these records. Requests for amendment of these records. Requests for review of initial denials of such requests for notification, access, and amendment. Requests for an accounting of disclosure of records about them.

Note: Since these FOIA/PA case records contain inquiries and requests regarding any of the Department's other systems of records subject to the Privacy Act, information about individuals from any of these other systems may become part of this Freedom of Information Act and Privacy Act System.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains correspondence and other documents related to requests by individuals to the Department for: Information under the provisions of the Privacy Act (5 U.S.C. 552), including requests for review of initial denials of such requests. Information under the provisions of the Privacy Act (5 U.S.C. 552a) and requests for review of initial denials of such requests made under the Department's Privacy Act regulations, including requests for: Notification of the existence of records about them. Access to records about them. Amendment of records about them. Review of initial denials of such requests for notification, access, or amendment. Requests for an accounting of disclosure of records about them.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Includes the following with any revisions or amendments: The Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C. 552a), and the Department's Public Information Regulation (34 CFR part 5).

PURPOSE(S):

These records are maintained to process an individual's request made

under the provisions of the Freedom of Information and Privacy Acts. The records are also used by the Department to prepare its reports to OMB and Congress required by the Freedom of Information and Privacy Acts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information will be released for the purposes cited in Appendix B of the Department's Privacy Act regulations (34 CFR part 5b). Disclosure may be made to a Congressional office from the record of an individual in response to an Inquiry from the Congressional office made at the request of that individual. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to affect directly the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Department of Justice has agreed to represent such employee. The Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not Applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

These records are maintained on machine-readable media and/or as paper copies in file folders or binders.

RETRIEVABILITY:

For the most part, records are retrieved by the name of the individual on whom they are maintained, the year of the request, and the control tracking number. Records are available to FOIA staff involved in correspondence and investigative processes, including appeals officials and staff members of the OGC.

SAFEGUARDS:

Records are maintained in Conserva-File cabinets in the Office of the Department's FOIA Officer and the Privacy Act Officer, and in the offices of Department personnel whose duties require access. Access to the FOIAS System, and to the associated paper

records is strictly limited to these individuals.

RETENTION AND DISPOSAL:

These records will be disposed of 5 years after the date of final Department action on the case. Records are destroyed by shredding, burning magnetic erasure, or the equivalent.

SYSTEM MANAGER(S) AND ADDRESS:

Freedom of Information Officer and Privacy Act Officer, Room 5624, ROB-3, 400 Maryland Avenue, SW., Washington, DC 20202, are responsible for Departmental records, including both FOIAS and paper records. The appropriate Assistant Secretary, the General Counsel, the Office of the Inspector General, and the Secretary's Regional Representatives are the system managers for the Freedom of Information and Privacy Act records maintained in their offices.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, contact the system manager. Your request must meet the requirements of regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record regarding you in the system of records, contact the system manager. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record regarding you in the system of records, contact the system manager. Your request must meet the requirements of the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from
—The individual to whom the information applies. Officials of the Department. Official Department documents.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Department has claimed exemptions for several of its other systems of records under 5 U.S.C. 552a(k) (1), (2), (3), (4), (5), (6), and (7). During the course of a FOIA/PA action, exempt materials from those other systems may become a part of the case records in this system. To the extent that copies of exempt records from those other systems are entered into these FOIA/PA case records, the office has

claimed the same exemptions for the records as they have in the original primary systems of records of which they are a part.

Appendix to 18-04-02

Additional System Locations and System Managers

Region I: Deputy Regional Director, OCR, John W. McCormack PO and Courthouse, Room 540, Post Office Square, Boston, MA 02105-4557.

Region II: Regional Director, OCR, 75 Park Place, 12th Floor, New York NY 10278-0043.

Region III: Assistant to the Secretary's Regional Representative, 3535 Market Street, Room 16350, Philadelphia 19104-3398.

Region IV: Regional Director, OCR, 61 Forsyth Street, SW., Suite 19T40, Atlanta, GA 30303.

Region V: Education Program Specialist, Division of Dissemination, OSFAP, 111 N. Canal Street, Suite 1094, Chicago, IL 60606.

Region VI: Education Program Specialist, 1200 Main Tower Building, #2260, Dallas, TX 75202-4309.

Region VII: Education Program Specialist, OSFAP, 10220 N. Executive Hills Blvd., 8th Floor, Kansas City, MO 64153-1367.

Region VIII: Public Information Specialist, Federal Office Building, 1244 Speer Blvd., Room 300, Denver, CO 80204-3582.

Region IX: Education Program Specialist, OSFAP, 50 United Nations Plaza, San Francisco, CA 94102.

Region X: Education Program Specialist, OSFAP, Room 3362, Mail Code 10-9060, 915 2nd Avenue, Seattle, WA 98174-1099.

Metro Region: Program Specialist, Office for Civil Rights, U.S. Department of Education, 1100 Pennsylvania Avenue, NW, Washington, DC 20044.

18-05-01

SYSTEM NAME:

Departmental Parking Control Policy.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Director, Quality Workplace Group, Office of Management, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2E315, Washington, DC 20202.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Department employees and non-Department carpool members utilizing parking facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system includes the following information on all persons applying for a parking permit: Name, office room number, office phone number, agency,

home address, and automobile license number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:
63 Stat. 377;41 CFR 101-20.111.

PURPOSE(S):

The information contained in this system is used to: (1) Provide standards for apportionment and assignment of parking spaces on Department-managed and Department-controlled property and on property assigned to the Department by the General Services Administration or any other Agency, and (2) allocate and check parking spaces assigned to government vehicles, visitors, handicapped personnel, executive personnel, carpool and van pools and others.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(2) *Litigation and Alternative Dispute Resolution (ADR) Disclosure.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department of Education, or any component of the Department; or
(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(3) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(4) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in binders in file cabinets.

RETRIEVABILITY:

Records are filed alphabetically by location.

SAFEGUARDS:

All physical access to the Department of Education site where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge.

RETENTION AND DISPOSAL:

Superseded policy materials are maintained by the Director, Quality Workplace Group for historical purposes. Records at other Department locations are maintained until the Parking Control purpose has been met, and the records are then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Quality Work Group (QWG), Office of Management, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2E315, Washington, DC 20202.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in this system of records, provide the system manager with your name, social security number, agency and office and the location where Department parking is provided. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

Same as Notification Procedure. Requesters should also reasonably specify the record contents sought. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

Contact the system manager at the address specified under notification procedure above, and reasonably identify the record and specify the information to be contested. Your request must meet the requirements of the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information in this system are obtained from reports submitted by Department Staff, Principal Offices and Regional Offices, GSA-Federal Management circulars and Federal Property Management Regulations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18-05-02

SYSTEM NAME:

Family Educational Rights and Privacy Act (FERPA) and the Protection of Pupil Rights Amendment (PPRA) Record Systems.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Family Policy Compliance Office, Office of Management, U.S. Department of Education, Room 2W100, Washington, DC 20202-4506.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have made inquiries or who have filed complaints alleging violations of provisions in FERPA and PPRA; and those who have commented to the Department on its proposed rules and practices.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of correspondence alleging violations of FERPA and PPRA as well as comments submitted to the Department on its proposed rules and practices.

AUTHORITY OF MAINTENANCE OF SYSTEM:

Family Educational Rights and Privacy Act (20 U.S.C. 1232g) and Protection of Pupil Rights Amendment (20 U.S.C. 1232h).

PURPOSE(S):

Information contained in this system is used to resolve disputes regarding violations of FERPA and PPRA.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Member of Congress Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested.

(2) *Educational Agency or Institution.* The Department may disclose records from this system of records to an educational agency or institution against which a complaint has been made.

(3) *State Educational Agency.* The Department may disclose records to a State educational agency relative to an educational agency or institution in that State against which a complaint has been filed.

(4) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(5) *Disclosure to the Department of Justice (DOJ).* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to FERPA or PPRA investigations or other enforcement responsibilities under FERPA or PPRA;

(6) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(7) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(8) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(9) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

- (i) The Department of Education, or any component of the Department; or
- (ii) Any Department employee in his or her official capacity; or
- (iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;
- (iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or
- (v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in hard-copy form filed in standard lockable file cabinets, or on electronic files in which case document disks are kept in lockable file cabinets.

RETRIEVABILITY:

Records are indexed under the names of institutions against which individuals are alleging violations of FERPA.

SAFEGUARDS:

Direct access is restricted to FPCO staff; main files are left in locked file cabinets when not in use.

RETENTION AND DISPOSAL:

Inquiry records are maintained a minimum of three years; complaint and investigative records are maintained a minimum of five years after the case is closed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2W100, Washington, DC 20202-4056.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, contact the system manager. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record regarding you in the system of records, contact the system manager. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record regarding you in the system of records, contact the system manager. Your request must meet the requirements of the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

The information in this system is obtained from incoming correspondence, responses and material obtained during the course of any investigation.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18-05-04

SYSTEM NAME:

Discrimination Complaints Records System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Equal Employment Opportunity Group, Office of Management, U.S. Department of Education, 400 Maryland

Avenue SW, Room 2W228, Washington, DC 20202-4550.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on individuals—employees as well as applicants for employment—or groups of individuals who have filed Equal Employment Opportunity (EEO) complaints of discrimination on the basis of race, color, religion, sex (including sexual harassment or sexual orientation), national origin, age, disability, or reprisal for having engaged in a prior EEO activity.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records consists of records concerning the Department's formal complaints of discrimination processes, including counselor reports, the initial allegations and efforts at resolution, letters or notices to the individual or class agent, materials placed into the record to support or refute the decision or determination, statements to witnesses, investigative reports, instructions about action to be taken to comply with decisions, and related correspondence, opinions and recommendations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2000e; 29 U.S.C. 633a; Executive Order 11478; 29 CFR 1614.

PURPOSE(S):

The Equal Employment Opportunity Group uses the information contained in this system to adjudicate complaints or appeals, to provide a basis for a corrective action related to the discrimination situation and as a data source for management information for production of descriptive statistics and analytical studies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Disclosure to OMB, MSPB and EEOC.* The Department may disclose records to the Office of Personnel Management, Merit Systems Protection Board (including its Office of the Special Counsel), or the Equal

Employment Opportunity Commission for the purpose of carrying out their functions.

(2) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(3) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event of litigation where one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee; or

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to directly affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in file folders and binders inside a file room centrally situated within the EEOG office.

RETRIEVABILITY:

The records are indexed by formal complaint case numbers, and cross-referenced by a separate log identifying the names of the individuals or class agents on whom they are maintained.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require access. Physical security of the file room and entire office area involves lockable entry doors with off-the-master keys.

RETENTION AND DISPOSAL:

The complaint cases of discrimination may be retired to the Federal Records Center three years after their final disposition through the administrative (and judicial, as applicable) processes.

SYSTEM MANAGERS AND ADDRESS:

Director, Equal Employment Opportunity Group, Office of Management, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202-4550.

NOTIFICATION PROCEDURE:

If you wish to determine if a record exists regarding you in this system of records, contact the system manager at the address listed above. You should include your name, date of birth, Departmental principal office in which the situation arose, the approximate date, and the type of action taken. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to records regarding you in this system of records, follow the procedures described above under Notification Procedure. You should also reasonably specify the record contents being sought. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest information contained in this system of records, you

should contact the system manager at the address listed above. You should reasonably identify the record and specify the information to be contested. Your request should satisfy the requirements of the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from individuals to whom the record pertains, Department officials or other officials, statements from employees or other witnesses, official documents pertinent to the complaint and correspondence from specific organizations or persons.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18-05-05

SYSTEM NAME:

Grievances Filed Formally Under the Administrative Grievance Procedure.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Human Resources Group, Office of Management, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2E200, Washington, DC 20202. See the Appendix at the end of this system notice for additional locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on non-bargaining unit employees of the Department regardless of type of appointment, who individually or as a group, request personal relief in a matter of concern or dissatisfaction which is subject to the control of Department management. This includes former employees of the Department for whom a remedy can be provided as well as applicants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information or documents relating to the grievance and personal relief sought, materials used in consideration of the grievance, and correspondence related to disposition of the grievance, including but not limited to the formal grievance, fact finder's report, final decision, and all other related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302.

PURPOSE(S):

The information contained in this system is to consider and settle matters of dissatisfaction or concern of covered individuals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(2) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(3) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

- (i) The Department of Education, or any component of the Department; or
- (ii) Any Department employee in his or her official capacity; or
- (iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;
- (iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(4) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(5) *Employee Grievance, Complaint or Conduct Disclosure.* The Department may disclose a record in this system of records to another agency of the Federal Government if the record is relevant to

one of the following proceedings regarding a present or former employee of the Department: Complaint, grievance, discipline or competence determination proceedings. The disclosure may only be made during the course of the proceeding.

(6) *Labor Organization Disclosure.* A component of the Department may disclose records to a labor organization if a contract between the component and a labor organization recognized under Title V of the United States Code, Chapter 71, provides that the Department will disclose personal records relevant to the organization's mission. The disclosures will be made only as authorized by law.

(7) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(8) *Disclosure to the Department of Justice (DOJ).* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(9) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(10) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(11) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written

request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(12) *Disclosure to the Office of Management and Budget (OMB) for Credit Reform Act (CRA) Support.* The Department may disclose records to OMB as necessary to fulfill CRA requirements.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in hard copy stored in file folders, on computers and in handwritten logs for Human Resources. Summary data of records are also maintained in a computerized tracking system.

RETRIEVABILITY:

Records are indexed alphabetically by organization and year.

SAFEGUARDS:

Access to and use of these records are limited to those persons with a "need-to-know" and whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure. Computers are password protected for individuals with access. All data bases are designed with stringent security measures to control individual users' ability to access and alter records within the system.

RETENTION AND DISPOSAL:

Records are retained for three (3) years after the grievance case is closed, and are then destroyed, as set forth in the General Records Schedule 1, Civilian Personnel Records, Item 30(a).

SYSTEM MANAGER(S) AND ADDRESS:

Director, Labor Relations Group, Office of Management, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2W300, Washington, DC 20202. See the Appendix at the end of this system notice for additional system managers.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, contact the system manager. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to records regarding you in this system of records,

contact the system manager at the address listed above and follow the steps outlined in the Notification Procedure. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record in this system of records, contact the system manager at the address listed above. Your request must meet the requirements of the regulations at 34 CFR 5b.7, including proof of identity.

RECORD SOURCE CATEGORIES:

Information in this system of records is supplied from the following sources: Directly by the individual filing the grievance, from information supplied by the individual, by testimony of witnesses, employee representatives, Department employees or officials.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix to 18-05-05

Additional System Locations and System Managers

Director, Human Resources Group, Office of Management, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202.

Employee Relations Team, Office of Management, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2E233, Washington, DC 20202-4737.

U.S. Department of Education, Regional Personnel Office O'Neill Federal Building, 10 Causeway Street, Room 1095 Boston, MA 02222.

U.S. Department of Education, Regional Personnel Office 75 Park Place, 12th Floor, New York, NY 10007.

U.S. Department of Education, Regional Personnel Office 3535 Market Street, Room 16300, Philadelphia, PA 19104.

U.S. Department of Education, Regional Personnel Office 61 Forsyth Street, SW, Suite 18T55, Atlanta, GA 30303.

U.S. Department of Education, Regional Personnel Office 111 N. Canal Street, Room 1084, Chicago, IL 60606.

U.S. Department of Education, Regional Personnel Office 1999 Bryan Street, Suite 2710, Dallas, TX 75201-6817.

U.S. Department of Education, Regional Personnel Office 10220 North Executive Hills Boulevard, 9th Floor, Kansas City, MO 64153.

U.S. Department of Education, Regional Personnel Office 1244 Speer Boulevard, Room 353, Denver, CO 80204-3582.

U.S. Department of Education, Regional Personnel Office 50 United Nations Plaza, Room 207, San Francisco, CA 94102-4987.

U.S. Department of Education, Regional Personnel Office 915 Second Avenue, Room 3388, Seattle, WA 98174-1099.

18-05-06

SYSTEM NAME:

Grievance Records Filed under Procedures Established By Labor-Management Negotiations.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Labor Relations Group, Office of Management, U.S. Department of Education, 400 Maryland Ave., SW., Room 2C136, Washington, DC 20202-4754.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on present and past bargaining unit employees of the Department covered by the Collective Bargaining Agreement between the Department and American Federation of Government Employees Council 252.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records consists of a variety of records relating to an employee's grievance filed under procedures established by labor-management negotiations including employee's name, Social Security number, grade, job title, testimony of witnesses, material placed into the record to support the decision, the arbitrator's decision, the arbitrator's report, and a record of an appeal to the Federal Labor Relations Authority.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7101.

PURPOSE(S):

The information in this system is used to make determinations and to document a decision made on a grievance filed by an employee under the negotiated grievance procedures. Information from this system may be used by Department officials for preparing statistical summary or management reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the

Act, under a computer matching agreement.

(1) *Agency Disclosure.* The Department may disclose information from this system to the Office of Personnel Management, Merit Systems Protection Board (including its Office of Special Counsel), Equal Employment Opportunity Commission, and the Federal Labor Relations Authority (including the General Counsel of the Authority and the Federal Systems Impasses Panel) to facilitate their administrative or enforcement functions.

(2) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(3) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(4) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(5) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(6) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(7) *Disclosure to the Office of Management and Budget (OMB) for Credit Reform Act (CRA) Support.* The Department may disclose records to OMB as necessary to fulfill CRA requirements.

(8) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

- (i) The Department of Education, or any component of the Department; or
- (ii) Any Department employee in his or her official capacity; or
- (iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;
- (iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or
- (v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components;
- (vi) The arbitrator that the Department and AFGE Council 252 contracts to hear arbitration hearings as the result of invocation of arbitration under the collective bargaining agreement between them.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the

Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, The Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in hard copy and a list of individual names is maintained in electronic media.

RETRIEVABILITY:

Records are retrievable by file number which are cross-referenced by individual names.

SAFEGUARDS:

When not in use by authorized persons, these records are stored in metal file cabinets stored within the secured suite of the Labor Relations Group. Access to and use of these records are limited to personnel who have a need for the records in the performance of their duties.

RETENTION AND DISPOSAL:

Records are destroyed 5 years after final resolution of case.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Labor Relations Group, Office of Management, U.S. Department of Education, 400 Maryland Ave., SW., Room 2C136, Washington, DC 20202-4754.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, provide the system manager with your name, approximate date of grievance, and management

component and/or individual against whom the grievance was filed. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record in this system, contact the system manager at the above address. Your request must meet the requirements of the at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of records regarding you in this system, contact the system manager at the above address and reasonably identify the record and specify the information contested. Your request must meet the requirements of the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained directly from information supplied by the individual; testimony of witnesses, union officials, or by Department officials.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18-05-07

SYSTEM NAME:

Unfair Labor Practice Records.

SYSTEM CLASSIFICATION:

None.

SYSTEM LOCATION:

Labor Relations Group, Office of Management, U.S. Department of Education, 400 Maryland Ave., SW., Room 2C136, Washington, DC 20202-4754.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on present and past Department employees and union officials.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records consists of a variety of records relating to an unfair labor practice charge including the employee's name, Social Security number, grade, job title, employment history and a variety of work and personnel records associated with the charges and required under proceedings established by 5 U.S.C. 7101 and Department of Labor Regulations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7101.

PURPOSES:

The information in this system is used in the processing, investigation and litigation of unfair labor practice charges that may be filed by the AFGE Council 252, any of the AFGE Local offices located at Department Headquarters and each of 10 regional offices and by bargaining unit employees of the Department.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Agency Disclosure.* The Department may disclose information from this system to the Office of Personnel Management, Merit Systems Protection Board (including its Office of Special Counsel), Equal Employment Opportunity Commission, and the Federal Labor Relations Authority (including the General Counsel of the Authority and the Federal Systems Impasses Panel) to facilitate their administrative or enforcement functions.

(2) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(3) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

- (i) The Department of Education, or any component of the Department; or
- (ii) Any Department employee in his or her official capacity; or
- (iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components;

(vi) The arbitrator that the Department and AFGE Council 252 contracts to hear arbitration hearings as the result of invocation of arbitration under the collective bargaining agreement between them.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in hard copy and a list of individual names are kept on electronic media.

RETRIEVABILITY:

Records are retrievable by file number which are cross-referenced by individual names.

SAFEGUARDS:

When not in use by authorized persons, these records are stored in metal file cabinets stored within the secured suite of the Labor Relations Group. Access to and use of these records are limited to personnel who have a need for the records in the performance of official duties.

RETENTION AND DISPOSAL:

According to the Records Retention Schedule of the NARA, records are maintained for 5 years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Labor Relations Group, U.S. Department of Education, 400 Maryland Ave., SW., Room 2C136, Washington, DC 20202-4754.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, provide the system manager with your name, approximate date of record, the unfair labor practice charges as specified by the complainant, and management component against which the charge was filed. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record in this system, contact the system manager at the above address. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of records regarding you in this system, contact the system manager at the above address and reasonably identify the record and specify the information contested. Your request must meet the requirements of the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information in this system of records is:

- (1) Supplied directly by the individual; or
- (2) Derived from information supplied by the individual; or
- (3) Supplied by testimony of witnesses; or
- (4) Supplied by Department officials.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18-05-08

SYSTEM NAME:

Official Time Records of Union Officials and Bargaining Unit Employees at the Department of Education.

SYSTEM CLASSIFICATION:

None.

SYSTEM LOCATION:

Labor Relations Group, Office of Management, U.S. Department of

Education, 400 Maryland Avenue, SW., Washington, DC 20202-4754. See the Appendix at the end of this system notice for additional system locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on current and former Department professional and nonprofessional employees who are non-temporary, non-schedule C, non-supervisory and non-managerial employees and union officials who report use of official time as defined under the Federal Service Labor-Management Relations Statute, 5 U.S.C. 7101.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records consists of the individual employees' Department Flexible Schedule Certification Form and the electronic transcript of the number of hours attributable for each pay period into an active accounting of total hours used by each individual employee to be reported to authorized Executive Branch agencies and to the Congress as requested.

AUTHORITY FOR THE MAINTENANCE OF THE SYSTEM:

Federal Service Labor Management Relations Statute (FSLMRS), 5 U.S.C. 7101.

PURPOSES:

The information contained in this system is used to determine compliance with the collective bargaining agreement between the U.S. Department of Education and the American Federation of Government Employees' Council of Education Locals, No. 252 under the FSLMRS and to produce reports as may be required by the Congress.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Agency Disclosure.* The Department may disclose information from this system to the Office of Personnel Management, Merit Systems Protection Board (including its Office of Special Counsel), Equal Employment

Opportunity Commission, and the Federal Labor Relations Authority (including the General Counsel of the Authority and the Federal Systems Impasses Panel) to facilitate their administrative or enforcement functions.

(2) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(3) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

- (i) The Department of Education, or any component of the Department; or
- (ii) Any Department employee in his or her official capacity; or
- (iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;
- (iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components;

(vi) The arbitrator that the Department and AFGE Council 252 contracts to hear arbitration hearings as the result of invocation of arbitration under the collective bargaining agreement between them.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department

determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(4) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEMS:

STORAGE:

Records are maintained in hard copy and electronic media after transcription from hard copy.

RETRIEVABILITY:

Records are retrievable by name.

SAFEGUARDS:

Records are stored in electronic databases stored in secured rooms with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

According to the National Archives and Records Administration's General Records Schedules, records are maintained for 5 years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Labor Relations Group, Office of Management, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2C136, Washington, DC 20202-4754.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, provide the system manager with your name, approximate date of grievance, and management component or individual or both against whom the grievance was filed. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record in this system, contact the system manager at the above address. Your request must meet the requirements of

the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of records regarding you in this system, contact the system manager at the above address and reasonably identify the record and specify the information contested. Your request must meet the requirements of the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information in this system of records is:

- (1) Supplied directly by the individual, or
- (2) Supplied by union officials, or
- (3) Supplied by Department officials.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix to 18-05-08

Additional system Locations

Employee Relations Team, Office of Management, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2E233, Washington, DC 20202-4737.

Informal Dispute Resolution Center, Office of Hearings and Appeals, U.S. Department of Education, L'Enfant Plaza, Room 2100A, Washington, DC 20202.

Regional Personnel Office, U.S. Department of Education, O'Neill Federal Building, 10 Causeway Street, Room 1095, Boston, MA 02222.

Regional Personnel Office, U.S. Department of Education, 75 Park Place, 12th Floor, New York, NY 10007.

Regional Personnel Office, U.S. Department of Education, Wanamaker Building, 100 Penn Square East, Suite 503, Philadelphia, PA 10107.

Regional Personnel Office, U.S. Department of Education, 61 Forsyth Street, SW, Suite 8T55, Atlanta, GA 30303.

Regional Personnel Office, U.S. Department of Education, 111 N. Canal Street, Room 1084, Chicago, IL 60606.

Regional Personnel Office, U.S. Department of Education, 1999 Bryan Street, Suite 2710, Dallas, TX 75201-6817.

Regional Personnel Office, U.S. Department of Education, 10220 North Executive Hills Boulevard, 9th Floor, Kansas City, MO 64153.

Regional Personnel Office, U.S. Department of Education, 1244 Speer Boulevard, Room 353, Denver, CO 80204-3582.

Regional Personnel Office, U.S. Department of Education, 50 United Nations Plaza, Room 207, San Francisco, CA 94102-4987.

Regional Personnel Office, U.S. Department of Education, 915 Second Avenue, Room 3388, Seattle, WA 98174-1099.

18-05-09

SYSTEM NAME:

Voluntary Leave Transfer (VLT) Program.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Director, Office of Management, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2W300, Washington, DC 20202.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on Department of Education employees seeking voluntary donations of annual leave from other federal employees in order to cover leave shortfalls brought about by documented medical emergencies.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of written applications of employees seeking assistance from the program, medical statements certifying need, agency approvals or denials, leave donation records, leave transfer records, supervisor/timekeeper approvals, payroll notification records, leave program termination records, and other related documents. Most of these records contain individual Social Security numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 100-566; 5 CFR 630.913.1.

PURPOSE(S):

The information contained in this system is used for the purposes of determining program eligibility and for documenting voluntary transfers of leave to program recipients.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Program Disclosures.* The Department may disclose records to (1) the Office for Personnel Management in order to respond to requests for information or other official inquiries;

and (2) the staff of the Department of Interior responsible for preparation of payroll documents,

(2) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department of Education, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(3) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(4) *Disclosure for Use by Other Law Enforcement Agencies.* The Department

may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(5) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(6) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to the Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(7) *Labor Organization Disclosure.* A component of the Department may disclose records to a labor organization if a contract between the component and a labor organization recognized under Title V of the United States Code, Chapter 71, provides that the Department will disclose personal records relevant to the organization's mission. The disclosures will be made only as authorized by law.

(8) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(9) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

DISCLOSURE TO CONSUMER PROTECTION AGENCIES:

Not applicable to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders in a manual filing system.

RETRIEVABILITY:

Records are retrievable by name of program recipient.

SAFEGUARDS:

Access to and use of these records are limited to personnel whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records are retained for one year after the end of the year in which the file is closed and are then destroyed.

SYSTEM MANAGER AND ADDRESS:

Director, Office of Management, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2W300, Washington, DC 20202.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, provide the system manager with your name, approximate date of grievance, and management component and/or individual against whom the grievance was filed. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record in this system, contact the system

manager at the above address. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of records regarding you in this system, contact the system manager at the above address and reasonably identify the record and specify the information contested. Your request must meet the requirements of the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by the individual to whom it applies, is derived from information he or she supplied or is obtained from information supplied by others.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THIS ACT:

None.

18-05-10

SYSTEM NAME:

General Performance Appraisal System (GPAS).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Human Resources Group, Office of Management, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2E300, Washington, DC 20202-4737. See the Appendix at the end of this system notice for additional system locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The U.S. Department of Education (Department), General Performance Appraisal System (GPAS) contains the performance appraisal of all Department employees in General Schedule (GS), General Merit (GM), Administratively Determined (AD), and prevailing rate plans.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Department GPAS software holds two categories of data on employees participating in Department's performance appraisal process. These records include:

(1) Personnel data, such as name, social security number, organizational entity, supervisor, position title, series and grade; and

(2) Performance appraisal data: GPAS Employee Performance Agreement, evaluation standards, list of evaluators, scores and comments.

Hard copies of an employee's GPAS Employee Performance Agreement,

Rating of Record, and any required comments are maintained in an Employee Performance File (EPF). These files are located in cabinets in a locked secure room with Department employees' Official Personnel Folders.

Hard copies of the "Summary Evaluation and Comments Reports", are generated by the GPAS System/Group Administrator. These reports are treated with utmost confidentiality. They are provided to the employee's supervisor and shared with the employee, approving official and with other appropriate management employees on a "need-to-know" basis. The GPAS System/Group Administrator retains a hard copy of the Summary and Comments Reports for each employee for one year.

The GPAS System/Group Administrator maintains hard copies of the feedback and comments reports for one year.

Hard copies of the GPAS Employee Performance Agreement, Rating of Record, and any required comments are maintained in the employee's Employee Performance File for four years.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 43; Title 5, Code of Federal Regulations (CFR), part 430, Performance Management, subparts A and B.

PURPOSE(S):

The information in this system is used to generate feedback reports on employees which are taken into consideration when the employee's supervisor provides the summary rating incorporated in the "Rating of Record," which is the official rating document placed in an employee's Employee Performance File (EPF).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purpose for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Employment-Related Disclosures.* The Department may disclose records to Department supervisors and other management personnel on a "need-to-know" basis. The records may be used as a basis for, or in conjunction with,

Reduction-in-Force, performance-based actions, within-grade actions, adverse actions, decisions regarding retention of employees during probationary period, recognition, promotions, reassignments and other appropriate personnel actions. When the Official Personnel Folder (OPF) and EPF of a GPAS employee are sent to another agency or to the National Personnel Records Center, the Servicing Personnel Office shall include all Ratings of Record that are four years old or less, any required comments, and the associated GPAS Employee Performance Agreements in the EPF.

(2) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecute responsibility within the receiving entity's jurisdiction.

(3) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(4) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department of Education, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the

litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(5) *Employment, Benefit, and Contracting Disclosure.*

(a) *Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(6) *Employee Grievance, Complaint or Conduct Disclosure.* The Department may disclose a record in this system of records to an arbitrator or another agency of the Federal Government if the record is relevant to one of the following proceedings regarding a present or

former employee of the Department: complaint, grievance, discipline or competence determination proceedings. The disclosure may only be made during the course of the proceeding.

(7) *Labor Organization Disclosure.* A component of the Department may disclose records to a labor organization if a contract between the component and a labor organization recognized under Title V of the United States Code, Chapter 71, provides that the Department will disclose personal records relevant to the organization's mission. The disclosures will be made only as authorized by law.

(8) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(9) *Disclosure to the Department of Justice (DOJ).* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(10) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(11) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(12) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no

greater than the right of the individual who requested it.

(13) *Disclosure to the Office of Management and Budget (OMB) for Credit Reform Act (CRA) Support.* The Department may disclose records to OMB as necessary to fulfill CRA requirements.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Not applicable to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The Department GPAS electronic records reside on a single dedicated computer that is housed in a secure area. The GPAS System Administrator retains for one year a hard copy of each employee's "Summary Appraisal Report," "Summary Evaluation Report," and any Comments Reports. These are housed in locked file cabinets in the GPAS unit at the Department. Hard copies of Ratings of Records, GPAS Employee Performance Agreements and any related required comments are stored in an employee's EPF in a locked room.

RETRIEVABILITY:

The GPAS records may be retrieved by an employee's name or social security number.

SAFEGUARDS:

All physical records are maintained in locked file cabinets. Employees have access to the GPAS software at their workstations, controlled by passwords that the employees designate. If individuals walk into employees' work area while employees are using the GPAS software, the software includes a Hide key so that the evaluations will not be compromised. System and group administrators maintain the GPAS software. These individuals are the only individuals who have access to the entire database. They do not have employees' passwords, but have the ability to change the passwords upon request.

The database is protected by stringent security mechanisms that include a combination of hardware, operating system, application software, database software, and procedures. All physical access to the Department site, and the sites of Department contractors where this system of records are maintained, is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge.

RETENTION AND DISPOSAL:

An employee's records remain in the GPAS database until employment with the Department is terminated. Some data is housed temporarily in the GPAS database during each of the Department's annual and midpoint reviews or surveys during which new data is entered directly into the GPAS system by the employee and their evaluation team members and accumulates over the course of the review process. An employee's GPAS Employee Performance Agreement, which identifies their performance elements and standards, and the "Rating of Record," Department's official performance review document, are kept in the employee's EPF for four years. If the employee leaves the Department prior to the end of the 4 years, the GPAS records are forwarded to either the National Personnel Records Center or the agency to which the employee transferred.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Resources Group, Office of Management, U.S. Department of Education, 400 Maryland Avenue, SW., FB-6, Room 2E300, Washington, DC 20202-4737. See the Appendix at the end of this system notice for additional system managers.

NOTIFICATION PROCEDURE:

If an employee wishes to determine whether a record exists regarding them in the system of records, the employee should provide the system manager with his name (including all names used) and social security number. The request must meet the requirements of the regulations at Title 5, Code of Federal Regulations, part 34 § 5b.5, including proof of identity. The employee may present a request in person at any of the locations identified for this system of records or address it to the appropriate system manager.

RECORD ACCESS PROCEDURES:

If you wish to gain access to the records regarding you in this system of records, you should contact the system manager at the above address. Your request must meet the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record, you should contact the system manager at the above address. Your request must meet the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

The information in this system comes from the Department's integrated personnel/payroll system, the

employees, supervisors, and evaluation team members.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix to 18-05-10*Additional System Locations and System Managers*

Regional Personnel Officer, Human Resources Group, U.S. Department of Education, 61 Forsyth Street, SW., Suite 18T55, Atlanta, GA 30303.

Regional Personnel Officer, Human Resources Group, U.S. Department of Education, 111 N. Canal Street, Room 1084, Chicago, IL 60606.

Regional Personnel Officer, Human Resources Group, U.S. Department of Education, 50 United Nations Plaza, Room 207, San Francisco, CA 94102-4987.

18-05-11**SYSTEM NAME:**

Training Registration and Information System (TRAINS).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Training and Development Center, Office of Management, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2W210, Washington, DC 20202. See Appendix at the end of this system notice for additional system locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

TRAINS contains records of employees who register to attend training classes within the Department or who request training with an outside vendor for which approval and payment is required.

CATEGORIES OF RECORDS IN THE SYSTEM:

TRAINS consists of records relating to an employee's applications for, and participation in, Department training classes (internal training) and training courses, conferences, or other training-related activities offered by vendors or government agencies outside the Department (external training). In addition to the employee's name, the system contains the employee's Social Security Account Number, position level, pay plan, grade, series, organization in which employed, building/room/telephone number, service completion date, supervisor's name, training requests, record of whether the employee attended or did not attend the internal class, and record of approval by principal office and cost of the external training, conference or

training-related activity. For internal training use, TRAINS has tables of course names and categories required to set up internal training classes and report the statistics on training offerings (numbers of attendees for specific courses during specific date parameters, for example). TRAINS also contains tables of users' identification information, building addresses, room locations, and vendor names and addresses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4103 (1994).

PURPOSE(S):

TRAINS is used for the following purposes: (1) To track course enrollments; (2) provide course rosters; (3) to produce attendance records for employees who attend internal training classes; (4) to produce reports on individual employees' training activities; (5) to produce reports on training activities conducted by individual organizations within the Department; and (6) by employees to request approval to attend training activities conducted outside the Department.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this notice without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(2) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency,

whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(3) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

- (i) The Department of Education, or any component of the Department; or
- (ii) Any Department employee in his or her official capacity; or
- (iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;
- (iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(4) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent

records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(5) *Employee Grievance, Complaint or Conduct Disclosure.* The Department may disclose a record in this system of records to another agency of the Federal Government if the record is relevant to one of the following proceedings regarding a present or former employee of the Department: complaint, grievance, discipline or competence determination proceedings. The disclosure may only be made during the course of the proceeding.

(6) *Labor Organization Disclosure.* A component of the Department may disclose records to a labor organization if a contract between the component and a labor organization recognized under Title V of the United States Code, Chapter 71, provides that the Department will disclose personal records relevant to the organization's mission. The disclosures will be made only as authorized by law.

(7) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(8) *Disclosure to the Department of Justice (DOJ).* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(9) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the

contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(10) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(11) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(12) *Disclosure to the Office of Management and Budget (OMB) for Credit Reform Act (CRA) Support.* The Department may disclose records to OMB as necessary to fulfill CRA requirements.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained on a networked computer server with backup procedures standard to all Department servers. Individual offices may maintain a hard copy of the training requests. Since entries are made and stored electronically, any hard copy records are kept following the procedures and/or requirements of the individual principal office. The Training and Development Center maintains hard copies of data such as signed class rosters only until the TRAINS database is updated.

RETRIEVABILITY:

The system is indexed by Social Security number. The Training and Development Center staff, designated

employees, and contractors who support the staff can access data in the system by employee name. Data for reports are retrievable by information from tables such as organization code and identifying codes for course names.

SAFEGUARDS:

All physical access to the Department of Education site, and the sites of Department contractors where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge. The computer system employed by the Department of Education offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department of Education and contract staff on a "need-to-know" basis, and controls individual users' ability to access and alter records within the system. All users of this system of records are given a unique user ID with personal identifiers. At a program/server level all interactions by individual users with the system are recorded. Utilities within the program can identify users' last logon and record changes made in registrations. There are four categories of individuals who have some access to this system: training coordinators, executive officers, TDC staff and designated employees and contractors who support TDC activities and system administrators.

RETENTION AND DISPOSAL:

Records of individuals are in the system indefinitely. Employees whose names are no longer in the personnel database are marked for archiving within the system. A utility is available to reactivate the records of an employee who returns to the Department.

SYSTEM MANAGER(S) AND ADDRESS:

Training and Development Group Director, Training and Development Center, Office of Management, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2W210, Washington, DC 20202-4614.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, contact the training coordinator for your principal office and provide the training coordinator with your name and social security number. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity. You may also present your request in person at any of the locations identified for this system of records which include

your specific organization or address your request to the system manager at the address listed above.

RECORD ACCESS PROCEDURES:

You may request a copy of your student transcript from TRAINS through the training coordinator for that organization. Managers may request reports that may include the names of employees in that organization from the training coordinator or principal office for that organization. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the information in this system pertaining to you, you should contact the system manager at the above address. You will need to provide specific information concerning any errors or omissions. It should be noted that not all employee training is entered into TRAINS and therefore cannot be tracked on the student transcript. Questions about external training for which there is no record must be addressed to the appropriate principal office.

RECORD SOURCE CATEGORIES:

The employee database is a subset of information from the Department's employee payroll database. This provides the employee Social Security number, name, grade, job series, and service completion date. Locator information (building/room/phone number) is updated manually from employee-provided information. Supervisor's name is updated manually from employee-provided information. All information regarding external training requests are provided by the employee requesting the training.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix to 18-05-11

Additional System Locations

Capital Place, 555 New Jersey Avenue, NW., Washington, DC 20208.

Mary E. Switzer Building, 330 C Street, SW., Washington, DC 20202.

L'Enfant Plaza, 2100 Corridor, Washington, DC 20202.

ROB-3, 7th and D Streets, SW., Washington, DC 20202.

Portals Building, 1250 Maryland Avenue, SW., Washington, DC 20202.

Region I, McCormack Post Office & Courthouse, Boston, MA 02109.

Region II, 75 Park Place, New York, NY 10007.

Region III, The Wanamaker Building, 100 Penn Square East, Room 502, Philadelphia, PA 19107.

Region IV, 61 Forsyth Street, SW, Atlanta, GA 30303.

Region V, 111 North Canal Street, Chicago, IL 60606.

Region VI, 1999 Bryan Street, Dallas, TX 75201.

Region VII, 10220 North Executive Hills Blvd., Kansas City, MO 64153.

Region VII, 7505 Tiffany Springs Parkway, Kansas City, MO 64153.

Region VIII, 1244 Speer Boulevard, Denver, CO 80204.

Region VIII, 1391 N. Speer Boulevard, Denver, CO 80204.

Region IX, 50 United Nations Plaza, San Francisco, CA 94102.

Region X, 915 Second Avenue, Seattle, WA 98174.

Region X, 1000 Second Avenue, Seattle, WA 98174.

18-05-12

SYSTEM NAME:

Grievances Filed Informally Through the Informal Dispute Resolution Center (IDR Center).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Informal Dispute Resolution Center, Office of Hearings and Appeals, Office of Management, U.S. Department of Education, L'Enfant Plaza, Room 2100 A, Washington, DC 20202.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on non-bargaining unit employees of the Department regardless of type of appointment, who individually or as a group, request personal relief in a matter of concern or dissatisfaction which is subject to the control of Department management. This includes former employees of the Department for whom a remedy can be provided, as well as applicants.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of IDR Center files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302.

PURPOSE(S):

The information contained in this system is to consider and settle matters of dissatisfaction or concern of covered individuals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the

consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(2) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(3) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

- (i) The Department of Education, or any component of the Department; or
- (ii) Any Department employee in his or her official capacity; or
- (iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;
- (iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or
- (v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the

Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(4) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(5) *Employee Grievance, Complaint or Conduct Disclosure.* The Department may disclose a record in this system of records to another agency of the Federal Government if the record is relevant to one of the following proceedings regarding a present or former employee of the Department: complaint, grievance, discipline or competence determination proceedings. The disclosure may only be made during the course of the proceeding.

(6) *Labor Organization Disclosure.* A component of the Department may disclose records to a labor organization if a contract between the component and a labor organization recognized under Title V of the United States Code, Chapter 71, provides that the Department will disclose personal records relevant to the organization's mission. The disclosures will be made only as authorized by law.

(7) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(8) *Disclosure to the Department of Justice (DOJ).* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(9) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(10) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(11) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(12) *Disclosure to the Office of Management and Budget (OMB) for Credit Reform Act (CRA) Support.* The

Department may disclose records to OMB as necessary to fulfill CRA requirements.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in hard copy. Summary data of records are also maintained in a computerized tracking system.

RETRIEVABILITY:

IDR Center records are indexed by docket number.

SAFEGUARDS:

Access to and use of these records are limited to those persons with a "need-to-know" and whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure. Computers are password protected for individuals with access. All data bases are designed with stringent security measures to control individual users' ability to access and alter records within the system.

RETENTION AND DISPOSAL:

The IDR Center records are retained for 4 years after resolution of the case, as set forth in the General Records Schedule 1, Civilian Personnel Records, Item 25(a), 30(a).

SYSTEM MANAGER(S) AND ADDRESS:

Director, Informal Dispute Resolution Center, U.S. Department of Education, 400 Maryland Avenue, SW., Suite 2100 A, L'Enfant Plaza, Washington, DC 20202.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, contact the system manager. Your request must meet the requirements of the Act regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to records regarding you in this system of records, contact the system manager at the address listed above and follow the steps outlined in the Notification Procedure. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record in this system of records,

contact the system manager at the address listed above. Your request must meet the requirements of the regulations at 34 CFR 5b.7, including proof of identity.

RECORD SOURCE CATEGORIES:

Information in this system of records is supplied from the following sources: Directly by the individual filing the grievance, from information supplied by the individual, by testimony of witnesses, employee representatives and/or Department employees/officials.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18-06-01

SYSTEM NAME:

Federal Advisory Committee Membership Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Committee Management, Office of Intergovernmental and Interagency Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., Room 5E330, Washington, DC 20202-3571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been or are presently members of or are being considered for membership on advisory committees or other committees within the jurisdiction of the Department of Education.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system consists of one or more of the following: Name, title, sex, place and date of birth, home address, business address, organizational affiliation, phone numbers, fax numbers, e-mail addresses, degrees held, general educational background, ethnic background, resume, curriculum vitae, dates of term on advisory committee, status on advisory committee, reason for leaving advisory committee, previous or current membership on other advisory committee, special qualifications of the individual for the advisory committee or other membership, source who recommended the individual for membership on advisory and miscellaneous correspondence. Additionally, memoranda justifying the individual's selection are included in the file in cases in which the individual has served repetitively on advisory committees, has not had a one-year break in service on advisory, or where various statutory or other requirements

for advisory committee membership cannot be met.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Advisory Committee Act, as amended, (U.S.C.A. Appendix 2).

PURPOSE(S):

The information in this system is used to evaluate and select individuals for membership on advisory committees or other committees within the jurisdiction of the Department.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Reporting Disclosures.* The Department may disclose a record to the President, the Office of Management and Budget, the General Services Administration or to the General Accounting Office in order to complete its reporting requirements under 41 CFR part 101-6.

(2) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department of Education, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant

and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(3) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The Member's right to the information is no greater than the right of the individual who requested it.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in hard-copy filed in file cabinets and/or index cards.

RETRIEVABILITY:

For the most part records are maintained in an alphabetical index by name of the committees. Records from the system are available to the staffs of the respective Advisory Committees and other Department staff on a "need-to-know" basis. Uses include special administrative reports; quarterly alphabetical listings of past, present and recommended members of Advisory Committees; and other administrative needs.

SAFEGUARDS:

Direct access to records is restricted to authorized personnel through locked files, rooms, and buildings, as well as building pass and security guard sign-in systems.

RETENTION AND DISPOSAL:

Retention is variable from one year to permanent retention depending upon the type of record, e.g., names of former members of advisory committees are retained permanently. Certain records

are disposed of by referral to the Federal Records Center. Others are disposed of as trash by the system manager or office of security depending upon the confidentiality of the information contained on the record.

SYSTEM MANAGER(S) AND ADDRESS:

Committee Management Officer, Office of Intergovernmental and Interagency Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., Room 5E330, Washington, DC 20202-3571.

NOTIFICATION PROCEDURE:

Same as above.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requestors should also reasonable specify the record contents, being sought. These access procedures are in accordance with Department Regulations (34 CFR 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (34 CFR 5b.7).

RECORD SOURCE CATEGORIES:

The vast majority of information contained in records on individuals is obtained directly from the individual. Other information in the form of references and recommendations is obtained from other private individuals, program personnel, biographical reference books, private organizations, former employees, regional office of the Department, Members of Congress, and other government sources.

Additionally the system of records contains information about members of the public who have requested that they receive various publications through the inclusion of their names and addresses on various mailing lists.

Information maintained on those individuals who have requested participation on mailing lists is limited to name and mailing address, information maintained on individuals who are past, present, or recommended

18-06-02

SYSTEM NAME:

Telephone Directory/Locator System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Information Resource Center, Intergovernmental and Interagency

Affairs, U.S. Department of Education, Room 5E233, 400 Maryland Avenue, SW., Washington, DC 20202-0498.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on current employees of the Department, vendors or other Federal employees located in Department operating offices and facility complexes.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records such as first and last names, titles, agency office addresses, program and principal office agency mailing addresses, telephone numbers, fax numbers, e-mail addresses, and standard administrative codes for departmental employees and other individuals with access rights to the Department's Intranet. Names, phone numbers, principal and program offices, office addresses (building name, address, room number, region), and e-mail addresses are available via the Department's website.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 40 U.S.C. 486(c).

PURPOSE(S):

Records are used to develop and maintain current employee locator and directory listings. The locator listings are used by the Department information centers, employees, mail rooms, and others specifically for the purpose of locating employees and for routing mail. The directory listings are used to produce departmental telephone directories on an as needed basis.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department of Education, or any component of the Department; or
 (ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(2) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose to a consumer reporting agency information regarding a claim by the Department which is determined to be valid and overdue as follows: (1) The name, address, taxpayer identification number and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which

the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in subsection 31 U.S.C. 3711(e). A consumer reporting agency to which these disclosures may be made is defined at 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:
 Records are stored on hard drives, computer printouts, and in hard copy.

RETRIEVABILITY:

Records are retrievable by first and last name, principal office name, telephone number, and a keyword search field.

SAFEGUARDS:

Only authorized personnel have access to master lists and the ability to make permanent changes.

RETENTION AND DISPOSAL:

Data is edited by each employee online in real time. Therefore data can change or be deleted each day. Once the employee leaves the Department, all data is deleted from the database as the database only houses the most current Departmental employee location data.

SYSTEM MANAGER(S) AND ADDRESS:

Locator Administrator(s), Information Resource Center, Intergovernmental and Interagency Affairs, U.S. Department of Education, Room 5E233, 400 Maryland Avenue, SW., Washington, DC 20202-0498.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record regarding you exists in this system, contact the system manager at the address provided above. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to records regarding you in this system, contact the system manager. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record regarding you, contact the system managers. Your request must meet the requirements of the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from individual employee, the

Information Resource Center and the Chief Information Office.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18-07-01

SYSTEM NAME:

Congressional Members' Biographies System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Legislative Affairs Office, Office of the Assistant Secretary for Legislation and Congressional Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., Room 7E301, Washington, DC 20202.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records about all members of Congress.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains biographical files on congressional members consisting of the Member's name, title, state and district he or she represents, date of appointment to Congress, date of birth, place of birth, educational background, previous employment including political offices, House or Senate committee assignments, political support scores, how he or she voted on key education legislation, brief personal background and education interests pertaining to the Department of Education, names of universities and colleges located in each House member's district, and a brief description of the district or state in which the Member of Congress represents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

20 U.S.C. 3412(e).

PURPOSE(S):

The information in this system is used by the Secretary of Education and any departmental staff who need background information of a Member of Congress while preparing for hearings and meetings.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purpose for which the record was

collected. The member's right to the information is no greater than the right of the individual who requested it.

(1) *Contact Disclosures*. The Department may disclose records contained in this system to individuals and entities (including educational institutions) that the Department contacts while formulating and enforcing education policies.

(2) *Freedom of Information Act (FOIA) Advice Disclosure*. The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in hard copy individual files stored in standard four-drawer file cabinets and also in electronic format on a hard drive accessible by staff of the Office for Legislation and Congressional Affairs.

RETRIEVABILITY:

Records are indexed alphabetically by last name.

SAFEGUARDS:

Files are maintained in the Office of Legislation and Congressional Affairs and requests are honored on a "need-to-know" basis only. All physical access to the Department of Education site, and the sites of Department contractors where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge.

The computer system employed by the Department of Education offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department of Education and contract staff on a "need-to-know" basis, and controls individual users' ability to access and alter records within the system. All users of this system of records are given a unique user ID with personal identifiers. All interactions by individual users with the system are recorded.

RETENTION AND DISPOSAL:

Records are constantly updated as circumstances warrant relative to the activities of Congress.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Legislation and Congressional Affairs, Legislative

Affairs Office, U.S. Department of Education, 400 Maryland Avenue, SW., Room 7E301, Washington, DC 20202.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, contact the system manager. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record regarding you in the system of records, contact the system manager. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record regarding you in the system of records, contact the system manager. Your request must meet the requirements of the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information is obtained from Congressional Quarterly, Inc., The Almanac of American Politics, Roll Call Newspapers, on-line biographies and press releases of Members of Congress, and the Office of Postsecondary Education at the U.S. Department of Education.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18-07-02

SYSTEM NAME:

Congressional Grant Notification Control System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Congressional Outreach, Office of Legislation and Congressional Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., Room 7E301, Washington, DC 20202.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The Congressional Grant Notification Control System contains records about members of Congress.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of direct inquiries and letters of support concerning discretionary grants from Members of Congress.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE:

The information in this system is used to provide responses to inquiries from Members of Congress regarding discretionary grant notification.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records without the consent of the individual if the disclosure is compatible with the purpose for which the record was collected and only as needed to perform one or more of the following routine uses:

(1) *Inter-Agency Disclosure*. Inquiries that do not pertain to the Department, but fall under the jurisdiction of another Federal agency, are transferred to that Agency with a request that a direct response be provided to the correspondent.

(2) *Congressional Member Disclosure*. The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(3) *Litigation and Alternative Dispute Resolution*.

(a) In the event of litigation where one of the parties listed below is involved in litigation or ADR, the Department may disclose such records as it deems desirable or necessary to the Department of Justice (DOJ) to enable DOJ to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

(i) The Department of Education, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee; or

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ*. If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine used to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose records as a routine use to the party, counsel, representative or witness.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in hard copy filed in standard file cabinets.

RETRIEVABILITY:

Records are indexed alphabetically by grant title.

SAFEGUARDS:

Records are kept in the responsible grant notification team member's office. All physical access to the Department's site, and the sites of Department contractors where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge.

The computer system employed by the Department offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department and contract staff on a "need-to-know" basis, and controls individual users' ability to access and alter records within the system. All users of this system of records are given a unique user ID with personal identifiers. All interactions by individual users with the system are recorded.

RETENTION AND DISPOSAL:

Records are maintained for two years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Congressional Outreach, Office of Legislation and Congressional

Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., Room 7E301, Washington, DC 20202.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in this system of records, provide the system manager at the above address with the name of the Member of Congress who corresponded with the Department, the name of the referenced constituent, the grant title, and the date of the correspondence. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identification.

RECORD ACCESS PROCEDURES:

Same as the Notification Procedure.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record pertaining to you, contact the system manager at the address noted above, and reasonably identify the record and specify the information to be contested. Your request must meet the requirements of the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

The information in this system is provided by the correspondent and by the agency that prepares the final response.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18-08-01

SYSTEM NAME:

Case Information System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office for Civil Rights, U.S. Department of Education, Mary E. Switzer Building, 330 C Street, SW., Room 5074, Washington, DC 20202. See the Appendix at the end of this system notice for additional system locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on individuals or groups of individuals who have made civil rights complaints to the Office for Civil Rights (OCR).

CATEGORIES OF RECORDS COVERED BY THE SYSTEM:

This system lists the names of cases, characteristics of individual civil rights complaints, and critical events in the OCR's processing of civil rights complaints.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq.; Title IX of the Education Amendments of 1972, 20 U.S.C. 1681, et seq.; sec. 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, et seq.; Age Discrimination Act of 1975, 42 U.S.C. 6101, et seq.; and Title II of the Americans With Disabilities Act, 42 U.S.C. 12131, et seq.

PURPOSE(S):

The Office for Civil Rights uses this system for the following purposes:

- (1) To report the status of individual complaints to OCR managers and staff for tracking the progress of individual cases and provide information used to prepare summaries of case processing activities; and
- (2) To report to Congress, other agencies, or to the public to explain or document the work it has accomplished.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Disclosure to Congress, Other Agencies, or the Public.* The Department may disclose summary information derived from this system of records to Congress, other agencies, and the public to describe the kinds of work OCR has done, or to document the work it has accomplished.

(2) *Disclosure to Recipients of Federal Financial Assistance, Witnesses, or Consultants.* The Department may disclose information from this system of records to recipients of federal financial assistance, witnesses, or consultants when it determines that such release would assist OCR in resolving a civil rights complaint or in obtaining additional information or expert advice relevant to the investigation.

(3) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation of information that is relevant to any

enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(4) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(5) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c), and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department of Education, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department or one of its components determines that disclosure of certain records to an adjudicative body before which the Department or one of its components is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body individual, or entity.

(d) *Parties, Counsels, Representatives, and Witnesses.* If the Department or one of its components determines that disclosure of certain records to a party,

counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department or its component may disclose those records as a routine use to the party, counsel, representative or witness.

(6) *Freedom of Information Act Advice Disclosure.* The Department may disclose records to the Department of Justice if the Department determines that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(7) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(8) *Congressional Member Disclosure.* The Department may disclose individual records to a member of Congress from the record of an individual in response to an inquiry from the member made the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records in this system are kept in magnetic media.

RETRIEVABILITY:

Records are indexed by case or complaint number, by the name or address of a complainant, the name of the entity against which the complaint was made, its subject matter, or by the stage to which investigation or other case processing has proceeded.

SAFEGUARDS:

The system is maintained on personal computers located in OCR offices. Information in the system is transmitted between its offices on OCR's internal communication network. Access to OCR

offices is controlled, and available only to OCR staff and authorized visitors. OCR staff authorized to access the system receive individual user identification and passwords. The system additionally limits data access by type of user and limits users' ability to alter records within the system.

Similar records made before December, 1993 were entered in a different format, no longer in use. These historic records are stored on magnetic tape. A single employee assigned to OCR headquarters can access them.

RETENTION AND DISPOSAL:

Records are retained indefinitely. Disposal is by electronic erasure when no longer needed for Department use.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Secretary for Policy, Office for Civil Rights, U.S. Department of Education, 400 Maryland Avenue SW., Room , Switzer Building, Washington, DC 20202.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in this system of records, contact the system manager at the address indicated above. You must provide the name of the institution and complainant to which the case pertains and the case number, if known. Requests must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to records pertaining to you, follow the notification procedure described above. You must also reasonably specify the record contents sought.

Request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest any records regarding you, contact the official at the address specified under notification procedures, reasonably identify the record and specify the information to be contested. Requests to amend a record must meet the requirements of the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Records are derived from information in complaint investigation files.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix to 18-08-01*Additional System Locations*

OCR, Boston Office, J.W. McCormack Post Office and Court House Building, Room 222, Boston, MA 02109-4557.

OCR, New York Office, 75 Park Place, 14th Floor, New York, NY 10007.

OCR, Philadelphia Office, 100 Penn Square East, Suite 515, Philadelphia, PA 19107.

OCR, Chicago Office, 111 North Canal Street, Room 1053, Chicago, IL 60606-7204.

OCR, Cleveland Office, Bank One Center, 600 Superior Avenue, East, Suite 750, Cleveland, OH 44114-2611.

OCR, Atlanta Office, Sam Nunn Federal Office Building, 61 Forsyth Street SW, Suite 19T70, Atlanta, GA 30303.

OCR, Dallas Office, 1999 Bryan Street, Suite 2600, Dallas, TX 75201.

OCR, Kansas City Office, 10220 N. Executive Hills Boulevard, Kansas City, MO 64153-1367.

OCR, Denver Office, Colonnade Building, 1244 Speer Boulevard, Suite 300, Denver, CO 80204-3582.

OCR, San Francisco Office, Old Federal Building, 50 United Nations Plaza, Room 239, San Francisco, CA 94102.

OCR, Seattle Office, Henry M. Jackson Federal Building, 915 Second Avenue, Room 3310, Seattle, WA 98174-1099.

OCR, District of Columbia Office, PO Box 14620, Washington, DC 20004-4620.

18-08-02**SYSTEM NAME:**

Complaint Files and Log.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office for Civil Rights, U.S. Department of Education, Mary E. Switzer Building, 330 C Street, SW., Room 5074, Washington, DC 20202. See the Appendix at the end of this system notice for additional system locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains information on individuals or groups of individuals who have made civil rights complaints to the Office for Civil Rights (OCR).

CATEGORIES OF RECORDS COVERED BY THE SYSTEM:

This system consists of records relating to complaints to the Office for Civil Rights including:

- (1) Names, addresses, and telephone numbers of complainants, complaint allegations, results of investigations;
- (2) Correspondence related to the complaint. The material may include copies of correspondence sent by OCR to others, correspondence received by OCR, records of telephone conversations, copies of e-mail or other written communications;

(3) Investigator and attorney memoranda;

(4) Interview notes or transcriptions, and witness statements;

(5) Documents gathered during an investigation, including photographs of persons or things, portions of a recipient institution's records, and a complainant's or other individuals' scholastic, medical, or employment records; and

(6) Charts, prepared exhibits, or other analytical materials prepared by OCR staff or by consultants retained by OCR.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, *et seq.*; Title IX of the Education Amendments of 1972, 20 U.S.C. 1681, *et seq.*; sec. 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, *et seq.*; Age Discrimination Act of 1975, 42 U.S.C. 6101, *et seq.*; and Title II of the Americans With Disabilities Act, 42 U.S.C. 12131, *et seq.*

PURPOSE(S):

The Office for Civil Rights uses this system for the following purposes:

- (1) To determine and to document whether there was discrimination against the complainant or others;
- (2) To record the steps taken to resolve a case;
- (3) To store materials gathered, developed, or received during the processing of a case; and
- (4) To document the steps taken to resolve a case.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Disclosure to Congress, other Agencies, or the Public.* The Department may disclose summary information derived from this system of records to Congress, other agencies, and the public to describe the kinds of work OCR has done, or to document the work it has accomplished.

(2) *Disclosure to Recipients of Federal Financial Assistance, Witnesses, or Consultants.* The Department will release information contained in this

system of records to recipients of federal financial assistance, witnesses, or consultants when it determines that such release would assist OCR in resolving a civil rights complaint or in obtaining additional information or expert advice relevant to the investigation.

(3) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation of information that is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(4) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(5) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c), and (d) of this routine use under the conditions specified in those paragraphs:

- (i) The Department of Education, or any component of the Department; or
- (ii) Any Department employee in his or her official capacity; or
- (iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;
- (iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or
- (v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department or one of its components determines that disclosure of certain records to an adjudicative body before which the Department or one of its components is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body individual, or entity.

(d) *Parties, counsels, representatives, and witnesses.* If the Department or one of its components determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department or its component may disclose those records as a routine use to the party, counsel, representative or witness.

(6) *Freedom of Information Act Advice Disclosure.* The Department may disclose records to the Department of Justice if the Department determines that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(7) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(8) *Congressional Member Disclosure.* The Department may disclose individual records to a member of Congress from the record of an individual in response to an inquiry from the member made the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records in this system are contained in file folders.

RETRIEVABILITY:

The records in this system are indexed by and retrievable by the name of the case or the complaint number.

SAFEGUARDS:

OCR keeps case files in lockable cabinets located in lockable storage rooms. Access to offices in which storage rooms are located is restricted to OCR staff and authorized visitors.

RETENTION AND DISPOSAL:

Pursuant to the Department's Record Disposition Schedules, files at the Headquarters Office will be transferred to the Federal Records Center (FRC) after the case has been inactive for five years. Files at the regional offices are transferred to the FRC after the file has been inactive for two years. All files are destroyed fifteen years after the end of the fiscal year in which the case is resolved.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Secretary for Civil Rights, U.S. Department of Education, 400 Maryland Avenue, SW., Room , Switzer Building, Washington, DC 20202.

RECORD SOURCE CATEGORIES:

Records are derived from information in complaint investigation files.

NOTIFICATION PROCEDURES:

This system is exempted from 5 U.S.C. 552a (e)(4)(G) pursuant to 34 CFR 5b.11(c)(2)(iii).

RECORD ACCESS PROCEDURES:

This system is exempted from 5 U.S.C. 552a(e)(4)(H) pursuant to 34 CFR 5b.11(c)(2)(iii).

CONTESTING RECORD PROCEDURES:

This system is exempted from 5 U.S.C. 552a(e)(4)(H) pursuant to 34 CFR 5b.11(c)(2)(iii).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Secretary has by regulations exempted the Complaint Files and Log, Office for Civil Rights from the following provisions of the Privacy Act pursuant to 5 U.S.C. 552(k)(2) (civil enforcement):

- (1) 5 U.S.C. 552a(c)(3), regarding access to an accounting of disclosures of records.
- (2) 5 U.S.C. 552a(d)(1) through (4) and (f), regarding notification of and access

to records and correction or amendment of records.

(3) 5 U.S.C. 552a(e)(1), regarding the requirement to maintain only relevant and necessary information.

(4) 5 U.S.C. 552a(e)(4)(G), (H), and (I), regarding inclusion of information in the system notice about procedures for notification, access, correction, and source of records. These exemptions are stated in 34 CFR 5b.11. As indicated in 34 CFR 5b.11(c)(2), individuals will be provided information from this record system except when in accordance with the provisions of 5 U.S.C. 552a(k)(2), unless:

(1) Disclosure of such information would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or

(2) If the information was obtained prior to September 28, 1975, disclosure of such information would reveal the identity of the source under an implied promise that the identity of the source would be held in confidence.

Appendix to 18-08-02

Additional System Locations and System Managers

- OCR, Boston Office, J.W. McCormack Post Office and Court House Building, Room 222, Boston, MA 02109-4557.
- OCR, New York Office, 75 Park Place, 14th Floor, New York, NY 10007.
- OCR, Philadelphia Office, 100 Penn Square East, Suite 515, Philadelphia, PA 19107.
- OCR, Chicago Office, 111 North Canal Street, Room 1053, Chicago, IL 60606-7204.
- OCR, Cleveland Office, Bank One Center, 600 Superior Avenue, East, Suite 750, Cleveland, OH 44114-2611.
- OCR, Atlanta Office, Sam Nunn Federal Office Building, 61 Forsyth Street SW, Suite 19T70, Atlanta, GA 30303.
- OCR, Dallas Office, 1999 Bryan Street, Suite 2600, Dallas, TX 75201.
- OCR, Kansas City Office, 10220 N. Executive Hills Boulevard, Kansas City, MO 64153-1367.
- OCR, Denver Office, Colonnade Building, 1244 Speer Boulevard, Suite 300, Denver, CO 80204-3582.
- OCR, San Francisco Office, Old Federal Building, 50 United Nations Plaza, Room 239, San Francisco, CA 94102.
- OCR, Seattle Office, Henry M. Jackson Federal Building, 915 Second Avenue, Room 3310, Seattle, WA 98174-1099.
- OCR, District of Columbia Office, PO Box 14620, Washington, DC 20004-4620.

18-09-01

SYSTEM NAME:

Administrative Claims.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of General Counsel, U.S. Department of Education, 400 Maryland Avenue, SW, Room 6E301, Washington, DC 20202.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records about Department employees, recipients of Federal assistance under Department funded programs, and members of the public who have a claim against the Department or against whom the Department has a claim under the Federal Torts Claims Act, Military Personnel and Civilian Employees Claims Act, Federal Claims Collection Act or Act for Waiver of Overpayment of Pay.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains information that is pertinent to the particular claim being asserted, including accident reports, hospital records, charges for medical service; certifications of overpayments, audits of payroll accounts during period of overpayments, earning and leave statements; claims officers memorandum, final determinations made on claims, identity of debtors and information pertaining to how debts arose.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Torts Claims Act (28 U.S.C. 2671-2680, 1346(b)); Waiver of Overpayment of Pay Act (5 U.S.C. 5584; Military Personnel and Civilian Employees Claims Act, 31 U.S.C. 240 et seq.; Federal Claims Collection Act, 31 U.S.C. 951-953.

PURPOSE(S):

The information in this system is used to adjudicate claims between the U.S. and private parties.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Program Disclosure.* The Department may disclose information to Federal, State, and local law enforcement agencies, private

individuals, private and public hospitals, allegedly negligent parties, private attorneys, insurance companies, the United States Attorney and other Federal officials and agencies, individual law enforcement officers, and tribal officials for the purpose of investigating, settling, or litigating claims.

(2) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(3) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(4) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(5) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department of Education, or any component of the Department; or
(ii) Any Department employee in his or her official capacity; or
(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(6) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(7) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the

written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in legal size files in filing cabinets.

RETRIEVABILITY:

Records can be retrieved by the name of the non-Government party, whether claimant, plaintiff, or alleged debtor. In some instances, these records are retrievable by cross reference to index cards, containing name of the party involved and the subject matter.

SAFEGUARDS:

Office buildings in which files are kept are locked after the close of the business day. These files are only accessible to General Counsel staff.

RETENTION AND DISPOSAL:

The records are maintained in accordance with the Department of Education Records Disposition Schedules (ED/RDS).

SYSTEM MANAGER(S) AND ADDRESS:

The General Counsel, Office of the General Counsel, U.S. Department of Education, 400 Maryland Avenue, SW., Room 6E301, Washington, DC 20202.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, contact the system manager. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record regarding you in the system of records, contact the system manager. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record regarding you in the system of records, contact the system manager. Your request must meet the requirements of the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

The information in this system comes from a number of sources including private individuals, private and public hospitals, doctors, law enforcement agencies and officials, private attorneys, accident reports, third parties, claimants

for beneficiaries and their relatives, other Federal agencies, State and local governments, agencies and instrumentalities.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18-09-02

SYSTEM NAME:

OGC Attorney Applicant Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of the General Counsel, U.S. Department of Education, 400 Maryland Avenue, SW., Room 6E301, Washington, DC 20202.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on current Attorney Applicants for positions in the Office of the General Counsel.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Attorney Applicant system consists of a variety of records relating to persons applying for attorney positions. These records contain information about an individual's birth date; home address; telephone number; Social Security number; educational background (e.g., law schools attended and grades); past work experience; writing samples furnished on request; recommendations from past employers and academic officials.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3301 et seq.

PURPOSE(S):

The information in this system is used to evaluate the qualifications of those individuals who apply for attorney positions in the Office of the General Counsel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department of Education, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(2) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

These records are maintained in file folders, alphabetized by name, and in some cases the records are separated by individual law school affiliation and by the date the application is received. In some instances records are located in lockable conserva-file cabinets and in a locked secured room with access limited to those officials whose duties require access. In other instances records are maintained in file rooms or with other Office of General Counsel files.

RETRIEVABILITY:

These records are retrievable by name.

SAFEGUARDS:

Access is limited to those Department officials whose duties require access.

RETENTION AND DISPOSAL:

These records are retained in accordance with the Department of Education Records Disposition Schedules (ED/RDS).

SYSTEM MANAGER(S) AND ADDRESS:

The General Counsel, U.S. Department of Education, Office of the General Counsel, 400 Maryland Avenue, SW., Room 6E301, Washington, DC 20202.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, contact the system manager. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record regarding you in the system of records, contact the system manager. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record regarding you in the system of records, contact the system manager. Your request must meet the requirements of the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies, law school officials and past employers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18-09-03**SYSTEM NAME:**

Employee Conduct—Government Ethics.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Ethics Counsel Division, Office of the General Counsel, U.S. Department of Education, 400 Maryland Avenue, SW., Room 6E231, Washington, DC 20202.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains information about current and past Department employees who have requested or received advice or guidance in subject matter areas relating to employee conduct.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains information relating to acceptance or offer of gifts, entertainment and favors, outside employment; financial interests; use of government funds, property or official information; partisan political activity; or other matters relating to employee conduct.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 U.S.C. 202, 203, 205, 207, 208, 209; Executive Order 11222; and 5 CFR parts 735, 104; 34 CFR Part 73.

PURPOSE(S):

The information in this system is used in providing advice or guidance in subject matter areas relating to employee conduct.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Disclosure for Use by Other Law Enforcement Agencies.* May disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory,

investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(2) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(3) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(4) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

- (i) The Department of Education, or any component of the Department; or
- (ii) Any Department employee in his or her official capacity; or
- (iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed

to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(5) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(6) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are kept in legal size files in filing cabinets.

RETRIEVABILITY:

These records are retrievable by name in most cases. In some instances, these records are retrievable by cross-reference to index cards containing the

name of the party involved and the subject matter.

SAFEGUARDS:

These records are only accessible to General Counsel staff. Office buildings in which these records are maintained are locked after the close of the business day.

RETENTION AND DISPOSAL:

The records are maintained for an indefinite duration.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant General Counsel, Ethics Counsel Division, Office of the General Counsel, U.S. Department of Education, 400 Maryland Avenue, SW, Room 6E231, Washington, DC 20202.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, contact the system manager. Your request must meet the requirements of the Department of Education's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record regarding you in the system of records, contact the system manager. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record regarding you in the system of records, contact the system manager. Your request must meet the requirements of the regulations at 34 CFR 5b.7.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18-09-04

SYSTEM NAME:

Litigation Files, Administrative Complaints, and Adverse Personnel Actions.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of the General Counsel, U.S. Department of Education, 400 Maryland Avenue, SW., Room 6E301, Washington, DC 20202.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The individuals on whom records are maintained in this system are individuals who are involved in

litigation with the Department or the United States (regarding matters within the jurisdiction of the Department) either as plaintiffs or as defendants in both civil and criminal matters, and individuals who either file administrative complaints initiated by the Department, except claims which are the subjects of records maintained in the Administrative Claims System.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information pertaining to the subject matter of the litigation, administrative complaint, or adverse personnel action. Such records would include complaints, litigation reports, administrative transcripts, various litigation documents, investigative materials, correspondence, briefs, court orders and judgments, and in cases where personal injury is involved, evaluations by physician specialists.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The authority for maintaining this system are the various statutes, regulations, rules or orders pertaining to the subject matter of the litigation, administrative complaint or adverse personnel action, (e.g., Civil Rights Act, Federal Torts Claim Act).

PURPOSE(S):

The information in this system is used for litigating civil cases, criminal cases and administrative complaints to which the Department or the United States is a party.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(2) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(3) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(4) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

- (i) The Department of Education, or any component of the Department; or
- (ii) Any Department employee in his or her official capacity; or
- (iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;
- (iv) Any Department employee in his or her individual capacity where the

agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(5) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(6) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records consist of legal size files stored in file cabinets.

RETRIEVABILITY:

These records are retrievable by name of the plaintiff or the first plaintiff if there is more than one, or by the name of the first defendant if the plaintiff is the United States. In the case of adverse personnel actions, records are retrievable by name of the individual involved.

SAFEGUARDS:

Office buildings in which these records are maintained are locked after the close of the business day. These records are only accessible by General Counsel staff.

RETENTION AND DISPOSAL:

These records are maintained in accordance with the Department of Education Records Disposition Schedules (ED/RDS).

SYSTEM MANAGER(S) AND ADDRESS:

The General Counsel, Office of the General Counsel, U.S. Department of Education, 400 Maryland Avenue, SW., Room 6E301, Washington, DC 20202.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, contact the system manager. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record regarding you in the system of records, contact the system manager. Your request must meet the requirements regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record regarding you in the system of records, contact the system manager. Your request must meet the requirements of the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

The information for this system is obtained through a number of sources including the exchange of legal pleadings, documents, formal and informal discovery, program offices and component agencies, private attorneys, State and local governments, their agencies and instrumentalities, and officers of other Federal agencies and the individuals involved.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18-10-01

SYSTEM NAME:

Investigative Files of the Inspector General.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Inspector General, U.S. Department of Education, 330 C Street,

SW., Room 4004, Switzer Building, Washington, DC 20202-1500. See the Appendix at the end of this system notice for additional system locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories include current and former Department of Education employees and individuals who have any relationship to financial assistance or other educational programs administered by the Department of Education, or to management concerns of the Department, including but not limited to: grantees, subgrantees, contractors, subcontractors, program participants, recipients of Federal funds or federally insured funds, and officers, employees or agents of institutional recipients or program participants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigation files pertaining to violations of criminal laws, fraud, waste, and abuse with respect to administration of Department programs and operations, and violations of employee Standards of Conduct as set out in 34 CFR part 73.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Inspector General Act of 1978, as amended (5 U.S.C. Appendix 3) and 5 U.S.C. 301.

PURPOSE(S):

Pursuant to the Inspector General Act, the system is maintained for the purposes of: (1) Conducting and documenting investigations by the OIG or other investigative agencies regarding Department of Education programs and operations and reporting the results of investigations to other Federal agencies, other public authorities or professional organizations which have the authority to bring criminal prosecutions or civil or administrative actions, or to impose other disciplinary sanctions; (2) documenting the outcome of OIG investigations; (3) maintaining a record of the activities which were the subject of investigations; (4) reporting investigative findings to other Department of Education components for their use in operating and evaluating their programs or operations, and in the imposition of civil or administrative sanctions; and (5) acting as a repository and source for information necessary to fulfill the reporting requirements of the Inspector General Act, 5 U.S.C. Appendix 3, 5.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department of Education (Department) may disclose information

contained in a record in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected, under the following routine uses:

(1) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information from this system of records as a routine use to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation where that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility of the receiving entity.

(2) *Disclosure to Public and Private Entities to Obtain Information Relevant to Department of Education Functions and Duties.* The Department may disclose information from this system of records as a routine use to public or private sources to the extent necessary to obtain information from those sources relevant to a Department investigation, audit, inspection or other inquiry.

(3) *Disclosure for Use in Employment, Employee Benefit, Security Clearance, and Contracting Decisions.*

(4) *For Decisions by the Department.* The Department may disclose information from this system of records as a routine use to a Federal, State, local, or foreign agency maintaining civil, criminal or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance or retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant, or other benefit.

(5) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose information from this system of records as a routine use to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance or retention of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance or retention of a license, grant or other benefit.

(6) *Disclosure to Public and Private Sources in Connection with the Higher Education Act of 1965, as Amended ("HEA").* The Department may disclose information from this system of records

as a routine use to any accrediting agency which is or was recognized by the Secretary of Education pursuant to the HEA; to any guaranty agency which is or was a party to an agreement with the Secretary of Education pursuant to the HEA; or to any agency which is or was charged with licensing or legally authorizing the operation of any educational institution or school which was eligible, is currently eligible, or may become eligible to participate in any program of Federal student assistance authorized by the HEA.

(7) *Litigation Disclosure.*

(a) *Disclosure to the Department of Justice.* If the Department determines that disclosure of certain records to the Department of Justice is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the Department of Justice. Such a disclosure may be made in the event that one of the parties listed below is involved in the litigation, or has an interest in the litigation:

(i) The Department, or any component of the Department;

(ii) Any employee of the Department in his or her official capacity;

(iii) Any employee of the Department in his or her individual capacity where the Department of Justice has agreed to represent the employee; or

(iv) The United States, where the Department determines that the litigation is likely to affect the Department or any of its components.

(8) *Other Disclosure.* If the Department determines that disclosure of certain records to a court, adjudicative body before which the Department is authorized to appear, individual or entity designated by the Department or otherwise empowered to resolve disputes, counsel or other representative, or potential witness is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the court, adjudicative body, individual or entity, counsel or other representative, or witness. Such a disclosure may be made in the event that one of the parties listed below is involved in the litigation, or has an interest in the litigation:

(i) The Department, or any component of the Department;

(ii) Any employee of the Department in his or her official capacity;

(iii) Any employee of the Department in his or her individual capacity where the Department has agreed to represent the employee; or

(iv) The United States, where the Department determines that the litigation is likely to affect the Department or any of its components.

(9) *Disclosure to Contractors and Consultants.* The Department may disclose information from this system of records as a routine use to a private firm with which the Department contemplates it will contract or with which it has contracted for the purpose of performing any functions or analyses that facilitate or are relevant to an OIG investigation, audit, inspection, or other inquiry. Such contractor or private firm shall be required to maintain Privacy Act safeguards with respect to such information.

(10) *Debarment and Suspension Disclosure.* The Department may disclose information from this system of records as a routine use to another Federal agency considering suspension or debarment action where the information is relevant to the suspension or debarment action.

(11) *Disclosure to the Department of Justice.* The Department may disclose information from this system of records as a routine use to the Department of Justice, to the extent necessary for obtaining its advice on any matter relevant to Department of Education operations.

(12) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(13) *Computer Matching Disclosure.* The Department may disclose information from this system of records as a routine use to a Federal, State, local, or foreign agency, or other public authority, for use in computer matching programs to prevent and detect fraud and abuse in benefit programs administered by any agency, to support civil and criminal law enforcement activities of any agency and its components, and to collect debts and overpayments owed to any agency and its components.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained on index cards, investigative reports,

microcomputer disks, computer mainframe files and computer-printed listings.

RETRIEVABILITY:

The records are retrieved by manual or computer search of alphabetical indices or cross-indices. Indices list names of individuals, companies and organizations.

SAFEGUARDS:

Written documents and computer disks are maintained in secure rooms, in security-type safes or in bar-lock file cabinets with manipulation-proof combination locks. Computer mainframe files are on-line in guarded, combination-locked computer rooms.

RETENTION AND DISPOSAL:

Investigative files are retained and disposed of in accordance with the Department's Records Disposition Schedules (ED/RDS, Part 16). The ED/RDS may be obtained by writing to the System Manager at the address below.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Investigation Services, Office of the Inspector General, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4200, Switzer Building, Washington, DC 20202-1510.

NOTIFICATION PROCEDURE:

See "system exempted," below. As provided in 34 CFR 5b.11(b)(2) and (c)(1), the notification procedure is not applicable to criminal investigative files except at the discretion of the Inspector General. To the extent that this procedure may apply to criminal investigative files, it is governed by 34 CFR 5b.5. The notification procedure is applicable to non-criminal investigative files under the conditions defined by 34 CFR 5b.11(c). Under those conditions it is governed by 34 CFR 5b.5.

RECORD ACCESS PROCEDURES:

See "system exempted," below. As provided in 34 CFR 5b.11(b)(2) and (c)(1), the record access procedure is not applicable to criminal investigative files except at the discretion of the Inspector General. To the extent that this procedure may apply to criminal investigative files, it is governed by 34 CFR 5b.5. The record access procedure is applicable to non-criminal investigative files under the conditions defined by 34 CFR 5b.11(c). Under those conditions it is governed by 34 CFR 5b.5.

CONTESTING RECORD PROCEDURES:

Not applicable. See "system exempted," below.

RECORD SOURCE CATEGORIES:

Departmental and other Federal, State and local government records; interviews of witnesses; documents and other material furnished by non-governmental sources. Sources may include confidential sources.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to the general authority in the Privacy Act in 5 U.S.C. 552a(j)(2), the Secretary has by regulation exempted the Investigative Files of the Inspector General from the following subsections of the Privacy Act:

5 U.S.C. 552a(c)(3)—access to accounting of disclosure;

5 U.S.C. 552a(d)(1)-(4) and (f)—procedures for notification of, access to, and correction or amendment of records;

5 U.S.C. 552(e)(3)—notice to an individual who is required to provide information to the Department;

5 U.S.C. 552a(e)(4)(G), (H)—inclusion of information on Department procedures on notification of, access to, correction or amendment of records, in the system of records notice.

These exemptions are stated in 34 CFR 5b.11.

Appendix to 18-10-01

Additional System Locations

Office of Inspector General, U.S. Department of Education, Room 512, P.O. Box 2142, Boston, MA 02106.

Office of Inspector General, U.S. Department of Education, 75 Park Place, 12th Floor, New York, NY 10007.

Office of Inspector General, U.S. Department of Education, The Wanamaker Building, 100 Penn Square East, Suite 502, Philadelphia, PA 19107.

Office of Inspector General, U.S. Department of Education, Atlanta Federal Center, 61 Forsyth Street, Room 18T71, Atlanta, GA 30303.

Office of Inspector General, U.S. Department of Education, 111 N. Canal Street, Suite 940, Chicago, IL 60606-7204.

Office of Inspector General, U.S. Department of Education, 1999 Bryan Street, Suite 2630, Dallas, TX 75201-6817.

Office of Inspector General, U.S. Department of Education, 2nd Floor, 10220 North Executive Hills Blvd., Kansas City, MO 64153-1367.

Office of Inspector General, U.S. Department of Education, 501 W. Ocean Blvd. #1200, Long Beach, CA 90802.

18-10-02

SYSTEM NAME:

Investigatory Material Compiled for Personnel Security and Suitability Purposes.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Security Program Staff, Office of Inspector General, U.S. Department of Education, 600 Independence Avenue, SW., Washington, DC 20202-1510.

U.S. Office of Personnel Management, Investigations Group, P.O. Box 886, Washington, DC 20044-0886.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants seeking employment with the Department of Education (Department), former and current employees of, and other persons and entities doing business with, the Department.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain investigative information pertaining to current and former Department employees, current and former contractor personnel, and current employees of entities making offers to the Department for purposes of doing business. This information regards individuals' character, conduct, and loyalty to the United States as relevant to their association with the Department. These records may, as appropriate to the individual being investigated, include the following types of information: (1) Documentation as to his or her arrests and convictions for violations of the law. (2) Reporting as to interviews held with the individual, his or her present and former supervisors, co-workers, associates, neighbors, educators, etc. (3) Correspondence relating to adjudication matters involving the individual. (4) Reports of inquiries made of law enforcement agencies for information about the individual contained in the agencies records. (5) Information provided by organizations having association with the individual, such as employers, educational institutions attended, professional or fraternal or social organizations to which the individual is or was a member, etc. (6) Reports of action following an Office of Personnel Management (OPM) investigation or a Federal Bureau of Investigation Section 8(d) full field investigation. (7) Other information developed from the previous sources.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Orders 10450, 10577, and 12968; as amended.

PURPOSE(S):

Records in this system are maintained to provide the Inspector General and other responsible Department officials with information to assist them in making individual personnel determinations concerning suitability

for Federal employment, security clearances, access to classified information or restricted areas, and evaluations as to suitability for performance under Federal contracts or other agreements with the Federal Government. Incidental to this purpose, for those investigations conducted by the OIG, these records may also be disclosed to other Federal and non-Federal investigatory agencies to protect the public or Federal interest, or both.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department may disclose information in a record in this system of records without the consent of the individual if the disclosure is compatible with the purpose for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching agreement.

(1) *Program Purpose:* To public or private sources to the extent necessary to obtain information to be included in this system of records.

(2) To officials and employees of a Federal, State, or local governmental entity in response to its request in connection with the issuance of security clearances or the conduct of security or suitability investigations of individuals seeking employment, licensure, other benefits, or to perform contractual services, or to otherwise associate with the governmental entity.

(3) To a Federal, State, local, or foreign entity or other public authority responsible for the investigation, prosecution, enforcement, or implementation of a statute, rule, regulation, or order, when a record on its face or in combination with any other information indicates a violation or potential violation of law (whether civil, criminal, or regulatory in nature) if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility of the receiving entity. It is OIG policy not to disclose records under this routine use that pertain to those questions for which the OIG has promised confidentiality under Standard Form 85P, Questionnaire for Public Trust Positions.

(4) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor

to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(5) *Litigation Disclosure.* To parties pertaining to litigation disclosure as follows:

(a) In the event that one of the following parties is involved in litigation, or has an interest in litigation, the Department may disclose certain records to the parties described in the following paragraphs b, c, and d of this routine use under the conditions specified in those paragraphs:

(i) The Department or any of its components.

(ii) Any Department employee in his or her official capacity.

(iii) Any employee of the Department in his or her official capacity where the Department of Justice (Justice) has agreed to provide or arrange for representation of the employee.

(iv) Any employee of the Department in his or her individual capacity where the Department has agreed to represent the employee.

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the Department of Justice (DOJ).* If the Department determines that disclosure of certain records to the DOJ or attorneys engaged by DOJ is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to DOJ.

(c) If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, individual, or entity designated by the Department or otherwise empowered to resolve disputes is relevant and necessary to the administrative litigation and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) If the Department determines that disclosure of certain records to an opposing counsel, representative, or witness in an administrative proceeding is relevant and necessary to the litigation and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the counsel, representative, or witness.

(6) *Freedom of Information Act (FOIA) Advice Disclosure.* To the Department of Justice for the purpose of obtaining advice regarding the releasability of records maintained in

this system of records under the FOIA and the Privacy Act of 1974.

(7) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of the individual. The member's right to the information is no greater than the right of the individual who requested it.

(8) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to the intelligence agencies of the Department of Defense, the National Security Agency, the Central Intelligence Agency, and the Federal Bureau of Investigation for use in intelligence or investigation activities.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in folders secured in fire resistant safes with manipulation proof combination locks, or in metal lock-bar file cabinets with three position combination locks, and in a computer database.

RETRIEVABILITY:

Records are alphabetically indexed by name of the individual subject of the file. Retrieval is made by the name, date of birth, and social security number of the individual on whom they are maintained.

SAFEGUARDS:

Folders are maintained and secured in fire resistant safes with manipulation proof combination locks, or in metal file cabinets secured by three position combination locks. All records, including those records that are maintained on the computer database, are in limited access rooms with keyless cipher locks. All employees are required to have an appropriate security clearance before they are allowed access, on a "need-to-know" basis, to the records. Computer databases are kept on a local area network that is not connected to any outside network including the Internet. Database accessibility is restricted to hard wire network connection from within the office or via modem. Authorized log-on codes and passwords prevent unauthorized users from gaining access to data and system resources. All users have unique log-on codes and passwords. The password scheme requires that users must change passwords every 90 days and may not repeat the old password. Any individual attempting to log on who fails is locked

out of the system after three attempts. Access after that time requires intervention by the system manager.

RETENTION AND DISPOSAL:

Most background investigative records are maintained for five years after the individual separates from his or her departmental association if subject to Executive Orders 12968 and 10450, as amended. Reports of background investigations conducted by the Office of Inspector General are retained for 15 years, plus the current year of the most recent investigative activity, in accordance with OPM guidance. The records are disposed of by electronic erasure, shredding, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Security Officer, Office of Inspector General, U.S. Department of Education, 600 Independence Avenue, SW, Washington, DC 20202-1510.

NOTIFICATION PROCEDURE:

If an individual wishes to determine whether a record exists regarding him or her in this system of records, the individual must provide the system manager with his or her name, date of birth, social security number, signature, and the address to which the record information should be sent. Requests for notification about an individual must meet the requirements of the regulations in 34 CFR 5b.5.

RECORD ACCESS PROCEDURE:

If an individual wishes to gain access to a record in this system, he or she must contact the system manager and provide information as described in the notification procedure.

CONTESTING RECORD PROCEDURE:

If an individual wishes to change the content of a record in the system of records, he or she must contact the system manager with the information described in the notification procedure, identify the specific item or items to be changed, and provide a written justification for the change, including any supporting documentation. Requests to amend a record must meet the requirements of the regulations in 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information contained in this system of records is obtained from:

- (a) Investigative and other record material furnished by other Federal entities, other departmental components, State, local, and foreign governments;
- (b) Applications and other personnel and security forms;

- (c) Personal investigation, written inquiry, interview, or the electronic accessing of computer databases of sources, such as the OPM system of records known as Personnel Investigations Records (OPM/Central-9), employers, educational institutions, references, neighbors, associates, police departments, courts, credit bureaus, medical records, probation officials, prison officials, newspapers, magazines, periodicals, and other publications; and
- (d) Confidential sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

As indicated in 34 CFR 5b.11, individuals will be provided information from this record system unless, in accordance with the provisions of 5 U.S.C. 552a(k)(5)—(1) Disclosure of that information would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence; or (2) The information was obtained prior to September 27, 1975 and disclosure of that information would reveal the identity of a source who provided information under an implied promise that the identity of the source would be held in confidence.

18-10-03

SYSTEM NAME:

Non-Federal Auditor Referral, Suspension, and Debarment File.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Audit Services, Office of Inspector General, U.S. Department of Education, 330 C Street, SW., Room 4200, Switzer Building, Washington, DC 20202-1510.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Auditors and audit firms not employed by the Federal government whom the Office of Inspector General has referred to State boards of accountancy or professional associations and/or suspended or debarred for violations of generally accepted auditing standards or generally accepted government auditing standards in connection with audits of federally assisted education programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to the audit activity which led to the referral, suspension or debarment action, including the referral, suspension or debarment documents; and records on the status of each referral.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Inspector General Act of 1978, as amended (5 U.S.C. Appendix 3, 4(a)(1) and 4(b)(1)(C)) and 34 CFR part 85, the Nonprocurement Debarment and Suspension Regulations.

PURPOSE(S):

This system of records is maintained for the general purpose of enabling the OIG to fulfill the requirements of section (4)(b)(1)(C) of the Inspector General Act of 1978, 5 U.S.C. Appendix 3, 4(b)(1)(C) which requires Federal Inspectors General, including the Department Inspector General, to take appropriate steps to assure that any work performed by non-Federal auditors complies with the standards established by the Comptroller General. Records are used to document OIG actions with regard to open and closed referrals, suspensions or debarments by the OIG; to produce statistical data; and to share information with Federal, State and professional organizations which are also responsible for maintaining or monitoring adherence to audit standards.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

As provided in the Education Department's Privacy Act regulations (34 CFR 5b.1(j)), the following routine uses are authorized without the consent of the individual, but only for a purpose which is compatible with the purpose for which the record was collected:

(1) *Audit oversight and referral disclosure.* A record from this system of records may be disclosed to other Federal agencies, the General Accounting Office, State agencies responsible for audit oversight, and the American Institute of Certified Public Accountants to make referrals regarding inadequate audits performed by independent auditors, to track the result of proceedings against those auditors, and to inform these agencies if prior referrals have been made under this routine use.

(2) *Suspension and debarment disclosure.* A record from this system of records may be disclosed, as authorized under section 3 of Executive Order 12549 for purposes of suspending and debarment an auditor pursuant to 34 CFR part 85.

(3) *Disclosure to auditee.* A record from this system of records may be disclosed to the auditee which was the subject of audit oversight by the Department OIG.

(4) *Engagement disclosure.* A record from this system of records may be disclosed to a contractor or grantee of the Department or other participant in

Department programs which may be contemplating engaging the firm or individual named in the record to perform auditing or related services pertaining to federally assisted education programs, unless the entities to which the Assistant Inspector General for Audit Services has made a referral under routine use number 1, decline to take action against the auditor or act to exonerate the auditor.

(5) *Disclosure to Public and Private Entities To Obtain Information.* A record from this system of records may be disclosed to public or private sources to the extent necessary to obtain information from those sources relevant to an OIG audit oversight activity, referral action, suspension and debarment action, investigation, audit, inspection, or other activity.

(6) *Enforcement disclosure.* In the event that any records from this system of records, either alone or in combination with any other information, indicate a violation or potential violation of criminal or civil law or regulation, the Department may disclose information from this system of records as a routine use to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility of the receiving entity.

(7) *Disclosure to the Department of Justice.* A record may be disclosed from this system of records to the Department of Justice to the extent necessary for obtaining its advice on any matter relevant to an OIG investigation, audit, inspection, or other inquiry related to the responsibilities of the OIG.

(8) *Hiring/contracting disclosure.*

(a) *The Department.* A record from this system of records may be disclosed as a routine use to a Federal, State, or local agency maintaining civil, criminal or other relevant enforcement records or other pertinent records, such as current licenses, if necessary to obtain a record relevant to an agency decision concerning the hiring or retention of an employee to perform audit services, the issuance of a security clearance, or the letting or continuation of a contract to perform audit services by the Department or by any recipient of Federal funds administered by the Department or its agent.

(b) *Other Federal agencies.* A record from this system of records may be disclosed to a Federal agency, in connection with the hiring or retention of an employee to perform audit

services, the issuance of a security clearance, the letting or continuation of a contract to perform audit services by the agency or by any recipient of Federal funds, or the issuance of a license, grant, or other benefit by the recipient agency.

(9) *Litigation disclosure.*

(a) *Disclosure to the Department of Justice.* A record from this system of records may be disclosed to the Department of Justice if the record is relevant and necessary to litigation. Such a disclosure may be made in the event that one of the parties listed below is involved in the litigation, or has an interest in the litigation:

(i) The Department or any component of the Department;

(ii) Any employee of the Department in his or her official capacity;

(iii) Any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee; or

(iv) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Other litigation disclosure.* A record from this system of records may be disclosed to a court or adjudicative body, to a party, counsel or witnesses, in the course of the litigation or related settlement proceedings. Such disclosure may be made in the event that a person or entity listed below is a party to the litigation, or has an interest in the litigation:

(i) The Department or any component of the Department;

(ii) Any employee of the agency in his or her official capacity;

(iii) Any employee of the Department in his or her individual capacity where the agency has agreed to represent the employee; or

(iv) The United States, where the agency determines that litigation is likely to affect the agency or any of its components.

(9) *Congressional member disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(10) *Employee grievance, complaint or conduct disclosure.* The Department may disclose a record in this system of records to another agency of the Federal government if the record is relevant to one of the following proceedings regarding a present or former employee of the Department: Complaint, grievance, discipline or competence

determination proceedings. The disclosure may only be made during the course of the proceeding.

(11) *Contract disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and/or microcomputer disk.

RETRIEVABILITY:

Records are indexed and retrieved by name of individuals, firms or other professional associations.

SAFEGUARDS:

Records are secured in file cabinets and are locked in offices after office hours.

RETENTION AND DISPOSAL:

Records are maintained and destroyed in accordance with the Department's Records Disposition Schedule (ED/RDS, Part 16). A copy of the ED/RDS can be obtained from the system manager at the address below.

SYSTEM MANAGER(S) AND ADDRESSES:

Assistant Inspector General for Audit Services, Office of Inspector General, U.S. Department of Education, 400 Maryland Avenue, SW., Switzer Building, Washington, DC 20202-1510.

NOTIFICATION PROCEDURE:

Individuals wishing to know if they are named in this system of records must submit a written request to the system manager. Requests must reasonably specify the system of records containing the information and the particular record contents being sought. For a complete statement of notification procedures, see the regulations, 34 CFR 5b.5.

RECORD ACCESS PROCEDURES:

Individuals wishing to gain access to a record in this system of records must submit a written request to the system manager. Requests must reasonably

specify the system of records containing the information, the particular record contents being sought, and the reason for the request. For a complete statement of notification procedures, see the regulations, 34 CFR 5b.5.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest information contained in a record in this system of records should contact the system manager. Requests must be made either in writing or in person, and must specify: (1) The system of records from which the record is to be retrieved; (2) the particular record which the requestor is seeking to amend; (3) whether a deletion, an addition, or a substitution is being sought; and (4) the reason(s) for the requested change(s). Requestors may wish to include in their requests any appropriate documentation supporting the requested change(s). For a complete statement of contesting record procedures, see the regulations, 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information contained in the system will be obtained principally from OIG employees. Information regarding the status of referral actions will be obtained from the appropriate State licensing board and professional organizations to which the referral was made.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18-10-04

SYSTEM NAME:

Hotline Complaint Files of the Inspector General.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Inspector General, U.S. Department of Education, 330 C Street, SW., Room 4116, Switzer Building, Washington, DC 20202-1510.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories include individuals who are sources of information or have made complaints to the OIG Hotline, individuals who allegedly have knowledge regarding wrongdoing affecting the programs and operations of the Department, and individuals about whom complaints and allegations have been made concerning wrongdoing involving the programs and operations of the Department of Education. These individuals may include, but are not limited to, current and former

Department employees, grantees, subgrantees, contractors, subcontractors, program participants, recipients of Federal funds or federally insured funds, and officers, employees, or agents of institutional recipients or program participants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system contain information obtained from complainants who report allegations of wrongdoing relating to Department of Education programs and operations. Specific data may include name and address (if available) of the complainant, the date the complaint was received, the affected program area, the nature and subject of the complaint, and any additional contacts and specific comments provided by the complainant. In addition, information on the OIG disposition of the complaint is included in the system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Inspector General Act of 1978, as amended (IG Act), 5 U.S.C. app. 3.

PURPOSES:

Pursuant to the Inspector General Act, the system is maintained for the purposes of maintaining a record of complaints and allegations received concerning Department of Education programs and operations and concerning the disposition of those complaints and allegations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department of Education may disclose information contained in a record in this system of records without the consent of the individual if the disclosure is compatible with the purpose for which the record was collected, under the following routine uses:

(1) *Disclosure for Use by Other Law Enforcement Agencies.* In the event that any records from this system of records, either by themselves or in combination with any other information, indicate a violation or potential violation of criminal or civil law or regulation, the Department may disclose information from this system of records as a routine use to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility of the receiving entity.

(2) *Litigation Disclosure.*

(a) *Introduction.* In the event that one of the following parties is involved in litigation, or has an interest in litigation, the Department may disclose certain records to the parties described in paragraphs (2), (3), and (4) of this routine use under the conditions specified in those paragraphs:

(i) The Department, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any employee of the Department in his or her individual capacity if the Department of Justice has agreed to provide or arrange for representation for the employee; or

(iv) Any employee of the Department in his or her individual capacity if the agency has agreed to represent the employee; or

(v) The United States if the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the Department of Justice.* If the Department determines that disclosure of certain records to the Department of Justice or attorneys engaged by the Department of Justice is relevant and necessary to litigation, the Department may disclose those records as a routine use to the Department of Justice.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear or to an individual or an entity designated by the Department or otherwise empowered to resolve disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Opposing Counsels, Representatives, and Witnesses.* If the Department determines that disclosure of certain records to an opposing counsel, representative, or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the counsel, representative, or witness.

(3) *Disclosure to Public and Private Entities to Obtain Information Relevant to the Department's OIG Functions and Duties.* The Department may disclose information from this system of records as a routine use to public or private sources to the extent necessary to obtain information from those sources relevant to a Department of Education/OIG investigation, audit, inspection, or other inquiry.

(4) *Disclosure to Public and Private Sources in Connection with the Higher*

Education Act of 1965, as amended (HEA). The Department may disclose information from this system of records as a routine use to any accrediting agency that is or was recognized by the Secretary of Education pursuant to the HEA, to any guarantee agency that is or was a party to an agreement with the Secretary of Education pursuant to the HEA, or to any agency that is or was charged with licensing or legally authorizing the operation of any educational institution or school that was eligible, is currently eligible, or may become eligible to participate in any program of Federal student assistance authorized by the HEA.

(5) *Disclosure to the Department of Justice.* The Department may disclose information from this system of records as a routine use to the Department of Justice to the extent necessary for obtaining its advice on any matter relevant to an OIG investigation, audit, inspection, or other inquiry related to the responsibilities of the OIG.

(6) *Congressional Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in complaint files, computer mainframe files, and computer-printed listings.

RETRIEVABILITY:

Hard copy records are organized by and retrievable by the assigned Hotline number. The computer files are indexed and retrievable by Hotline number, name of complainant, and the name of the subject or subjects.

SAFEGUARDS:

Records are maintained in locked file cabinets or in metal file cabinets in secured rooms or premises to which access is limited to those persons whose official duties require access. Computer terminals are secured in controlled areas that are locked when unoccupied. Access to automated records is limited to authorized personnel who must use a password system to gain access.

RETENTION AND DISPOSAL:

Hotline records not resulting in investigations are destroyed when five years old, in accordance with the Department's Records Disposition Schedules (ED/RDS, part 16). Investigative case files are destroyed 10 years after close-out in accordance with the Department's Records Disposition Schedules (ED/RDS, Part 16).

SYSTEM MANAGER AND ADDRESS:

Assistant Inspector General for Investigation Services, Office of Inspector General, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4106, Switzer Building, Washington, DC 20202-1510.

NOTIFICATION PROCEDURE:

See Systems Exempted. As provided in 34 CFR 5b.11(f), the notification procedures are not applicable to Hotline files except at the discretion of the Inspector General. The notification procedures are applicable to non-criminal files only under the conditions in 34 CFR 5b.11(f)(2). To the extent these procedures apply to the Department of Education Hotline Complaint Files, they are governed by 34 CFR 5b.5.

RECORD ACCESS PROCEDURES:

See Notification Procedure.

CONTESTING RECORD PROCEDURES:

Not applicable. See Systems Exempted.

RECORD SOURCE CATEGORIES:

Complainants who include, but are not limited to, current and former employees of the Department, employees of other Federal agencies, employees of State and local agencies, private individuals, and officers and employees of non-governmental organizations that are involved with Department programs, contracts, or funds or have knowledge about Department programs, contracts, or funds.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Secretary has by regulations exempted the Hotline Complaint Files of the Inspector General from the following provisions of the Privacy Act:

(1) Pursuant to 5 U.S.C. 552a(j)(2):

(a) 5 U.S.C. 552a(c)(3), regarding access to an accounting of disclosures of a record.

(b) 5 U.S.C. 552a(c)(4), regarding notification to outside parties and agencies of correction or notation of dispute made in accordance with 5 U.S.C. 552a(d).

(c) 5 U.S.C. 552a(d)(1) through (4) and (f), regarding notification or access to

records and correction or amendment of records.

(d) 5 U.S.C. 552a(e)(1), regarding maintaining only relevant and necessary information.

(e) 5 U.S.C. 552a(e)(2), regarding collection of information from the subject individual.

(f) 5 U.S.C. 552a(e)(3), regarding notice to individuals asked to provide a record to the Department.

(g) 5 U.S.C. 552a(e)(4)(G), (H), and (I), regarding inclusion of information in the system notice about procedures for notification, access, correction, and source of records.

(h) 5 U.S.C. 552a(e)(5), regarding maintaining records with requisite accuracy, relevance, timeliness, and completeness.

(i) 5 U.S.C. 552a(e)(8), regarding service of notice on subject individual if a record is made available under compulsory legal process if that process becomes a matter of public record.

(j) 5 U.S.C. 552a(g), regarding civil remedies for violation of the Privacy Act.

(2) Pursuant to 5 U.S.C. 552a(k)(2):

(a) 5 U.S.C. 552a(c)(3), regarding access to an accounting of disclosures of records.

(b) 5 U.S.C. 552a(d)(1) through (4) and (f), regarding notification of and access to records and correction or amendment of records.

(c) 5 U.S.C. 552a(e)(1), regarding the requirement to maintain only relevant and necessary information.

(d) 5 U.S.C. 552a(e)(4)(G), (H), and (I), regarding inclusion of information in the system notice about procedures for notification, access, correction, and source of records.

These exemptions are stated in 34 CFR 5b.11.

18-11-01

SYSTEM NAME:

Federal Student Aid Application File.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Application & Pell Processing Systems Division, Office of Student Financial Assistance Programs, U.S. Department of Education, Seventh and D Streets, SW., Room 4621, ROB-3, Washington, DC 20202-5459.

Federal Student Aid Application Processing Center, Iowa City, IA 52240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on students applying for Federal student financial assistance under Title IV of the Higher Education Act of 1965 (HEA).

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of the name, address, birth date, Social Security number, and financial data necessary to identify applicants, verify applicant data, and calculate their expected family contributions for Federal student financial assistance. In addition, information on the student's prior Pell Grant awards and student loan status from the National Student Loan Data System (NSLDS) database is maintained in the system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title IV of the Higher Education Act of 1965, as amended.

PURPOSE(S):

Information contained in this system is maintained for the purposes of: (1) Determining an applicant's eligibility for the Federal student financial assistance programs authorized by title IV of the HEA; (2) Maintaining a record of the data supplied by those requesting assistance; (3) Documenting the results of an applicant's need analysis and Pell Grant eligibility; (4) Reporting the results of the need analysis and Pell Grant eligibility determination to applicants, postsecondary institutions, and State agencies designated by the applicant, and to other Departmental and investigative components for use in operating and evaluating the title IV, HEA programs and in the imposition of criminal, civil or administrative sanctions; and (5) Acting as a repository and source for information necessary to fulfill the requirements of title IV of the HEA.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USERS:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Disclosure to institutions of postsecondary education.* The Department may disclose identifying information, financial data, and expected family contributions of applicants to those institutions of postsecondary education (or their designated agents) in which the applicants plan to enroll or are enrolled.

Disclosure of such information is made only to postsecondary institutions that are listed by the applicant on the Federal Student Aid Application file.

(2) *Disclosure to State agencies.* The Department may disclose the data described in paragraph (1) to State agencies having agreements with the Secretary for purposes of coordinating student aid.

(3) *Disclosure to parents and spouses.* The Department, upon request, may disclose information that is provided by parents or spouses on the application form to those individuals.

(4) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(5) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(6) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department of Education, or any component of the Department; or
 (ii) Any Department employee in his or her official capacity; or
 (iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the

litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(7) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(8) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(9) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose to a consumer reporting agency information regarding a claim by the Department which is determined to be valid and overdue as follows: (1) The

name, address, taxpayer identification number and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in subsection 31 U.S.C. 3711(e). A consumer reporting agency to which these disclosures may be made is defined at 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Original applications are maintained in standard Federal Records Center boxes in locked storage rooms within the facility of the Application for Federal Student Aid Processor. Computerized applicant records are maintained on magnetic tape reels, cartridges and hard disks in the computer facility and locked storage rooms within the Federal Student Aid Application Central Processing Center. Microfiche records maintained in the Washington, DC office are locked in standard file cabinets.

RETRIEVABILITY:

Records are indexed by Social Security number and the first two letters of the applicant's last name.

SAFEGUARDS:

Records are available to staff of the Student Financial Assistance Programs (including appropriate contract support staff). The Department will mail an Electronic Access Code (EAC) directly to certain students who have used the World Wide Web to electronically file a Free Application for Federal Student Aid (FAFSA). The student uses the EAC to complete their renewal Free Application for Federal Student Aid (FAFSA) via the Internet. Physical access to the data systems housed within the facility is controlled by a computerized badge reading system, and the entire complex is patrolled by security personnel during nonbusiness hours. The computer system employed by the Department offers a high degree of resistance to tampering and circumvention. Multiple levels of security are maintained within the computer system control program. This security system limits data access to Department and contract staff on a "need-to-know" basis, and controls individual users' ability to access and alter records within the system. All users of this system of records are given

a unique user ID with personal identifiers. All interactions by individual users with the system are recorded.

RETENTION AND DISPOSAL:

Original records are maintained and stored in a Federal Records Center. Grant aid records are kept for a period not to exceed fifteen years after payment or audit of the grantee, whichever comes sooner; and loan records are kept three years after cancellation or repayment of a loan, in accordance with the Department of Education Records Disposition Schedules (ED/RDS).

SYSTEM MANAGER(S) AND ADDRESS:

Director, Application & Pell Processing Systems Division, Office of Student Financial Assistance Programs, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4621, ROB-3, Washington, DC 20202-5459.

NOTIFICATION PROCEDURE:

A copy of the applicant's record, known as the Student Aid Report, is mailed to the applicant's home address after the application information has been processed. If you wish to determine whether a record exists regarding you in the system of records, contact the system manager and provide your name, date of birth, and Social Security number or call 1-800-4-FED-AID (1-800-433-3243) and give the same information. Requests for notification about whether the system of records contains information about an individual must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record in this system, contact the system manager and provide information as described in the Notification Procedure. Requests by an individual for access to a record must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to change the content of a record in the system of records (for the current Free Application for Federal Student Aid (FAFSA)), contact the system manager with the information described in the Notification Procedure, identify the specific items to be changed, and provide a justification for the change. Requests to amend a record must meet the requirements of regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Applicants for Federal student financial aid provide the information

used in this system by filing a Free Application for Federal Student Aid (FAFSA) with the Department of Education. (For students who have access to the Internet, the Free Application for Federal Student Aid (FAFSA) is available on the world wide web (located at www.fafsa.ed.gov). Although students using the web site are required to send in a paper signature page and students must update their information each year, applying electronically using the Internet is less burdensome than applying on paper.)

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18-11-02

SYSTEM NAME:

Recipient Financial Management System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Central Computer Facility, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on all Pell Grant Recipients.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of the names, addresses, birth dates, Social Security numbers, financial data, and status of award for Pell Grant recipients.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title IV-A of the Higher Education Act of 1965.

PURPOSE(S):

The information in this system is used to prepare processed student payment data for submission to schools or their agents in order to verify payments made to students.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Program Disclosures.* Any information from this system of records, including personal information obtained from other agencies through computer matching programs, may be disclosed to any third party through a computer matching program in connection with an individual's application or participation in any grant or loan program administered by the Department. Purposes of these disclosures may be to determine program eligibility and benefits, enforce the conditions and terms of the loan or grant, permit the servicing and collecting of the loan or grant, counsel the individual in repayment efforts, investigate possible fraud and verify compliance with program regulations, locate a delinquent or defaulted debtor, and initiate legal action against an individual involved in program fraud or abuse.

(2) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The Member's right to the information is no greater than the right of the individual who requested it.

(3) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

- (i) The Department of Education, or any component of the Department; or
- (ii) Any Department employee in his or her official capacity; or
- (iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;
- (iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or
- (v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is

authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose to a consumer reporting agency information regarding a claim which is determined to be valid and overdue as follows: (1) The name, address, taxpayer identification number and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in subsection 31 U.S.C. 3711(f). A consumer-reporting agency to which these disclosures may be made is defined at 31 U.S.C. 3701 (a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Origination and disbursement reports are now stored electronically. Decrease award and audit reports are maintained in hard copy.

RETRIEVABILITY:

Records are indexed by institution and by recipient name and Social Security number within school.

SAFEGUARDS:

Direct access is restricted to authorized staff. A computerized badge reading system controls physical access to the records housed within the facility.

RETENTION AND DISPOSAL:

Original copies are maintained until fiscal year funds are closed out and then are stored at the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Student Aid Origination Team, Programs Systems Service, 400 Maryland Avenue, SW., Washington, DC 20202.

NOTIFICATION PROCEDURE:

A student who has received a Federal Pell Grant, should presume that a record exists. If you wish to determine whether a record exists regarding you in the system of records, contact the system manager and provide your name, social security number and date of birth. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record in this system, you should contact the system manager and provide information as described in the Notification Procedure. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to change the content of a record in the system of records, you should contact the system manager with the information described in the Notification Procedure, identify the specific items to be changed and provide a written justification for the change. Your request must meet the requirements of the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from origination and disbursement records provided by the school or its agent to the Department of Education.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18-11-03

SYSTEM NAME:

Student Financial Assistance Validation File.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Debt Collection, Division of Certification and Program Review, Office of Student Financial Assistance Programs, U.S. Department of Education, Seventh and D Streets, SW., Room 4520, ROB-3, Washington, DC 20202.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on applicants and recipients of student financial assistance.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of student financial assistance application, award and servicing forms and documentation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title IV of the Higher Education Act of 1965.

PURPOSE(S):

The information in this system is used to determine program eligibility and benefits, enforce the conditions and terms of the loan or grant, permit the servicing and collecting of the loan or grant, counsel the individual in repayment efforts, investigate possible fraud and verify compliance with program regulations, locate a delinquent or defaulted debtor, and initiate legal action against an individual involved in program fraud or abuse.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department of Education, or any component of the Department; or
 (ii) Any Department employee in his or her official capacity; or
 (iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the

litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(2) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(3) *Program Disclosures.* Any information from this system of records, including personal information obtained from other agencies through computer matching programs, may be disclosed to any third party through a computer matching program in connection with an individual's application or participation in any grant or loan program administered by the Department of Education. Purposes of these disclosures may be to determine program eligibility and benefits, enforce the conditions and terms of the loan or grant, permit the servicing and collecting of the loan or grant, counsel the individual in repayment efforts, investigate possible fraud and verify compliance with program regulations, locate a delinquent or defaulted debtor, and initiate legal action against an individual involved in program fraud or abuse.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose to a consumer reporting agency information regarding a claim which is

determined to be valid and overdue as follows: (1) The name, address, taxpayer identification number and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in subsection 31 U.S.C. 3711(f). A consumer reporting agency to which these disclosures may be made is defined at 31 U.S.C.3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in standard file cabinets.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Access is restricted to authorized staff only and files are maintained in locked cabinets.

RETENTION AND DISPOSAL:

Records are maintained until resolved and then transferred to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Certification and Program Review, Office of Student Financial Assistance Programs, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4520, ROB-3, Washington, DC 20202.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, contact the system manager. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record regarding you in the system of records, contact the system manager. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record regarding you in the system of records, contact the system manager. Your request must meet the requirements of the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from application data, incoming correspondence and related material, obtained during course of investigation; Program System Service (PSS), National Student Loan Data Systems Division (NSLDS).

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18-11-05

SYSTEM NAME:

Title IV Program Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Program System Service, Office of Student Financial Assistance Programs, U.S. Department of Education, Seventh and D Streets, SW., Room 4640, ROB-3, Washington, DC 20202-5258.

Computer Sciences Corporation, Meridan, Connecticut.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on the following individuals:

- (1) Individuals who apply for Federal financial student aid;
- (2) Recipients of Pell Grants;
- (3) Recipients of Federal Direct Student Loans; and
- (4) Borrowers whose loan defaulted or borrower died, became disabled or had a loan discharged in bankruptcy under the Federal Direct Student Loan Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records regarding the amount of Pell Grant applicant receives; applicant's demographic background, loan, and educational status; family income; Social Security number; address and telephone number; and employment information on borrowers and co-signers; default claim number; amount of claim; information pertaining to locating a borrower; collection and repayment history; information pertaining to the amount of the loan and repayment obligation; forbearance; cancellation; disability; and deferment information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Higher Education Act of 1965, Titles IV-A, IV-B, IV-D, and IV-E, as amended (20 U.S.C. 1070-1070a-6, 1070b-1070b-3, 1071-1087-2, 1087a, 1087aa-hh).

PURPOSE(S):

The information maintained in this system is used for the purposes of determining program eligibility and benefits, verifying the identity of the individual, enforcing the conditions and terms of the loan or grant, permitting the servicing and collecting of the loan or grant, counseling the individual in repayment efforts, investigating possible fraud and verifying compliance with program regulations, locating a delinquent or defaulted debtor or locating a recipient owing an overpayment on a grant, initiating legal action against an individual involved in program fraud, abuse, or noncompliance, and enforcing Title IV requirements against schools, lenders, and guaranty agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records without the consent of the individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

(1) *Program Disclosures.* ED may disclose records for the following program purposes:

(a) To verify the identity of the applicant, disclosures may be made to guaranty agencies, educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, contractors, business and personal associates and consumer reporting agencies.

(b) To determine program eligibility and benefits, disclosures may be made to guaranty agencies, educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, contractors, business and personal associates and consumer reporting agencies.

(c) To facilitate default reduction efforts by program participants, disclosures may be made to guaranty agencies, educational and financial agencies or institutions, Federal, State or local agencies, consumer reporting agencies, contractors and hearing officials.

(d) To enforce the conditions or terms of the loan, disclosures may be made to guaranty agencies, educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and

former employers and creditors, business and personal associates, consumer reporting agencies, contractors and hearing officials.

(e) To enforce the conditions or terms of the grant, disclosures may be made to educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and hearing officials.

(f) To permit servicing, collecting or accepting the loan, disclosures may be made to guaranty agencies, educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and hearing officials.

(g) To permit collecting overpayment on grants, disclosures may be made to, educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and hearing officials.

(h) To counsel the borrower in repayment efforts, disclosures may be made to guaranty agencies, educational and financial agencies or institutions, contractors and Federal, State or local agencies.

(i) To investigate possible fraud and verify compliance with loan program regulations, disclosures may be made to guaranty agencies, educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and hearing officials.

(j) To investigate possible fraud and verify compliance with grant program regulations, disclosures may be made to educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and hearing officials.

(k) To locate a delinquent or defaulted borrower, disclosures may be made to guaranty agencies, educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and hearing officials.

(l) To locate an individual who owes a refund on a grant, disclosures may be made to educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and hearing officials.

(m) To issue collection letters to defaulted borrowers, disclosures may be made to guaranty agencies, educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and hearing officials.

(n) To issue collection letters to an individual who owes a refund on a grant, disclosures may be made to educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and hearing officials.

(o) To locate a missing borrower, disclosures may be made to guaranty agencies, educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and hearing officials.

(p) To locate a missing individual who owes a refund on a grant, disclosures may be made to educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and hearing officials.

(q) To collect in-file history information and to determine assets and ability to pay a loan debt, disclosures may be made to guaranty agencies, educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and hearing officials.

(r) To collect in-file history information and to determine assets and ability to refund an overpayment, disclosures may be made to educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates,

consumer reporting agencies, contractors and hearing officials.

(s) To determine last known address, disclosures may be made to guaranty agencies, educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and hearing officials.

(t) To conduct a salary offset hearing under 34 CFR Part 31, disclosures may be made to Federal agencies, contractors and hearing officials.

(u) To prepare for litigation or to litigate collection service and audit, disclosures may be made to guaranty agencies, Federal, State or local agencies, contractors and hearing officials.

(v) To initiate a limitation, suspension and termination (LS&T) or debarment or suspension action, disclosures may be made to guaranty agencies, educational and financial agencies or institutions and hearing officials.

(w) To ensure Title IV requirements are met by schools, lenders and guaranty agencies, disclosures may be made to guaranty agencies, educational and financial agencies or institutions, Federal, State or local agencies, and hearing officials.

(x) To verify death, disclosures may be made to guaranty agencies, educational and financial agencies or institutions, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and Federal, State or local agencies.

(y) To conduct credit checks, disclosures may be made to guaranty agencies, educational and financial agencies or institutions, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and Federal, State or local agencies.

(z) To investigate complaints, update files, and correct errors, disclosures may be made to guaranty agencies, educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and hearing officials.

(2) *Feasibility Study Disclosure.* Any information from this system of records may be disclosed to other Federal agencies and to guaranty agencies to determine whether computer matching programs should be conducted by the Department regarding an individual's

application for or participation in any grant or loan program administered by the Department. Purposes of these disclosures may be to determine program eligibility and benefits, facilitate default reduction efforts, enforce the conditions and terms of a loan or grant, permit the servicing and collecting of the loan or grant, enforce debarment, suspension, and exclusionary actions, counsel the individual in repayment efforts, investigate possible fraud and verify compliance with program regulations, locate a delinquent or defaulted debtor, and initiate legal action against an individual involved in program fraud or abuse.

(3) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether foreign, Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or executive order or rule, regulation, or order issued pursuant thereto if the information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility of the receiving entity.

(4) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

- (i) The Department of Education, or any component of the Department; or
- (ii) Any Department employee in his or her official capacity; or
- (iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;
- (iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or
- (v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the

Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(5) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record from this system of records as a routine use to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, such as current licenses, if the disclosure is necessary to obtain a record the Department believes may be relevant to a Department decision concerning the hiring, retention of, or any personnel action concerning an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Licensing Organizations.* The Department may disclose information from this system of records as a routine use to a Federal, State, local, or foreign agency or other public authority or professional licensing organization, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit.

(6) *Employee Grievance, Complaint or Conduct Disclosure.* If a record maintained in this system of records is relevant to an employee grievance or complaint or employee discipline or competence determination proceedings of another party of the Federal Government, the Department may disclose the record as a routine use in the course of the proceedings.

(7) *Labor Organization Disclosure.* Where a contract between a component of the Department and a labor

organization recognized under Chapter 71, U.S.C. Title V provides that the Department will disclose personal records relevant to the organization's mission, records in this system of records may be disclosed as a routine use to such an organization.

(8) *Contract Disclosure.* When the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating, or otherwise refining records or performing any other function with respect to the records in this system, relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act Safeguards with respect to such records.

(9) *Disclosure to the Department of Justice.* The Department may disclose information from this system of records as a routine use to the Department of Justice to the extent necessary for obtaining its advice on any matter relevant to an audit, inspection, or other inquiry related to the Department's responsibilities under Title IV of the Higher Education Act of 1965.

(10) *Research Disclosure.* When the appropriate official of the Department determines that an individual or organization is qualified to carry out specific research, that official may disclose information from this system of records to that researcher solely for the purpose of carrying out that research. The researcher shall be required to maintain Privacy Act Safeguards with respect to such records.

(11) *Computer Matching Disclosure.* Any information from this system of records, including personal information obtained from other agencies through computer matching programs, may be disclosed to any third party through a computer matching program in connection with an individual's application for, or participation in, any grant or loan program administered by the Department. The purposes of these disclosures may be to determine program eligibility and benefits, enforce the condition and terms of a loan or grant, permit the servicing and collecting of the loan or grant, prosecute or enforce debarment, suspension, and exclusionary actions, counsel the individual in repayment efforts, investigate possible fraud and verify compliance with program regulations, locate a delinquent or defaulted debtor, and initiate legal action against an individual involved in program fraud or abuse.

Among other disclosures, this routine use authorizes disclosure to any other Federal agency, including the Defense Manpower Data Center, Department of

Defense, for the purposes of identifying and locating individuals who are delinquent in their repayment of debts owed to the U.S. Government under Title IV, HEA programs of the Department, in order to collect the debts under the provisions of the Debt Collection Act of 1982 (including 31 U.S.C. Chapter 37 and 5 U.S.C. 5514) and 31 CFR Part 31 by voluntary repayment or by administrative or salary offset.

(13) *Freedom of Information Act (FOIA) Advice Disclosure.* In the event that the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice or the Office of Management and Budget for the purpose of obtaining their advice.

(14) *Congressional Member Disclosure.* The Department may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for the which the record was collected. The member's right to the information is no greater than the right of the individual who requested it.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose to a consumer reporting agency information regarding a claim which is determined to be valid and overdue as follows: (1) The name, address, social security number, and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in 31 U.S.C. 3711(f). A consumer reporting agency to which these disclosures may be made is defined at 15 U.S.C. 1681a(f) and 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in either hard copy, microfilm, magnetic tape, or other electronic media.

RETRIEVABILITY:

The file is indexed by Social Security number or name. Data for loans made

under the Federal Direct Student Loan Program, FISL Program, Federal Perkins Loan (formerly National Direct Student Loan) Program, Federal Pell Grant Program, and some FFELs are retrievable by Social Security number.

SAFEGUARDS:

All physical access to the Department of Education site, and the sites of Department contractors where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge.

The computer system employed by the Department of Education offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department of Education and contract staff on a "need-to-know" basis, and controls individual users' ability to access and alter records within the system. All users of this system of records are given a unique user ID with personal identifiers. All interactions by individual users with the system are recorded.

RETENTION AND DISPOSAL:

Records of individual loans may be destroyed five years after cancellation, forgiveness or final repayment of the loan. Records of Federal Supplemental Educational Opportunity Grant recipients may be destroyed five years after the fiscal operations report is filed. Records of Federal Pell Grant recipients may be destroyed five years after the initial award year has ended, as set forth in appropriate record retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Program Systems Service, Office of Student Financial Assistance Programs, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4640, ROB-3, Washington, DC 20202-5258.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, you should provide to the system manager your name, date of birth, Social Security number, and the name of the school or lender from which the loan or grant was obtained. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record in this system, you should contact the system manager and provide information as described in the

Notification Procedure. Requests by an individual for access to a record must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to change the content of a record in the system of records, contact the system manager with the information described in the Notification Procedure, identify the specific items to be changed, and provide a written justification for the change. Requests to amend a record must meet the requirements of the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information is obtained from reports from borrowers and their families, lenders, schools, examining or treating physicians, employers, credit agencies, Federal and State governmental agencies, and State or private nonprofit guaranty agencies. However, lenders and guaranty agencies are not a source of information for participants in the Federal Direct Student Loan Program, since the Department maintains individual records of borrowers for this program.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18-11-07

SYSTEM NAME:

Student Financial Assistance Collection Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATIONS:

Program Systems Support, Office of Student Financial Assistance Programs, U.S. Department of Education, Seventh and D Streets, SW., Room 4640, ROB-3, Washington, DC 20202-5258. See the Appendix to this system notice for additional system locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on those individuals who have student loans made under the Federal Family Education Loan (FFEL) Program: Stafford Loans (formerly the Guaranteed Student Loan Program (GSL), including Federally Insured Student Loans (FISL)), Supplemental Loans for Students (SLS), PLUS Loans (formerly Parental Loans for Undergraduate Students), and Consolidation Loans; the William D. Ford Federal Direct Student Loan (Direct Loan) Program (formerly known as the Stafford/Ford Loan

Program (SFLP), Federal Direct Unsubsidized Stafford/Ford Loan Program, Federal Direct Consolidation Loan, and Federal Direct Plus Loans; and Federal Perkins Loans (formerly National Direct/Defense Student Loans (NDSL)) and those who are awarded grants under the Pell Grant Program and the Supplemental Education Opportunity Grant Program (SEOG).

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records regarding an applicant's demographic background; loan, repayment history; and educational status; family income; social security number; address and telephone numbers; employment information on borrowers and co-signers; collection activity on accounts; default claim number; amount of claim; information pertaining to locating a borrower; collection and repayment obligation; forbearance; cancellation; disability; deferment; administrative wage garnishment; bankruptcy, death; close school discharge; hearings; photocopy of all promissory notes; account collection records; and administrative resolutions and litigations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Higher Education Act of 1965, Titles IV-A, IV-B, IV-D, and IV-E, as amended, (20 U.S.C. 1070-1070a-6, 1070b-1070b-3, 1071-1087-2, 1087a, and 1087aa-hh).

PURPOSE(S):

The information contained in the records maintained in this system is used for the purposes of determining program eligibility and benefits, verifying the identity of the individual, enforcing the conditions and terms of the loan or grant, permitting the servicing and collecting of the loan or grant, counseling the individual in repayment efforts, investigating possible fraud and verifying compliance with program regulations, locating a delinquent or defaulted debtor or locating a recipient owing an overpayment on a grant, initiating legal action against an individual involved in program fraud, abuse, or noncompliance, and enforcing Title IV requirements against schools, lenders, and guaranty agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the

disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Program Disclosures.* The Department may disclose information from this system to Federal, State, or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, guaranty agencies, educational and financial agencies or institutions, consumer reporting agencies, contractors and hearing officials for the following purposes: (1) To verify the identity of the applicant; (2) to determine program eligibility and benefits; (3) to facilitate default reduction efforts by program participants; (4) to enforce the conditions or terms of the loan; (5) to permit servicing, collecting, or accepting the loan; (6) to counsel the borrower in repayment efforts; (7) to investigate possible fraud and verify compliance with program regulations; (8) to locate a delinquent or defaulted borrower; (9) to issue collection letters; (10) to locate a missing borrower; (11) to collect in-file history information to determine assets and ability to pay; (12) to determine last known address; (13) to conduct a salary offset hearing under 34 CFR part 31; (14) to prepare for litigation or to litigate collection service and audit; (15) to initiate a limitation, suspension, and termination (LS&T) or debarment or suspension action; (16) to ensure Title IV requirements are met by schools, lenders, and guaranty agencies; (17) to verify death; (18) to conduct credit checks; and (19) to investigate complaints, update files, and correct errors.

(2) *Feasibility Study Disclosure.* The Department may disclose information from this system of records to other Federal agencies and to guaranty agencies to determine whether computer matching programs should be conducted by the Department regarding an individual's application for or participation in any grant or loan program administered by the Department. Purposes of these disclosures may be to determine program eligibility and benefits, facilitate default reduction efforts, enforce the conditions and terms of a loan or grant, permit the servicing and collecting of the loan or grant, enforce debarment, suspension, and exclusionary actions, counsel the individual in repayment efforts, investigate possible fraud and verify

compliance with program regulations, locate a delinquent or defaulted debtor, and initiate legal action against an individual involved in program fraud or abuse.

(3) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(4) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(5) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department of Education, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative

body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(6) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(7) *Employee Grievance, Complaint or Conduct Disclosure.* The Department may disclose a record in this system of records to another agency of the Federal Government if the record is relevant to one of the following proceedings regarding a present or former employee of the Department: complaint, grievance, discipline or competence determination proceedings. The disclosure may only be made during the course of the proceeding.

(8) *Labor Organization Disclosure.* A component of the Department may disclose records to a labor organization if a contract between the component and a labor organization recognized under Title V of the United States Code,

Chapter 71, provides that the Department will disclose personal records relevant to the organization's mission. The disclosures will be made only as authorized by law.

(9) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(10) *Disclosure to the Department of Justice (DOJ).* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(11) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(12) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(13) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The Member's right to the information is no greater than the right of the individual who requested it.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose to a consumer reporting agency information regarding a claim by the Department which is determined to be valid and overdue as follows: (1) The

name, address, taxpayer identification number and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in subsection 31 U.S.C. 3711(e). A consumer reporting agency to which these disclosures may be made is defined at 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in either hardcopy, microfilm, magnetic tape, or other electronic media.

RETRIEVABILITY:

Records are retrievable by Social Security number.

SAFEGUARDS:

All physical access to the Department's site, and the sites of Department contractors where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge.

The computer system utilized by the Department offers a high degree of resistance to tampering and circumvention. This security system limits data access to the Department and contract staff on a "need-to-know" basis, and controls individual users' ability to access and alter records within the system. All users of this system of records are given a unique user ID with personal identifiers. All interactions by individual users with the system are recorded.

RETENTION AND DISPOSAL:

Records of individual loans may be destroyed five (5) years after cancellation, forgiveness or final repayment of the loan. Records of Federal Supplemental Educational Opportunity Grant (SEOG) recipients may be destroyed five (5) years after the fiscal operations report is filed. Records of Federal Pell Grant recipients may be destroyed five (5) years after the initial award year has ended, as set forth in appropriate record retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Program Systems Support, Office of Student Financial Assistance Programs, U.S. Department of Education, 400 Maryland Avenue, SW.,

Room 4640, ROB-3, Washington, DC 20202-5258. See the Appendix at the end of this system notice for additional system managers.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, provide the system manager with your name, date of birth and Social Security number. Requests must meet the requirements of the regulations at 34 CFR 5b.5.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record in this system, contact the system manager and provide information as described in the notification procedure. Requests by an individual for access to a record must meet the requirements of the regulations at 34 CFR 5b.5.

CONTESTING RECORD PROCEDURES:

If you wish to change the content of a record in the system of records, contact the system manager with the information described in the notification procedure, identify the specific items to be changed, and provide a written justification for the change. Requests to amend a record must meet the requirements of the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information is obtained from reports from borrowers and their families, lenders, schools, examining or treating physicians, employers, credit agencies, Federal and State governmental agencies, and State or private nonprofit guaranty agencies. However, lenders and guaranty agencies are not a source of information for participants in the Federal Direct Student Loan Program, since the Department maintains individual records of borrowers for this program.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix to 18-11-07

Additional System Managers and System Locations

Raytheon/E-Systems, 6201 I-30, Greenville, TX 75402. Assistant Regional Administrator, U.S. Department of Education, Region IV, Division of Claims and Collections, Office of Student Financial Assistance, 61 Forsyth Street, SW., Rm. 19T89, Atlanta, GA 30303.
Assistant Regional Administrator, U.S. Department of Education, Region V, Division of Claims and Collections, Office of Student Financial Assistance, 111 North Canal Street, Suite 1009, Chicago, Illinois 60605.
Assistant Regional Administrator, U.S. Department of Education, Region IX, Division of Claims and Collections, Office

of Student Financial Assistance, 50 United Nations Plaza, Room 250, San Francisco, California 94102.

18-11-08

SYSTEM NAME:

Student Account Manager System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION(S):

Program Systems Service, Office of Student Financial Assistance Programs, U.S. Department of Education, Seventh and D Streets, SW., Room 4640, ROB-3, Washington, DC 20202. National Computer Systems, 2510 North Dodge Street, Iowa City, Iowa 52240.

Total Systems Services, Inc, 6101 Stone Mill Drive, Columbus, GA; Golden Retriever System, 8 N. Roosevelt Avenue, Chandler, AZ 85221.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The Student Account Manager System contains student financial assistance records about students and/or borrowers both who have applied for loans under any Title IV Federal loan program and students who have applied for grants under any Title IV Federal grant program.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Student Account Manager System contains records relating to a student and/or borrower's originated awards and disbursements of Title IV financial assistance. The system contains three data element types as outlined below: demographic information, such as student and/or borrower name, mailing and permanent address, e-mail address, current and original Social Security number, phone number, date of birth, student account number; loan and grant funding and award information, including the Title IV code for the school(s) for which students and/or borrowers have requested determinations of Federal financial assistance eligibility, the origination date and I.D., the funding source I.D., loan holder, credit limit or award amount; loan and grant transaction information, including the transaction date, posting date, disbursement amount, acceptance/rejection field, batch number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Higher Education Act of 1965, Title IV-A through IV-H, as amended, (20 U.S.C. 1092b).

PURPOSE(S):

This system of records is provided for the purposes of:

(1) Giving students a single point of contact for information, statements, and

customer service concerning their Federal student financial assistance (loans and grants) from various programs and sources;

(2) Providing eligible institutions of higher education with a standardized method for the receipt of Title IV student financial assistance; and

(3) Creating summary reports for Federal loan and grant funding sources and program offices for loans and grants delivered through the Student Account Manager.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Program purposes.* Records may be disclosed for the following program purposes:

(a) To report disbursement activity, disclosures may be made to appropriate guaranty agencies, educational and financial institutions, and Federal agencies.

(b) To deliver Federal student assistance funds to the educational institution at which the student is enrolled, disclosures may be made to that educational institution.

(2) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(3) *Enforcement disclosures.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating

or prosecuting that violation or charged with enforcing or implementing the statute, or executive order, rule, regulation, or order issued pursuant thereto.

(4) *Litigation disclosure and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c), and (d) of this routine use under the conditions specified in those paragraphs:

- (i) The Department of Education, or any component of the Department; or
- (ii) Any Department employee in his or her official capacity; or
- (iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee; or
- (iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or
- (v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ

(c) *Administrative disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(5) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority

or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(6) *Employee Grievance, Complaint, or Conduct Disclosure.* The Department may disclose a record in this system of records to another agency of the Federal Government if the record is relevant to one of the following proceedings regarding a present or former employee of the Department: Complaint, grievance, discipline or competence determination proceedings. The disclosure may only be made during the course of the proceeding.

(7) *Labor Organization Disclosure.* A component of the Department may disclose records to a labor organization if a contract between the component and a labor organization recognized under Title V of the United States Code, Chapter 71, provides that the Department will disclose personal records relevant to the organization's mission. The disclosures will be made only as authorized by law.

(8) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(9) *Disclosure to the Department of Justice (DOJ).* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(10) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose

the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(11) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(12) *Congressional member disclosure.* The Department may disclose information to a member of congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The Member's right to the information is no greater than the right of the individual who requested it.

(13) *Disclosure to the Office of Management and Budget (OMB) for Credit Reform Act (CRA) Support.* The Department may disclose records to OMB as necessary to fulfill CRA requirements.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose to a consumer reporting agency information regarding a claim by the Department which is determined to be valid and overdue as follows: (1) The name, address, taxpayer identification number and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in 31 U.S.C. 3711(e). A consumer reporting agency to which these disclosures may be made is defined at 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISCLOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records at the National Computer Systems (NCS) are maintained on the

mainframe at the NCS data center in Iowa City, IA and archived onto magnetic tape. Total System records are maintained on a mainframe database in Columbus, GA and backed up onto magnetic tapes. Golden Retriever System records are maintained on a sequel server database in Chandler, AZ and backed up onto CD-ROM.

RETRIEVABILITY:

Each student and/or borrower's file is indexed by social security number and the first two characters of their last name.

SAFEGUARDS:

All users of this system are given a unique user ID with a personal identifier. Student and parent users are assigned an Electronic Access Code (EAC) through the Federal Student Aid Application Files Privacy Act system of records number 18-11-01 by which they can access their accounts. All physical access to the Department's site, and the sites of Department contractors where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge.

The computer system employed by the Department offers a high degree of resistance to tampering and circumvention. This security system limits data access to the Department, agents of the Department (including schools and funding sources), and contract staff on a "need-to-know" basis, and controls individual users' ability to access and alter records within the system. All users of this system of records are given a unique user ID with passwords.

RETENTION AND DISPOSAL:

Federal Loan Records: The Department will retain and dispose of loan records in accordance with the Department's Records Disposition Schedules (ED/RDS), Part 10, Item 16. Individual records (applications, certifications, disbursements, correspondence, and related records) for Federal loans may be destroyed three years after cancellation, forgiveness or final repayment of the Loan (ED/RDS, Part 10, Item 16). Electronic Federal loan records will be kept online and easily available for 24 months after reconciliation with the funding source, then retained in accordance with ED/RDS, Part 10, Item 16.

Federal Pell Grant Records: The Department will retain and dispose of Pell Grant records in accordance with ED/RDS, Part 10, Item 17. Records of Federal Pell Grant recipients

(applications, payment, correspondence, and related records) will be transferred to a Federal Records Center after final payment to grantee. Individual Pell Grant records may be destroyed 15 years after final payment to grantee (ED/RDS, Part 10, Item 17). Individual records for unapproved Federal Pell Grant applications will be transferred to a Federal Records Center 120 days after a rejection or withdrawal, and may be destroyed three years after date of rejection or withdrawal (ED/RDS, Part 10, Item 17(d)). Electronic Federal Pell Grant records will be kept online and easily available for 24 months after reconciliation with the funding source, then retained in accordance with ED/RDS, Part 10, Item 17.

SYSTEM MANAGER(S) AND ADDRESS:

Service Director, Program Systems Service, Office of Student Financial Assistance Programs, U.S. Department of Education, 400 Maryland Avenue, SW., ROB-3, Room 4640, Washington, DC 20202.

NOTIFICATION PROCEDURE:

If an individual wishes to determine whether a record exists regarding him or her in this system of records, the individual may gain access to the system via the Internet or by contacting the system administrator through the Student Account Manager's customer service e-mail address or toll-free telephone number. (To obtain access to records by telephone, the student must first authorize telephone access through the Student Account Manager's website using his or her Electronic Access Code.) The student must provide the system manager with his or her name, date of birth, Social Security number, and Electronic Access Code (EAC). Requests for notification about an individual must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity. Individuals may also present their requests in person at any of the locations identified for this system of records or address their requests to the system manager at the following address: Program Systems Service, Office of Student Financial Assistance Programs, U.S. Department of Education, 400 Maryland Avenue, SW., ROB-3, Room 4640, Washington, DC 20202.

RECORD ACCESS PROCEDURES:

If an individual wishes to gain access to a record in this system, he or she may do so via the Internet, by calling the toll free customer service phone number using a touch-tone telephone, or by contacting the system manager through the Student Account Manager's

customer service e-mail address or toll-free telephone number. (To obtain access to records by telephone, the student must first authorize telephone access through the Student Account Manager's website using his or her Electronic Access Code.)

CONTESTING RECORD PROCEDURES:

If an individual wishes to change the contents of a record in the system of records, he or she may challenge a transaction by contacting the system manager by telephone or sending written notice to the Student Account Manager's customer assistance area and providing the information described in the notification procedure, identifying the specific item(s) to be changed, and providing a written justification for the change, including any supporting documentation.

RECORD SOURCE CATEGORIES:

Information is obtained from schools, lenders, guaranty agencies, students, borrowers, the Title IV Program Files (Privacy Act system of records number 18-11-05), the Federal Student Aid Application Files Privacy Act system of records number 18-11-001), the Direct Loan Origination Center, and the Recipient Funds Management System (RFMS).

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18-11-09

SYSTEM NAME:

Postsecondary Education Participants System (PEPS).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Computer Sciences Corporation, 71 Deerfield Lane, Meriden, CT 06450.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The PEPS contains records about owners (individuals, either solely or as partners, and corporate entities), officials, and authorized agents of postsecondary institutions; members of boards of directors or trustees of such institutions; employees of foreign entities that evaluate the quality of education; third-party servicers, including contact persons.

CATEGORIES OF RECORDS IN THE SYSTEM:

The PEPS contains information regarding the eligibility, administrative capability, and financial responsibility of postsecondary schools that participate in the student financial aid

programs, including the names, taxpayer identification numbers (Social Security numbers), business addresses, and phone numbers of the individuals with substantial ownership interests in, or control over, those institutions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Higher Education Act of 1965, Title IV, as amended, (20 U.S.C. 1088, 1094, 1099c); the Debt Collection Improvement Act of 1996 (31 U.S.C. 7701).

PURPOSE(S):

The information contained in the PEPS is used for the purposes of determining initial and continuing eligibility, administrative capability and financial responsibility of postsecondary schools that participate in the student financial assistance programs, tracking school changes and maintaining history of this information regarding schools that have ever applied to participate or participated in these programs and documenting any need for any protective or corrective action against a school or individual associated with the school.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records without the consent of the individual if the disclosure is compatible with the purpose for which the record was collected and only as needed to achieve a program objective under the following routine uses:

(1) *Program Purposes.* The Department may disclose information contained in the PEPS to appropriate guaranty agencies, educational and financial institutions, accrediting agencies, State agencies, and appropriate Federal, State, or local agencies, in order to verify and assist with the determination of eligibility, administrative capability, and financial responsibility of postsecondary institutions that have applied to participate in the student financial assistance programs.

(2) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records in the PEPS, as a routine use, to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating

or prosecuting such violation or charged with enforcing or implementing the statute, or executive order or rule, regulation, or order issued pursuant thereto.

(3) *Litigation and Alternative Dispute Resolution (ADR) Disclosure.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or alternative dispute resolution (ADR), or has an interest in litigation or ADR, the Department may disclose PEPS records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

- (i) The Department of Education, or any component of the Department; or
- (ii) Any Department employee in his or her official capacity; or
- (iii) Any employee of the Department in his or her individual capacity where the Department of Justice has agreed to provide or arrange for representation for the employee; or
- (iv) Any employee of the Department in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States, where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the Department of Justice.* If the Department determines that disclosure of certain records to the Department of Justice is relevant and necessary to litigation, the Department may disclose those records as a routine use to the Department of Justice.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, or to an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes, is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to that adjudicative body, entity or individual.

(d) *Opposing counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to an opposing counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the counsel, representative or witness.

(4) *Employment, Benefit and Contracting Disclosure.*

(a) *For decisions by the Department.* The Department may disclose records to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent

records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For decisions by Other Public Agencies and Professional Organizations.* The Department may disclose records to a Federal, State, local or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(5) *Employee Grievance, Complaint or Conduct Disclosure.* The Department may disclose a record in PEPS to another agency of the Federal government if the record is relevant to a complaint, grievance, discipline or competence determination proceeding regarding a present or former employee of the Department. The disclosure may only be made during the course of the proceeding.

(6) *Labor Organization Disclosure.* The Department may disclose records to a labor organization if a contract between the Department and a labor organization recognized under Title V of the United States Code, Chapter 71, provides that the Department will disclose personal records relevant to the organization's mission. The disclosures will be made only as authorized by law.

(7) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(8) *Disclosure to the Department of Justice.* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(9) *Contract Disclosure.* If the Department contracts with an entity for the purpose of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the

Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(10) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(11) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(12) *Disclosure to the Office of Management and Budget (OMB) for Credit Reform Act (CRA) Support.* The Department may disclose records to OMB as necessary to fulfill CRA requirements.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose to a consumer reporting agency information regarding a claim by the Department which is determined to be valid and overdue as follows: (a) The name, address, taxpayer identification number and other information necessary to establish the identity of the individual responsible for the claim; (b) the amount, status, and history of the claim; and (c) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in subsection 31 U.S.C. 3711(e). A consumer reporting agency to which these disclosures may be made is defined at 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained on electronic data files on a server.

RETRIEVABILITY:

The records are indexed by the name of the institution or organization, and may be retrieved by the OPEID of school, EIN (Entity Identification Number) of the school or entity; or the name or TIN (Tax Identification Number or social security number) of the individual.

SAFEGUARDS:

All physical access to the Department of Education site, and the sites of Department contractors where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge. The computer system employed by the Department of Education offers a high degree of resistance to tampering and circumvention. This security system limits data access to staff of the Department of Education, guarantors, accrediting agencies, State agencies, and Department contractors on a "need-to-know" basis, and controls individual users' ability to access and alter records within the system. All users of this system of records are given a unique user ID with personal identifiers. All interactions by individual users with the system are recorded.

RETENTION AND DISPOSAL:

History records are kept in PEPS indefinitely, or archived. Records are maintained and destroyed in accordance with the Department of Education Records Disposition Schedules (ED/RDS).

SYSTEM MANAGER(S) AND ADDRESS:

Director, Postsecondary Education Participants System, Office of Student Financial Assistance Programs, U.S. Department of Education, Seventh and D Streets, SW., Room 4629, ROB-3, Washington, DC 20202.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the PEPS, provide the system manager with your name and social security number. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity. You may address your request, or present that request in person, to the system manager at the address above.

RECORD ACCESS PROCEDURES:

You may gain access to any record in the PEPS that pertain to you by contacting the system manager and following the procedures for notification listed above and must meet the requirements of 34 CFR 5b.5.

CONTESTING RECORD PROCEDURES:

You may contest the content of a record in PEPS pertaining to you by presenting to the system manager, either in writing or in person, a request to amend or correct that information. The request to amend, or for an appointment to present an oral request, must be made in writing mailed to the system manager at the address provided above. The request must identify the particular record within the PEPS that you wish to have changed, state whether you wish to have the record amended, corrected or deleted, and explain the reasons why you wish to have the record changed.

RECORD SOURCE CATEGORIES:

Information is obtained from applications submitted by institutions and entities that seek to participate in the student financial assistance programs and from components of the Department, from other Federal, State and non-governmental agencies and organizations that acquire information relevant to the purposes of the PEPS.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18-12-01

SYSTEM NAME:

Title VI Foreign Language and Area Studies Fellowships (FLAS).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

International Education and Graduate Programs Service, Office of Postsecondary Education, U.S. Department of Education, 1250 Maryland Avenue, SW, Room 600, Portals Building, Washington, DC 20202-5331.

AppNet, 103 W. Broad Street, Fifth Floor, Falls Church, VA 22046.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Graduate Students, who have been nominated for FLAS fellowships by grantee institutions of higher education.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Title VI FLAS Records System consists of a variety of records relating to an individual's applications for, and participation in, the FLAS program. In addition to the individual's name, the system contains the participant's grantee institution, degree status, award period, amount of the award, language of the award, title of language course taken, major discipline, career goal, foreign language proficiency self-

evaluation, and a brief description and evaluation of the study program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Higher Education Act of 1965, as amended, Part A, Title VI, Section 602(b).

PURPOSE(S):

The information contained in this system is used to determine the eligibility of nominees for FLAS fellowships; to monitor compliance and accomplishments; and to use the data to demonstrate program effectiveness.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

Department of Education personnel, field readers, and grantee institutions use the information to determine the eligibility of nominees and to monitor the progress of foreign language and area studies training. Department of Education personnel and AppNet use some of the data to demonstrate program effectiveness. Disclosure may be made to the following entities as well:

(1) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(2) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or

implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(3) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department of Education, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(4) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the

hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(5) *Employee Grievance, Complaint or Conduct Disclosure.* The Department may disclose a record in this system of records to another agency of the Federal Government if the record is relevant to one of the following proceedings regarding a present or former employee of the Department: complaint, grievance, discipline or competence determination proceedings. The disclosure may only be made during the course of the proceeding.

(6) *Labor Organization Disclosure.* A component of the Department may disclose records to a labor organization if a contract between the component and a labor organization recognized under Title V of the United States Code, Chapter 71, provides that the Department will disclose personal records relevant to the organization's mission. The disclosures will be made only as authorized by law.

(7) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(8) *Disclosure to the Department of Justice (DOJ).* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(9) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor

to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(10) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(11) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(12) *Disclosure to the Office of Management and Budget (OMB) for Credit Reform Act (CRA) Support.* The Department may disclose records to OMB as necessary to fulfill CRA requirements.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose to a consumer reporting agency information regarding a claim by the Department which is determined to be valid and overdue as follows: (1) The name, address, taxpayer identification number and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in subsection 31 U.S.C. 3711(e). A consumer reporting agency to which these disclosures may be made is defined at 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in hardcopy, filed in standard filing cabinets and in an electronic data warehouse maintained by AppNet and accessible by AppNet, individual

participants, participants' institutions and US Department of Education personnel.

RETRIEVABILITY:

Hardcopy files are retrieved by individual names and educational institution. Electronic files can be accessed through all data elements.

SAFEGUARDS:

All physical access to the Department of Education site, and the site of Department contractors where this system of records is maintained, is controlled and monitored by personnel who check each individual entering the building.

The computer system employed by AppNet offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department of Education and contract staff grantees on a "need-to-know" basis, and controls individual users' ability to access and alter records within the system. All users of this system of records are given a unique user ID with personal identifiers. All interactions by individual users with the system are recorded.

RETENTION AND DISPOSAL:

Hardcopy records are maintained for five years and then destroyed. Data stored in the electronic data warehouse are maintained until the need for longitudinal studies to demonstrate program effectiveness is no longer required.

SYSTEM MANAGER(S) AND ADDRESS:

Director, International Education and Graduate Programs Service, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 600B, Portals Building, Washington, DC 20202-5247.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, provide the system manager with your name, the year of the award, the name of the grantee institution, and language of the award. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

Contact the system manager.

CONTESTING RECORD PROCEDURES:

Contact the system managers.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual and grantee institutions on

approved forms in hardcopy or electronic format.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18-12-02

SYSTEM NAME:

Fulbright-Hays—Doctoral Dissertation Research Abroad (DDRA), Faculty Research Abroad (FRA), Seminars Abroad (SA), Fellows.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

International Education and Graduate Programs Service, Office of Postsecondary Education, U.S. Department of Education, 1250 Maryland Avenue, SW., Room 600, Portals Building, Washington, DC 20202-5331.

AppNet, 103 W. Broad Street, Fifth Floor, Falls Church, VA 22046.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on teachers or prospective teachers who have been selected to be recipients for Fulbright-Hays awards to enable them to engage in foreign language and area studies projects overseas.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Fulbright-Hays Records System consists of a variety of records relating to an individual's applications for, and participation in, the Fulbright-Hays DDRA, FRA or SA programs. In addition to the individual's name, the system contains the participant's address, telephone number, educational institution, date and place of birth, citizenship, social security number, veteran's status, names of accompanying dependents, previous overseas travel, educational and employment background, student loan default status, a health statement, transcripts, references, project description and project cost based on either the cost-of-living in the host country or the annualized salary of a faculty member, field reader and US Embassy comments, award documents, and final project reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451-2458).

PURPOSE(S):

The information contained in this system is used for the following purposes: (1) To determine the

applicants' qualifications, eligibility, suitability and feasibility; (2) to award benefits for overseas research; (3) to monitor the progress of the project including its accomplishments; and (4) to demonstrate the program's effectiveness.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Program Disclosure.* The Department may disclose information to field readers, the U.S. Department of State, U.S. Embassies, binational commissions, the J. William Fulbright Foreign Scholarship Board, foreign educators and officials so that the information can be used to determine the qualifications, eligibility, suitability, feasibility, and award benefits for overseas research.

(2) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(3) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(4) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in

litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department of Education, or any component of the Department; or
(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(5) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may

disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(6) *Employee Grievance, Complaint or Conduct Disclosure.* The Department may disclose a record in this system of records to another agency of the Federal Government if the record is relevant to one of the following proceedings regarding a present or former employee of the Department: complaint, grievance, discipline or competence determination proceedings. The disclosure may only be made during the course of the proceeding.

(7) *Labor Organization Disclosure.* A component of the Department may disclose records to a labor organization if a contract between the component and a labor organization recognized under Title V of the United States Code, Chapter 71, provides that the Department will disclose personal records relevant to the organization's mission. The disclosures will be made only as authorized by law.

(8) *Freedoms of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(9) *Disclosure to the Department of Justice (DOJ).* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(10) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(11) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the

disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(12) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The Member's right to the information is no greater than the right of the individual who requested it.

(13) *Disclosure to the Office of Management and Budget (OMB) for Credit Reform Act (CRA) Support.* The Department may disclose records to OMB as necessary to fulfill CRA requirements.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose to a consumer reporting agency information regarding a claim by the Department which is determined to be valid and overdue as follows: (1) The name, address, taxpayer identification number and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in subsection 31 U.S.C. 3711(e). A consumer reporting agency to which these disclosures may be made is defined at 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in hardcopy, filed in standard filing cabinets and in an electronic data warehouse maintained by AppNet and accessible by AppNet, individual participants, participants' institutions and U.S. Department of Education personnel.

RETRIEVABILITY:

Hardcopy files are retrieved by individual names and educational institution. Electronic files can be accessed through all data elements.

SAFEGUARDS:

All physical access to the Department of Education site, and the sites of Department contractors where this system of records is maintained, is controlled and monitored by personnel who check each individual entering the building.

The computer system employed by AppNet offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department of Education and contract staff grantees on a "need-to-know" basis, and controls individual users' ability to access and alter records within the system. All users of this system of records are given a unique user ID with personal identifiers. All interactions by individual users with the system are recorded.

RETENTION AND DISPOSAL:

Hardcopy records are maintained for five years and then destroyed. Data stored in the electronic data warehouse are maintained until the need for longitudinal studies to demonstrate program effectiveness is no longer required.

SYSTEM MANAGER(S) AND ADDRESS:

Director, International Education and Graduate Programs Service, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 600B, Portals Building, Washington, DC 20202-5247.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, provide the system manager with your name, date of birth, social security number, the year of the award, the name of the grantee institution, major country in which you conducted your educational activity. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to records regarding you in this system of records, contact the system manager at the address listed above and follow the steps outlined in the Notification Procedures. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record in this system of records, contact the system manager at the address listed above. Your request must meet the requirements of the regulations

at 34 CFR 5b.7, including proof of identity.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual on approved application forms and from field readers, and may be secured from the U.S. Department of State, U.S. Embassies, binational commissions, the J. William Fulbright Foreign Scholarship Board, and foreign educators and officials.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18-12-04

SYSTEM NAME:

Jacob K. Javits Fellowship System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

International Education and Graduate Programs Service, Office of Postsecondary Education, U.S. Department of Education, 1250 Maryland Avenue, SW., Room 600, Portals Building, Washington, DC 20202-5247.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on individuals who apply for fellowships under the Jacob K. Javits Fellowship Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Jacob K. Javits Fellowship System consists of a variety of records relating to a student's application for, and participation in, the Javits Fellowship Program. In addition to the student's name, the system contains the student's social security number, or nine digit identification number, address, scholastic accomplishments, rating scores, and reference letters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title VII, Part A, Subpart 1 of the Higher Education Act of 1965, as amended (20 U.S.C. 1134-1134d). The program regulations are found in 34 CFR part 650.

PURPOSE(S):

The information contained in this system is used to determine the qualifications, eligibility, and suitability in the selection of fellows; to maintain the progress of fellows; to ensure compliance with program requirements; and to use the data to demonstrate program effectiveness.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis, or if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(2) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(3) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

- (i) The Department of Education, or any component of the Department; or
- (ii) Any Department employee in his or her official capacity; or
- (iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;
- (iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(4) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(5) *Employee Grievance, Complaint or Conduct Disclosure.* The Department may disclose a record in this system of records to another agency of the Federal Government if the record is relevant to

one of the following proceedings regarding a present or former employee of the Department: complaint, grievance, discipline or competence determination proceedings. The disclosure may only be made during the course of the proceeding.

(6) *Labor Organization Disclosure.* A component of the Department may disclose records to a labor organization if a contract between the component and a labor organization recognized under Title V of the United States Code, Chapter 71, provides that the Department will disclose personal records relevant to the organization's mission. The disclosures will be made only as authorized by law.

(7) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(8) *Disclosure to the Department of Justice (DOJ).* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(9) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(10) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(11) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written

request of that individual. The Member's right to the information is no greater than the right of the individual who requested it.

(12) *Disclosure to the Office of Management and Budget (OMB) for Credit Reform Act (CRA) Support.* The Department may disclose records to OMB as necessary to fulfill CRA requirements.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose to a consumer reporting agency information regarding a claim by the Department which is determined to be valid and overdue as follows: (1) The name, address, taxpayer identification number and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in subsection 31 U.S.C. 3711(e). A consumer reporting agency to which these disclosures may be made is defined at 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in hard copy, filed in standard filing cabinets; on access-controlled personal computers; and on removable personal computer diskettes that are stored in filing cabinets.

RETRIEVABILITY:

Hardcopy files are retrieved by individual names and educational institutions. Electronic files are accessed using an individual's Social Security number, or other nine digit identification number.

SAFEGUARDS:

All physical access to the Department's site, and the sites of Department contractors where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge.

The computer system employed by the Department offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department and contract staff on a "need-to-know" basis, and controls individual users'

ability to access and alter records within the system. All users of this system of records are given a unique user ID with personal identifiers. All interactions by individual users with the system are recorded.

RETENTION AND DISPOSAL:

Hardcopy records are maintained for five years and then destroyed. Data stored electronically is maintained until the need for longitudinal data to demonstrate program effectiveness is no longer needed.

SYSTEM MANAGERS AND ADDRESS:

Director, International Education and Graduate Programs Service, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 600, Portals Building, Washington, DC 20202-5247.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, provide the system manager with your name, date of birth and Social Security number. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURE:

If you wish to gain access to a record regarding you in the system of records, provide the system manager with your name, date of birth, and Social Security number. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURE:

If you wish to contest the content of a record, contact the system manager. Your request must meet the requirements of the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information is obtained principally from individual applicants, references, and schools attended by the applicant.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18-12-04

SYSTEM NAME:

Title VI International Research and Studies Program (IRS).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION(S):

International Education and Graduate Programs Service, Office of Postsecondary Education, U.S.

Department of Education, 1250 Maryland Avenue, SW., Suite 600, Portals Building, Washington, DC 20202-5331.

AppNet, 103 W. Broad Street, Fifth Floor, Falls Church, VA 22046.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on individual researchers who have been selected to be recipients of International Research and Studies (IRS) awards.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Title VI IRS Records System consists of a variety of records relating to an individual's applications for, and participation in, the IRS program. In addition to the individual's name, the system contains the participant's address, telephone number, educational institution, citizenship, social security number, institutional or individual DUNS number, educational and employment background, salary, research or instructional materials project description, project costs, field reader comments, award documents, and final project reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Higher Education Act of 1965, as amended, Part A, Title VI, section 605(a).

PURPOSE(S):

The information contained in this system is used for the following purposes: (1) To determine the qualifications and eligibility of the project director, competitiveness of and need for the project, and award benefits; (2) to monitor the progress of the project including its accomplishments; and (3) to demonstrate the program's effectiveness.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Field Reader Disclosures.* The Department may disclose information to field readers in order to determine the qualifications and eligibility of the project director, competitiveness of and need for the project, and award benefits.

(2) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(3) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(4) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

- (i) The Department of Education, or any component of the Department; or
- (ii) Any Department employee in his or her official capacity; or
- (iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;
- (iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or
- (v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and

necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(5) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(6) *Employee Grievance, Complaint or Conduct Disclosure.* The Department may disclose a record in this system of records to another agency of the Federal Government if the record is relevant to one of the following proceedings regarding a present or former employee of the Department: complaint, grievance, discipline or competence determination proceedings. The disclosure may only be made during the course of the proceeding.

(7) *Labor Organization Disclosure.* A component of the Department may disclose records to a labor organization if a contract between the component and a labor organization recognized under Title V of the United States Code, Chapter 71, provides that the Department will disclose personal records relevant to the organization's mission. The disclosures will be made only as authorized by law.

(8) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(9) *Disclosure to the Department of Justice (DOJ).* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(10) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(11) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(12) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(13) *Disclosure to the Office of Management and Budget (OMB) for Credit Reform Act (CRA) Support.* The Department may disclose records to OMB as necessary to fulfill CRA requirements.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose to a consumer reporting agency information regarding a claim by the Department which is determined to be

valid and overdue as follows: (1) The name, address, taxpayer identification number and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in subsection 31 U.S.C. 3711(e). A consumer reporting agency to which these disclosures may be made is defined at 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in hardcopy, filed in standard filing cabinets and in an electronic data warehouse maintained by AppNet and accessible by AppNet, individual participants, participants' institutions and Department personnel.

RETRIEVABILITY:

Hard copy files are retrieved by individual names and educational institution. Electronic files can be accessed through all data elements.

SAFEGUARDS:

All physical access to the Department's site, and the sites of Department contractors where this system of records is maintained, is controlled and monitored by personnel who check each individual entering the building.

The computer system employed by AppNet offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department and contract staff grantees on a "need-to-know" basis, and controls individual users' ability to access and alter records within the system. All users of this system of records are given a unique user ID with personal identifiers. All interactions by individual users with the system are recorded.

RETENTION AND DISPOSAL:

Hard copy records are maintained for five years and then destroyed. Data stored in the electronic data warehouse are maintained until the need for longitudinal to demonstrate program effectiveness is no longer required.

SYSTEM MANAGER(S) AND ADDRESS:

Director, International Education and Graduate Programs Service, Office of Postsecondary Education, US Department of Education, 400 Maryland

Avenue, SW., Washington, DC 20202-5247.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, provide the system manager with your name, date of birth, social security number, the year of the award, the name of the grantee institution, major country in which you conducted your educational activity. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to records regarding you in this system of records, contact the system manager at the address listed above and follow the steps outlined in the Notification Procedure. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record in this system of records, contact the system manager at the address listed above. Your request must meet the requirements of the regulations at 34 CFR 5b.7, including proof of identity.

RECORD SOURCE CATEGORIES:

Information is obtained from the individuals and institutions on approved application forms and from field readers.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18-13-01

SYSTEM NAME:

National Center for Education Statistics Longitudinal Studies and the School and Staffing Surveys.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Center for Education Statistics, Office of Educational Research and Improvement, U.S. Department of Education, 555 New Jersey Avenue, NW., Room 400, Washington, DC 20202-5574. See the Appendix at the end of this system notice for additional system locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains information on the following groups:

(1) High school seniors who participated in the National

Longitudinal Study of the High School Class of 1972;

(2) Approximately 26,820 high school seniors and sophomores from 1,015 U.S. high schools who participated in the High School and Beyond Survey in 1980;

(3) Approximately 26,000 eighth grade students in 1,050 U.S. schools who participated in the National Education Longitudinal Study of 1988;

(4) Approximately 60,000 students enrolled in U.S. postsecondary institutions who participate in each cycle of the National Postsecondary Student Aid Study, the Baccalaureate and Beyond Study, or the Beginning Postsecondary Students Longitudinal Study;

(5) Approximately 21,000 kindergartners, their parents, and 6,000 teachers who are participating in the Early Childhood Longitudinal Study, Kindergarten Cohort in 1998;

(6) 14,000 children and their families as well as 4,500 childcare providers that will participate in the Early Childhood Longitudinal Study, Birth Cohort 2000;

(7) Approximately 78,000 teachers, administrators, and librarians who participate in each administration of the School and Staffing Surveys of NCES;

(8) Approximately 11,000 faculty and administrators who participated in the 1987-88 National Study of Postsecondary Faculty;

(9) Approximately 30,000 faculty, instructional staff, and administrators who participate in subsequent administrations of the National Study of Postsecondary Faculty;

(10) Approximately 33,000 U.S. students who participated in the Third International Mathematics and Science Study and the 15,000 U.S. students who will participate in the subsequent administration of the Third International Mathematics and Science Study;

(11) Approximately 5,000 U.S. students who will participate in an international Civics Education Study;

(12) 9,000 U.S. students who will participate in the Program of International Student Assessment;

(13) 8,000 U.S. adults who will participate in the International Life Skills Survey.

CATEGORIES OF RECORDS IN THIS SYSTEM:

This system consists of responses to survey instruments which contain background and demographic data, questions concerning educational experiences, employment experiences, finances, aspirations, plans and goals, family formation variables, and attitudes. Cognitive test scores, financial aid records, and high school and college

transcripts are appended to the records as well.

The records for schools and local education agencies contain information on numbers and characteristics of teaching staff, administrators, financial and demographic data, and data related to student performance. The records related to teachers and administrators contain, in addition to the above, information on training and experience, salary history, and attitudes and opinions on educational and operational questions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:
20 U.S.C. 1221e-1.

PURPOSE(S):

This system is used to describe the critical influences, contexts, and transitions of students in elementary, secondary, and postsecondary education and into employment and adult experience.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purpose for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Contract Disclosure.* When the National Center for Education Statistics intends to contract with a private firm for the purpose of collating, analyzing, aggregating, maintaining, appending, or otherwise refining records in this system, the Commissioner of Education Statistics may release relevant records to the contractor. The contractor will be required to maintain safeguards under the Privacy Act of 1974 and under section 406(d)(4) of GEPA (20 U.S.C. 1221e-1(d)(4)) with respect to such records.

(2) *Research Disclosure.* Where the Commissioner of Education Statistics determines that an individual or organization is qualified to carry out specific research, the Commissioner may disclose information from these systems of records to that researcher solely for the purpose of carrying out that research. The researcher shall be required to maintain under the Privacy Act of 1974 and 20 U.S.C. 1221-e1(d)(4) safeguards with respect to such records.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The research files will be stored on computer tapes and diskettes. The location files will be kept on computer tapes.

RETRIEVABILITY:

The records are retrievable by title of survey and name of person.

SAFEGUARDS:

The research files and location files are not directly mergeable in the form maintained and stored. The identification codes on each file are different. They can be related by use of an encryption algorithm known to only a few authorized staff. Copies of the computer tapes and discs containing the location files are stored with three levels of password protection. Hence, immediate access to the location files is possible only by authorized staff. When in active use for editing, tabulation and analysis, files of information and identifiers will not be kept together unless necessary for processing the data. The files will be accessed only through approved identification of the user and the use of passwords. Passwords will be changed at the conclusion of each period of use and returned to storage. Tapes, discs and questionnaires will be kept in locked files in locked rooms.

RETENTION AND DISPOSAL:

The records will be kept for five years after the final survey administration, including the base year survey and any following surveys and then transferred to the Federal Records Center, where, after 15 years, they will be destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commissioner, National Center for Education Statistics, Office of Educational Research and Improvement, U.S. Department of Education, 555 New Jersey Avenue, NW., Room 400, Washington, DC 20208-5574.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, contact the system manager at the address listed above. Your request must meet the requirements in the regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURE:

If you wish to gain access to a record regarding you, contact system manager.

Your requests must meet the requirements in the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORDS PROCEDURE:

If you wish to contest the content of a record regarding you, contact the system manager. Your request must meet the requirements in the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information in the records comes from responses to survey instruments.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix to 18-13-01

Additional System Locations

U.S. Bureau of the Census, Federal Office Building 3, Washington, DC 20233.

WESTAT, 1650 Research Boulevard, Rockville, Maryland 20850.

Research Triangle Institute, P.O. Box 12194, Research Triangle Park, North Carolina 27709.

National Opinion Research Center, 1155 E. 60th Street, Chicago, Illinois 60637-2799.

Educational Testing Service, 1825 Eye Street, NW, Suite 475, Washington, DC 20006.

The Gallup Organization, One Church Street, Suite 900, Rockville, MD 20850.

MPR Associates, 1995 University Avenue, Suite 225, Berkeley, California 94704.

Abt Associates, 55 Wheeler Street, Cambridge, Massachusetts 02138.

Pelavin Research Institute, 1,000 Thomas Jefferson Street, Suite 400, Washington, DC 20007.

Institute for Social Research, Survey Research Associates, University of Michigan, 426 Thompson, Ann Arbor, MI 48106.

School of Education, University of Michigan, 610 E. University, Ann Arbor, MI 48109.

18-13-02

SYSTEM NAME:

National Center for Education Statistics Affidavits of Nondisclosure.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

See the Appendix to this system notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains information on employees of the National Center for Education Statistics (NCES) or other persons who assist NCES in the performance of its work, who have access to any record, response form, completed survey or aggregation thereof from which information about individual students, teachers,

administrators, or other individual persons may be revealed, and who have signed a pledge not to disclose such information. Other persons who may assist NCES include employees of companies, profit or nonprofit organizations, State agencies, local agencies or instrumentalities having a contract, task order, interagency agreement, or some other formal agreement with NCES and who have access to individually identifiable information.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains the following information:

(1) The affidavit of nondisclosure that includes the individual's name, place of work (company, agency, etc.), signature, and date signed; and

(2) the name of the project or survey in which the entity employing the individual was involved.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 406(d)(4) of the General Education Provisions Act, as amended by Title III, Part A, Section 3001, of Public Law 100-297, April 28, 1988 (20 U.S.C. 1221e-1(d)(4)).

PURPOSE(S):

This system of records is used for the following purposes: (1) To maintain information necessary for internal control and monitoring of those having access to individually identifiable information; (2) to provide evidence in disciplinary actions or prosecution of individuals who disclose individually identifiable information protected from disclosure under Section 406(d)(4) of the General Education Provisions Act, as amended; and (3) to ensure that individuals utilized by the Commissioner of NCES protect the individually identifiable data of NCES.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING THE CATEGORIES OF USERS AND THE PURPOSES OF THOSE USERS:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purpose for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Contractor Disclosure.* A record may be disclosed from this system of records to employees of entities having a contract or other agreement with the

Commissioner to assist in the collection of data on behalf of NCES to ensure that these entities maintain an accurate file of individuals who have access to individually identifiable information in performance of their duties under the contract or other agreement.

(2) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(3) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department of Education, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee; or

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(4) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation and ADR, the Department may disclose those records as a routine use to the DOJ.

(5) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(6) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(7) *Employee Grievance, Complaint or Conduct Disclosure.* The Department may disclose a record in this system of records to another agency of the Federal Government if the record is relevant to one of the following proceedings regarding a present or former employee of the Department: Complaint, grievance, discipline or competence determination proceedings. The disclosure may only be made during the course of the proceeding.

(8) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(9) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards under 5 U.S.C. 552a(m) with respect to such records.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information will be kept in file folders and on computer diskettes or computer tapes.

RETRIEVABILITY:

The records will be retrievable by name, date, and place of work of the individual.

SAFEGUARDS:

The records will be kept in locked files. The computer tapes and diskettes will be accessible by authorized personnel through identification number and password.

RETENTION AND DISPOSAL:

Each affidavit will be kept for 5 years after the individual access to NCES confidential data has ceased and then will be transferred to the Federal Records Center, where it can remain up to 15 years before it is destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Statistician & Individual Survey Project Officers, National Center for Education Statistics, U.S. Department of Education, 555 New Jersey Avenue, NW., Washington, DC 20208-5574.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in this system of records, contact the system manager at the address listed above and provide your name, place of work (i.e. company, agency, etc.), and the dates of employment. Your request must meet the requirements in the regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to records regarding you in this system of records, contact the system manager and provide your name, place of work (i.e. company, agency, etc.), and the dates of employment. Your request must meet the requirements in the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record regarding you, contact the system manager. Your request to amend a record must meet the requirements of 43 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information in the records comes from individuals who have signed the affidavits of nondisclosure.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix to 18-13-02*Additional System Locations*

National Center for Education Statistics, U.S. Department of Education, 555 New Jersey Avenue, NW., Washington, DC 20202-5574.

U.S. Bureau of the Census, Federal Office Building 3, Washington, DC 20233.

WESTAT, 1650 Research Boulevard, Rockville, Maryland 20850.

Research Triangle Institute, P.O. Box 12194, Research Triangle Park, North Carolina 27709.

National Opinion Research Center, 1155 E. 60th Street, Chicago, Illinois 60637-2799.

Educational Testing Service, 1825 Eye Street, NW, Suite 475, Washington, DC 20006.

The Gallup Organization, One Church Street, Suite 900, Rockville, MD 20850.

MPR Associates, 1995 University Avenue, Suite 225, Berkeley, CA 94704.

Abt Associates, 55 Wheeler Street, Cambridge, MA 02138.

Pelavin Research Institute, 1,000 Thomas Jefferson Street, Suite 400, Washington, DC 20007.

Institute for Social Research, Survey Research Associates, University of Michigan, 426 Thompson, Ann Arbor, MI 48106.

School of Education, University of Michigan, 610 E. University, Ann Arbor, MI 48109.

18-13-03**SYSTEM NAME:**

National Center for Education Statistics' National Assessment of Educational Progress.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

WESTAT, 1650 Research Boulevard, Rockville, MD 20850.

Educational Testing Service, Rosedale Road, Princeton, NJ 08541.

National Computer Systems, 2510 N. Dodge Street, Iowa City, IA 52245.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains information on the following individuals: (1) Individuals who leave school early as early graduates or as drop-outs (defined as 17-year-olds who are no longer in school) and are covered during a six month data verification period; (2) young adults in the study who are covered during a six month data verification period; and (3) individual schools which are covered under the National Assessment of Educational Progress (NAEP) statute (20 U.S.C. 9010 (c)(2)(A)).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain responses to assessment and survey instruments. The contents of these instruments are of two types: (1) Cognitive test items to assess the educational achievement of students and young adults in various subject areas taught in school; and (2) questions about student demographic and background variables as well as the characteristics of teachers and schools.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

20 U.S.C. 9010.

PURPOSE(S):

The purpose of the National Assessment of Educational Progress (NAEP), funded by the Department of Education, is to provide information on the educational achievement of young Americans over time.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

During a six-month verification period, individually identifiable information about individuals who leave school early or are young adults is subject to the Privacy Act, and may be disclosed under routine uses that are consistent with the Commissioner's authority under section 406(d)(4) of GEPA (20 U.S.C. 1221e-1(d)(4)). The routine uses that apply to this period permit disclosures to individuals who:

(1) Take the oath and sign an affidavit of nondisclosure required under 20 U.S.C. 9007;

(2) Work for a contractor, grantee, or party to a cooperative agreement or other entity that has an agreement with the Commissioner to conduct research for National Center for Education Statistics (NCES), or

(3) Work under a research contract, grant, or cooperative agreement with a Federal, State, or local agency that requires the use of individually identifiable information, and the research is compatible with the purpose for which NCES collected the data, or

(4) Work under an agreement in writing to:

(i) Use the information for statistical purposes only,

(ii) Maintain the data in accordance with applicable Federal laws,

(iii) Prohibit redisclosure in identifiable form, and

(iv) Permit NCES' periodic inspection to determine adherence to the contract or agreement.

Regarding the records of individual schools, which, under 20 U.S.C. 9010(c)(2)(A), must be treated as individuals subject to the Privacy Act, NCES may make routine use disclosures, consistent with the statistical purposes for which a record was supplied, as follows:

(1) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose

the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(2) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(3) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(4) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(5) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, ED may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department of Education, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If ED determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

POLICIES AND PRACTICES FOR RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained on magnetic tape and computer disk media.

RETRIEVABILITY:

Records are retrievable by assessment year, subject area, age or grade at the school or individual respondent level.

SAFEGUARDS:

Access to the restricted-use data files and completed test booklets and forms is severely limited to key contractor and NCES staff. User access to the restricted-use data files has three levels of data access protection. Access to the files is restricted to authorized NAEP staff who have a valid need for immediate access to NAEP data. This access is controlled and monitored by the use of secure "log-on" identification and password protection schemes. Access to individual restricted-use data files is controlled by an access control facility that restricts users to only those files that are necessary and approved for their perusal. In addition, the restricted-use data files are backed-up to an off-site secure location that will protect NAEP data in the event of a computer center disaster. This off-site storage is in a secure vault that is physically protected from unauthorized entry. The open-ended responses are stored in a secure warehouse with access limited to NAEP project staff.

RETENTION AND DISPOSAL:

The NAEP restricted-use data files are stored in a secure computer facility. The security mechanism includes physical security, data security, and disaster recovery capability. The computer facility is housed within a fire-resistant masonry and steel door structure. Physical access to the facility is electronically controlled through magnetically imprinted identification badges and is limited to authorized staff who have functional responsibilities within the secured areas. Open-ended responses are kept indefinitely. However, data that could be used to identify individuals are destroyed six months after collection.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Commissioner, Educational Assessment Division, National Center for Education Statistics, Office of Educational Research and Improvement, U.S. Department of Education, 555 New Jersey Avenue, NW., Room 308C, Washington, DC 20208-5653.

NOTIFICATION PROCEDURES:

If you wish to determine whether a record regarding you exists in this system of records, you should contact the system manager at the address listed above and provide your name, date of birth and social security number. Your requests must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record in this system of records, you should contact the system manager and provide the information described in the Notification Procedures. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest information contained in this system of records, you should contact the system manager. You should specify the particular record you are seeking to amend, whether a deletion, an addition, or a substitution is being sought and the reason(s) for the requested change(s). Your request should meet the requirements of the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

The information in this system comes from the data collected from the subject individuals and individual schools.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18-13-04**SYSTEM NAME:**

Outcomes of Diversity in Higher Education Surveys.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institute on Postsecondary Education, Libraries, and Lifelong Learning, U.S. Department of Education, 555 New Jersey Avenue, NW., Room 627, Washington, DC 20208-5531. See the Appendix at the end of this system notice for additional system locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains data on the following individuals: (1) Approximately 5500 students who were first-time freshmen in Fall 1998 at 9 four-year institutions of higher education; (2) approximately 300 faculty who teach freshmen at those institutions; and (3) approximately 45 administrators of those institutions. There will be follow-up data for spring of 1999 and spring of 2000 on the initial set of freshmen respondents.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of responses to survey instruments and interview protocols. In addition to background and demographic data, the survey instruments include sets of items concerning perception of institutional commitment to diversity, attitudes, campus climate, knowledge of multiple cultures and pedagogy. The opinions of students, faculty and administrators concerning diversity and multiculturalism are also represented.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

20 U.S.C. 6031 (h) (Supp. 1998).

PURPOSE(S):

The information contained in the system is used for the following purposes: (1) To increase understanding of the effects of diversity in higher education on all students by examining incoming attitudes of first-time freshmen and changes in attitudes and cognitive development concerning issues of diversity and multiculturalism; and (2) to assess pedagogy and student participation, attainment, development, attitudes and knowledge.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department may disclose information contained in a record in this system of records without the consent of the individual if the

disclosure is compatible with the purpose for which the record was collected and only as needed to perform one or more of the following routine uses:

(1) *Contract Disclosure*. When OERI intends to contract with a private firm for the purpose of collating, analyzing, aggregating, maintaining, appending, or otherwise refining records in this system, the Director may release relevant records to the contractor. The contractor will be required to maintain safeguards under the Privacy Act of 1974 and under section 406(d)(4) of GEPA (20U.S.C. 1221e-1(d)(4)) with respect to such records.

(2) *Research Disclosure*. Where the Director determines that an individual or organization is qualified to carry out specific research, the Director may disclose information from these systems of records to that researcher solely for the purpose of carrying out that research. The researcher shall be required to maintain Privacy Act of 1974 and 20 U.S.C. 1221e-1(d)(4) safeguards with respect to such records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

The research and location files will be stored on separate computer diskettes.

RETRIEVABILITY:

Aggregate files may be retrieved by title of survey. The location files will be destroyed upon completion of this project as there will be no future need to retrieve an individual record. Only the completed interview protocols will be retained in hard copy by title of individual interviewed at each of the nine institutions.

SAFEGUARDS:

The research files and location files cannot be merged in the form maintained and stored since the identification codes on each file are different. They can be related by use of an encryption algorithm known only to a few staff authorized to work with the data files. When in active use for editing, tabulation and analysis, files of information and identifiers will not be kept together unless necessary for data processing. Tapes, discs and questionnaires will be kept in locked files.

RETENTION AND DISPOSAL:

The records will be kept for five years after the final survey administration, in spring of 2000. In the spring of 2005, the records will be transferred to the Federal Records Center, where, after 15 years, they will be destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, National Institute on Postsecondary Education, Libraries and Lifelong Learning, U.S. Department of Education, 555 New Jersey Avenue, NW., Room 627, Washington, DC 20208-5531.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you, contact the system manager at the address listed above. Your requests must meet the requirements in the regulations at 34 CFR 5b.5.

RECORD ACCESS PROCEDURES:

Same as Notification Procedure.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record, contact the system manager. Any requests to amend a record must meet the requirements of 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information in the records comes from the responses to survey instruments.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix to 18-13-04*Additional System Locations*

Mathtech, Inc., 6402 Arlington Blvd., Suite 1200, Falls Church, VA 22042-2356.
Mathtech, Inc., 202 Carnegie Center, Suite 111, Princeton, NJ 08540-6239.
Mathtech, Inc., 180 Pembroke Circle, Phoenixville, PA 19460.

18-14-01**SYSTEM NAME:**

Educationally Disadvantaged Students Attending Private Schools Served Through Bypass Contracts.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Contractor serving the State of Virginia: Nonpublic Educational Services, Inc., 14416 Jefferson Davis Highway, Suite 11, Woodbridge, VA 22191.

Contractor serving the State of Missouri: Blue Hills Homes Corporation, 1020 East 63rd Street, Kansas City, MO 64110.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on selected elementary and secondary school students whom:

- (1) Attend private schools;
- (2) Reside in target areas of bypassed local educational agencies; and

(3) Participate in the program for students who are failing or most at risk of failing under Title I of the Elementary and Secondary Education Act of 1965 as amended.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains student documents such as test scores, report cards, individual instructional records and reports from teachers to other teachers and parents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Elementary and Secondary Education Act of 1965 1120(d), 20 U.S.C. 6321.

PURPOSE(S):

The information contained in this system is used for a variety of purposes. The standardized test scores obtained at the beginning of a year are used to determine the eligibility of students for participation in the Title I program. The report cards and reports of Title I teachers to regular classroom teachers and to parents are used to report the progress students are making during the school year. The scores on the achievement tests given at the end of a school year are used to measure the progress students have made during the year and the degree to which the objectives of the Title I progress have been met. The purpose of the individual instructional record is to provide a plan for meeting the students' instructional needs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record on this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Educational Disclosures.* Title I teachers make information contained in this system of records available to regular classroom teachers and to the parents of those students to explain the eligibility of students and their progress in the Title I program. Supervisors of the Title I teachers also use the information contained in this system of records as a part of the monitoring process to measure progress being made toward achieving program objectives.

(2) *Enforcement Disclosure.* In the event that information in this system of

records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(3) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The Member's right to the information is no greater than the right of the individual who requested it.

(4) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

- (i) The Department of Education, or any component of the Department; or
- (ii) Any Department employee in his or her official capacity; or
- (iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;
- (iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(5) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(6) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(7) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(8) *Employee Grievance, Complaint or Conduct Disclosure.* The Department may disclose a record in this system of records to another agency of the Federal Government if the record is relevant to one of the following proceedings

regarding a present or former employee of the Department: complaint, grievance, discipline or competence determination proceedings. The disclosure may only be made during the course of the proceeding.

(9) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(10) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Not applicable to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each student's records are kept in a separate file folder. All folders are filed in a locked filing cabinet in the Title I classroom. After a student no longer participates in the program, his or her records are transferred to the contractor's office or storage facility where they are stored in locked filing cabinets.

RETRIEVABILITY:

The records are indexed by student names, school attended and year of attendance at that school.

SAFEGUARDS:

The records are secured in a locked filing cabinet. The key is kept by the Title I teacher. After a student no longer participates in the program, the records are transferred to the contractor's office or storage facility where they are stored in a locked filing cabinet. Direct access is restricted to the Title I teacher and

aide during the day-to-day program operation. The instructional supervisor, representatives of the contractor, and Department of Education staff have access during monitoring visits.

RETENTION AND DISPOSAL:

Records are maintained in the contractor's office or storage facility for at least three years after final payment on the contract. Disposal of records are in accordance with the Department of Education Records Disposition Schedules (ED/RDS).

SYSTEM MANAGER(S) AND ADDRESS:

Director, Compensatory Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3W230, Washington, DC 20202.

NOTIFICATION PROCEDURE:

If a student or his or her parent or guardian wishes to determine whether a record exists regarding them in this system of records, he or she must notify the appropriate contractor for the State served by the bypass contract. The name and address of the appropriate contractor is listed under the system location of this notice. For identification, the authorized individual seeking information should provide the name, home address, and school of the student for whom information is being requested. The request must meet the requirements in the regulations at 34 CFR 5b.5.

RECORD ACCESS PROCEDURES:

In order to gain access to a record in this system, you should contact the contractor listed in the system location or the system manager. You should provide the contractor with the information listed in the Notification Procedure of this notice and reasonably specify the record contents being sought. The request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of the record of a participating Title I student, you should contact the contractor for the State served by the bypass contract. You should identify yourself and state, in writing, which portion of the record you desire to be changed and provide a justification and authorization for the change. The contractor will forward the request to the system manager. The request must meet the requirements of the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

The information in this system comes from test scores on achievement tests for

program eligibility administered at private schools and class performance information from the regular class teachers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18-14-02

SYSTEM NAME:

Fellowships for Indian Students—Applications and Awards.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Indian Education, Office of Elementary and Secondary Education, 1250 Maryland Avenue, SW., Room 4300, Portal Building, Washington, DC 20202-6335.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

American Indians who are citizens of the United States or residents of the United States for other than a temporary purpose, who have been accepted by institutions of higher education in a program leading to an undergraduate or graduate degree in the fields of Business Administration, Engineering and Natural Resources or related fields, and graduate degree in the fields of education, law and medicine or related fields, and who have applied to Department's Office of Indian Education for a fellowship.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, phone number, date and place of birth, tribal affiliation, tribal roll number, social security number, sex, marital status, citizenship, names of dependents, educational background, employment background, educational transcripts, references, income information, admission test scores.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Indian Education Act of 1972, as amended, Pub. L. 92-318, Part B, section 423.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purpose for which the record was collected. These disclosures may be made on a case-by-case basis or, if the

Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Advisory Council Disclosure.*

Information may be released to members of the National Advisory Council on Indian Education.

(2) *Field Readers Disclosure.* Field Readers for the purpose of determining eligibility and recommending awardees; selected data for developing brochures describing the Fellows and their career goals for public information purposes.

(3) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(4) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) or (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department of Education, any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee; or

(iv) Any Department employee in his or her official capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in hard copy, filed in locked standard file cabinets.

RETRIEVABILITY:

Records are accessed by individual names only by authorized Department staff and Field Readers for the purposes of determining eligibility; selecting Fellows; Establishing allowances for stipends, dependents, tuition, and other expenses; determining continued eligibility; and developing profile information regarding recipients of fellowships for program evaluation,

planning, reporting and publicity purposes.

RETENTION AND DISPOSAL:

Records on fellowship holders are maintained and disposed of in accordance with the Department of Education Records Disposition Schedules (ED/RDS).

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Indian Education, Office of Elementary and Secondary Education, ATTN: Education Program Specialist for Fellowships, U.S. Department of Education, 400 Maryland Avenue SW., Room 4300, Washington, DC 20202-6335.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in this system of records, provide the system manager with your name, the year of the award, the name of the grantee institution, and type of award. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

To gain access to records regarding you in this system of records, follow the Notification Procedure described above. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record regarding you in this system of records, contact the system manager at the address listed above and reasonably identify the record and specify the information to be contested. Your request must meet the requirements of the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual applicant and from references submitted by the applicant on approved forms.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18-15-01

SYSTEM NAME:

Bilingual Education Graduate Fellowship Program.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

U.S. Department of Education, Office of Bilingual Education and Minority Languages Affairs, 330 C Street, SW.,

Room 5618, Washington, DC 20202-6642.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records about individuals who apply for acceptance in the program, and if approved, who participate in the fellowship program.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a variety of records relating to a student's application for, and participation in, the fellowship program. In addition to the student's name, the system contains the student's address, telephone number, social security number, name of the institution attended, amount of award, obligation status, degree sought, field of study, and the name and address of the employer.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title VII, Part A of the Bilingual Education Act of 1994, as amended (Pub. L. 103-382) (20 U.S.C. 7475 (1994)). The program regulations are found in 34 CFR part 535.

PURPOSE(S):

The information contained in this system is used for the purposes of administering the Bilingual Education Graduate Fellowship Program, including enforcing the terms and conditions of the contracts signed by the fellows, permitting the collections on loans, and locating delinquent or defaulted debtors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual, if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(2) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(3) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, ED may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

- (i) The Department of Education, or any component of the Department; or
- (ii) Any Department employee in his or her official capacity; or
- (iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;
- (iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or
- (v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records

as a routine use to the party, counsel, representative or witness.

(4) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(5) *Disclosure to the Department of Justice (DOJ).* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(6) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(7) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(8) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(9) *Disclosure to the Office of Management and Budget (OMB) for Credit Reform Act (CRA) Support.* The Department may disclose records to OMB as necessary to fulfill CRA requirements.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose to a consumer reporting agency information regarding a claim by the

Department which is determined to be valid and overdue as follows: (1) The name, address, taxpayer identification number and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in subsection 31 U.S.C. 3711(e). A consumer reporting agency to which these disclosures may be made is defined at 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE

The records are maintained in hard copy and on an access-controlled personal computer.

RETRIEVABILITY:

The file is indexed by Social Security number or name. Data for awards made under the Bilingual Education Graduate Fellowship Program are retrieved by social security number or name.

SAFEGUARDS:

All physical access to the Department's site where this system of records is maintained is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge. The computer system employed by the Department offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department and contract staff on a "need-to-know" basis, and controls individual users' ability to access and alter records within the system. All users of this system of records are given a unique user ID with personal identifiers. All interactions by individual users with the system are recorded.

RETENTION AND DISPOSAL:

Records of individual awards are destroyed five years after cancellation, forgiveness, final payment to grantee, or audit, of the loan, whichever is sooner. Records relating to those individuals who are not approved to participate in the fellowship program are transferred to the Federal Records Center and destroyed three years after the date of rejection or withdrawal.

SYSTEM MANAGER AND ADDRESS:

Education Program Specialist,
Bilingual Education Graduate
Fellowship Program, Office of Bilingual

Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., Room 5618, Switzer Building, Washington, DC 20202-6642.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in this system of records, provide the system manager with your name, date of birth, social security number, and the name of the school through which the award was obtained. You may present your request in person at the system manager's address indicated above. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record regarding you in this system of records,

you should contact the system manager and provide the information as described in the Notification Procedure. In order to avoid excessive delays and exchanges of correspondence, you are encouraged to request both notification and access at the same time. Requests for access to a record should reasonably specify the particular record content being sought. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest information contained in a record in this system of records, you should contact the system manager. Requests for amendment of records may be made either in writing or in person, and should specify: (1) The system of records from which the record is to be retrieved; (2) the particular

record requested for amendment; (3) whether a deletion, an addition, or a substitution is being sought; and (4) the reason(s) for the requested change(s). You should include in your requests any appropriate documentation supporting the requested change(s). Your request must meet the requirements of the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

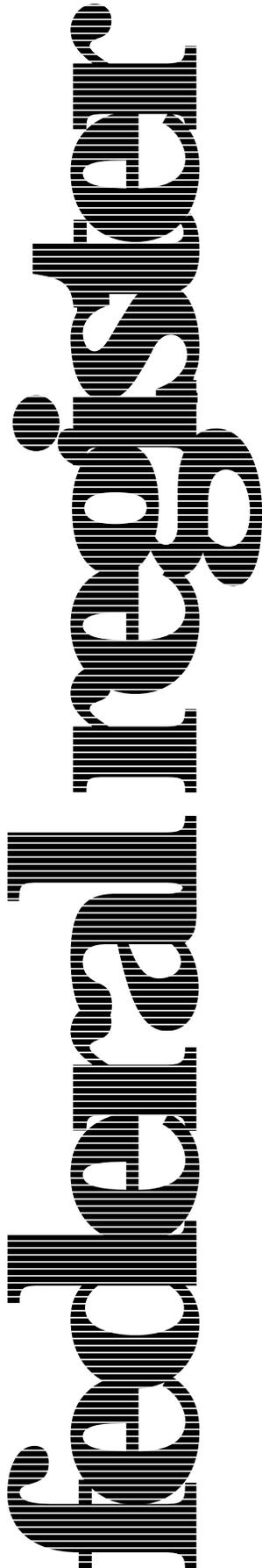
Information is obtained from fellowship recipients, institutions of higher education, and employers.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 99-12656 Filed 6-3-99; 8:45 am]

BILLING CODE 4000-01-P



Friday
June 4, 1999

Part III

**Environmental
Protection Agency**

**40 CFR Part 63
National Emission Standards for
Hazardous Air Pollutants for Primary
Lead Smelting; Final Rule**

**ENVIRONMENTAL PROTECTION
AGENCY**

40 CFR Part 63

[AD-FRL-6345-8]

RIN 2060-AE97

**National Emission Standards for
Hazardous Air Pollutants for Primary
Lead Smelting**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emission standards for hazardous air pollutants (NESHAP) for new and existing primary lead smelters pursuant to section 112 of the Clean Air Act (Act) as amended in November 1990. Primary lead smelters have been identified by the EPA as significant emitters of lead compounds, and other metal hazardous air pollutants (HAP) including arsenic, antimony, and cadmium. Exposure to lead compounds may result in adverse effects on the blood, central nervous system and kidneys. Chronic exposure to arsenic is associated with skin, bladder, liver and lung cancer and other developmental and reproductive effects. This NESHAP provides protection to the public by requiring all primary lead smelters to meet emission standards that reflect the application of maximum achievable control technology (MACT).

EFFECTIVE DATE: June 4, 1999.

ADDRESSES: *Docket.* Docket No. A-97-33 contains supporting information used in developing the standards. The docket is located at the U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC. 20460 in room M-1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 12:00 p.m. and 1:00 to 3:00 p.m., Monday through Friday. The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260-7548. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: For information concerning these standards and technical aspects of primary lead smelting emissions and control, contact Mr. Kevin Cavender, Environmental Protection Agency, MD-13, Research Triangle Park, NC 27711, telephone number (919) 541-2364, facsimile number (919) 541-5600, electronic mail address "cavender.kevin@epa.gov".

SUPPLEMENTARY INFORMATION:

Regulated Entities. The regulated category and entities affected by this

action include primary lead smelters (SIC 3339). This action will affect three existing primary lead smelting facilities and any new primary lead smelting facilities built in the future.

Technology Transfer Network. The text of today's notice will also be available on the Technology Transfer Network (TTN), one of EPA's electronic bulletin boards. The TTN provides information and technology exchange in various areas of air pollution control. The service is free, except for the cost of a phone call. Dial (919) 541-5742 for up to a 14,400 BPS modem. The TTN also is accessible through the Internet at "http://www.epa.gov/ttn". If more information on the TTN is needed, call the HELP line at (919) 541-5348. The HELP desk is staffed from 11 a.m. to 5 p.m.; a voice menu system is available at other times.

Outline.

The information presented in this preamble is organized as follows:

- I. Background
- II. Summary
 - A. Summary of the Promulgated Standards
 - B. Summary of Major Changes Since Proposal
 - C. Summary of Environmental, Energy, and Economic Impacts
- III. Public Participation
- IV. Summary of Comments and Responses
 - A. Comments on April 1998 Proposal
 - B. Comments on February 1999 Supplemental Proposal
- V. Administrative Requirements
 - A. Docket
 - B. Executive Order 12866
 - C. Executive Order 12875
 - D. Executive Order 13084
 - E. Unfunded Mandates Reform Act
 - F. Regulatory Flexibility Act
 - G. Paperwork Reduction Act
 - H. Submission to Congress and the General Accounting Office
 - I. National Technology Transfer and Advancement Act
 - J. Pollution Prevention Considerations
 - K. Protection of Children from Environmental Health Risks and Safety Risk Under Executive Order 13045
 - L. Judicial Review

I. Background

Section 112 of the Act requires that the EPA promulgate regulations requiring the control of HAP emissions from major and certain area sources. The control of HAP's is achieved through promulgation of emission standards under sections 112(d) and (f) and, in appropriate circumstances, work practice standards under section 112(h).

An initial list of categories of major and area sources of HAP's selected for regulation in accordance with section 112(c) of the Act was published in the **Federal Register** on July 16, 1992 (57 FR 31576). Primary lead smelting is one of

the 174 categories of sources listed. The category consists of smelters that process lead bearing ore concentrates into lead metal. The listing was based on the Administrator's determination that primary lead smelters may reasonably be anticipated to emit several of the 188 listed HAP's in quantities sufficient to designate them as major sources. Information subsequently collected by the EPA as part of this rulemaking confirms that all three operating primary lead smelters have the potential to emit greater than 9.1 megagrams per year (Mg/yr) (10 tons per year (tpy)) of a single HAP or greater than 22.7 Mg/yr (25 tpy) of a combination of HAP's (Docket ID No. II-B-4). Therefore, all three primary lead smelters are major sources.

This NESHAP was proposed in the **Federal Register** on April 17, 1998 (63 FR 19200). The EPA received 2 letters commenting on the proposed rule. The EPA received no requests for a public hearing.

A supplemental proposal was published in the **Federal Register** on February 12, 1999 (64 FR 7149). This notice proposed an operating limit that would require owners and operators of a primary lead smelter (referred to as operators in the remainder of this preamble) to operate and maintain each affected baghouse such that the required bag leak detection system would not sound more than five percent of the operating time. The EPA received three letters commenting on the supplemental proposal. The EPA received no requests for a public hearing on the supplemental proposal.

II. Summary

A. Summary of the Promulgated Standards

Standards are being promulgated to limit metal HAP emissions from: (1) process sources, (2) process fugitive sources, and (3) fugitive dust sources at primary lead smelters. Process source emissions are discharged as the main exhaust of a sinter machine or smelting furnace through a chimney, flue, or ductwork. Process sources that are regulated include sinter machines, blast furnaces, and dross furnaces.

Process fugitive emission sources that are regulated include sinter machine charging and discharging, sinter crushing and sizing, blast furnace tapping, and dross furnace charging and tapping.

Fugitive dust sources that are regulated include plant yards and roadways subject to wind and vehicle traffic, process areas, and materials handling and storage areas.

1. Process and Process Fugitive Sources

A "plant wide" emission limit is being promulgated for lead compounds from process and process fugitive emission sources. The lead compound emission limit is a surrogate for all metal HAP's and will apply to both existing and new sources. The aggregated lead emissions from the following process and process fugitive sources are limited to 500 g/Mg of lead produced (1.0 lb/ton of lead produced):

- (1) Sinter machine;
- (2) Blast furnace;
- (3) Dross furnace;
- (4) Dross furnace charging location;
- (5) Blast and dross furnace tapping locations;
- (6) Sinter machine charging location;
- (7) Sinter machine discharge end;
- (8) Sinter crushing and sizing equipment; and
- (9) Sinter machine area.

In addition to the emission limit, work practice standards are required for the above listed fugitive sources (items 4 through 9). The charging, tapping, and sinter handling sources identified above (items 4 through 8) shall be equipped with a hood ventilated to an air pollution control device. The hood design and ventilation rate shall be consistent with the American Conference of Governmental Industrial Hygienists (ACGIH) recommended practices. In addition, the sinter machine and sinter crushing and sizing equipment shall be located in a building ventilated to a baghouse or equivalent device at a rate that maintains in-draft through any doorway opening.

The operator must install a bag leak detection system for each baghouse used on a process or process fugitive source. The bag leak detection system shall be equipped with an audible alarm that automatically sounds when an increase in particulate matter (PM) emissions above a predetermined level is detected. Operators are further required to maintain and operate each affected baghouse such that the bag leak detection device does not sound more than five percent of the total operating time in any 6-month period. Alarms caused by startups, shutdowns, or malfunctions are not included in the alarm time calculation if the condition is described in the startup, shutdown, and malfunction plan and the operator follows all the procedures in the plan prescribed for the subject condition. Alarms caused by a malfunction of the bag leak detection system are also excluded from the alarm time calculation.

2. Standards for Fugitive Dust Sources

The standards for fugitive dust sources are in the form of work practice and operating standards. The EPA is setting work practice and operating standards based on the determination in accordance with section 112 (h)(2)(A) that the HAPs controlled by those standards cannot be emitted through a conveyance designed and constructed to emit or capture those HAP. Again, the standards apply to fugitive dust sources at both new and existing smelters. Each primary lead smelter shall develop a Standard Operating Procedures (SOP) manual for fugitive dust sources that details procedures to limit fugitive dust emissions. Each smelter's SOP manual shall be reviewed and subject to approval by the Administrator. Existing manuals developed as part of a control strategy to meet a facility's State implementation plan (SIP) may be used to meet this requirement if the existing manuals address the identified fugitive dust sources.

3. Compliance Dates

Compliance with the standards must be achieved by June 4, 2001 for existing primary lead smelters, and upon startup for new and reconstructed smelters.

4. Compliance Test Methods

The following EPA test methods will be used to measure the lead emissions from the process and process fugitive sources included in the plant wide emission limit. Testing of lead compound emissions from process and process fugitive emission control devices shall be conducted according to EPA reference method 12 (40 CFR part 60, appendix A). Sampling locations for all compliance tests shall be determined by EPA reference method 1. Stack gas velocity and volumetric flow rate shall be determined by EPA reference method 2. Gas analysis shall be conducted according to EPA reference method 3 for carbon dioxide, oxygen, excess air, and molecular weight on a dry basis.

The plant wide emission rate will be calculated as follows. The previous 12 calendar months production data shall be used to calculate lead production based on the mass produced, and the lead content of lead products, copper speiss, and copper matte. Plant records will be used to determine the facility operating hours for the previous 12 calendar months. The plant wide emission rate is calculated by dividing the sum of lead emission rates, determined through stack testing, for the process and process fugitive sources by the average hourly lead production rate for the previous 12 calendar months.

Operators are required to perform an initial compliance demonstration for the sinter machine building in-draft requirement. Operators are required to demonstrate in-draft at all doorway openings using an anemometer or equivalent device. The demonstration is to be conducted when wind speed is less than two meters per second (five miles per hour.)

5. Monitoring Requirements

Each operator subject to the NESHAP shall be required to develop and operate according to a SOP manual for operation and maintenance of the control devices used to comply with the emission limits. Each smelter's SOP manual shall be reviewed and subject to approval by the Administrator. The minimum SOP requirements identified in the rule shall serve as the criteria by which the Administrator would decide whether to approve a smelter's SOP.

Minimum requirements for the bag leak detection system required in the process and process fugitive standards section are detailed. The bag leak detection system shall be equipped with an audible alarm that automatically sounds when an increase in particulate emissions above a predetermined level is detected. The system shall be capable of detecting PM emissions at concentrations of 10 milligrams per actual cubic meter (0.004 grains per actual cubic foot) and provide an output of relative PM emissions. Operators shall continuously record the bag leak detection system output. Such a device shall serve as an indicator of the performance of the baghouse and shall provide an indication of when maintenance of the baghouse is needed. An alarm by itself will not necessarily indicate noncompliance with the lead limit, but would indicate an increase in PM emissions and trigger an inspection of the baghouse to determine the cause of the alarm. The operator would initiate corrective actions according to the procedures in their operation, maintenance, and monitoring plan. The operator would be considered out of compliance upon failure to initiate within one hour the procedures to determine the cause of the alarm, as specified in the baghouse operation and maintenance SOP manual.

Operators are given three options for the monitoring of sinter building in-draft. Under the first option, operators may elect to perform daily checks for in-draft at all doorway openings using an anemometer or equivalent device. Checks are only to be conducted when ambient wind speed is less than two meters per second (five miles per hour).

Under the second option, operators are required to establish and maintain the ventilation exhaust rate and damper positions at settings that result in an in-draft at each open doorway. Operators are required to install and operate a flow monitor device on the ventilation system that would continuously record the ventilation exhaust rate. Operators are required to conduct an initial demonstration of in-draft at all doorway openings using an anemometer or equivalent device while simultaneously recording the ventilation system exhaust rate and damper positions. Operators are then required to maintain the ventilation rate at or above the average rate recorded during the in-draft demonstration, and check and record daily the damper positions to ensure that they are maintained in the position they were in when the in-draft demonstration was performed.

As a third option, operators may petition the administrator or delegated authority for an alternative monitoring method by following the procedures and requirements in § 63.8(f) of the General Provisions.

6. Notification Requirements

The operator of a primary lead smelter is required to submit the notifications described in § 63.9 of the General Provisions to part 63, (40 CFR part 63, subpart A). These will include the initial notification, notifications of performance tests, and the notification of compliance status. In addition, each operator will be required to submit the baghouse operation and maintenance SOP manual and the fugitive dust control SOP manual along with a notification to the Administrator requesting review and approval of the smelter's SOP manuals.

7. Recordkeeping and Reporting Requirements

The operator of a primary lead smelter will be required to comply with the recordkeeping and reporting requirements described in § 63.10 of the General Provisions to part 63, (40 CFR part 63, subpart A). In addition, the operator of a primary lead smelter will be required to retain for 5 years records of: (1) production data of the weight and lead content of lead products, copper matte, and copper speiss; (2) records of bag leak detection system output; (3) an identification of the date and time of all bag leak detection system alarms, the time procedures to determine the cause of the alarm were initiated, their cause, and an explanation of the corrective actions taken; (4) records of daily in-draft checks (if applicable); (5) records of the output from the flow monitoring

system (if applicable); (6) records of the daily damper position checks (if applicable); (7) records demonstrating implementation of the baghouse SOP; and (8) records demonstrating implementation of the fugitive dust controls contained in the smelter's SOP manual.

In addition to the information required by the General Provisions to part 63, (40 CFR part 63, subpart A), the operator of a primary lead smelter will be required to submit semi-annual reports containing: (1) records of all alarms from the bag leak detection system including a description of the procedures taken following each bag leak detection system alarm; (2) the percent of operating time the bag leak detection alarmed; (3) a summary of the records maintained as part of the practices described in the baghouse SOP, including an explanation of the periods when the procedures were not followed and the corrective actions taken; (4) an identification of the periods when the in-draft was 0.0 meters per second or less, and an explanation of the corrective actions taken (if applicable); (5) an identification of the periods when the 15-minute volumetric flow rate(s) dropped below the minimum established during the most recent in-draft determination (if applicable); (6) an identification of the days that the damper positions were not in the positions established during the most recent in-draft determination, and an explanation of the corrective actions taken (if applicable); and (7) a summary of the fugitive dust control measures performed during the required reporting period, including when procedures outlined in the fugitive dust control SOP were not followed and the corrective actions taken.

B. Summary of Major Changes Since Proposal

Based on public comments received in response to both the initial notice of proposal and the supplemental notice, the EPA has made several changes to the proposed rule. A summary of the major changes is presented below.

1. Definitions

A definition of bag leak detection system has been added to the final rule. Based on the definition, a "bag leak detection system means a system that is capable of monitoring particulate matter (dust) loadings in the exhaust of a baghouse in order to detect bag failures. A bag leak detection system includes, but is not limited to, an instrument that operates on triboelectric, light scattering, transmittance or other effect

to monitor relative particulate matter loadings."

The definition of total enclosure has been replaced with a definition of a building. For the purpose of this subpart, a "building means a roofed and walled structure with limited openings to allow access and egress for people and vehicles."

The definition of malfunction included in the General Provisions has been added to the subpart for clarity. A "malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions."

A definition of operating time has been added. For the purpose of this subpart, "operating time means the period of time in hours that an affected source is in operation beginning at a startup and ending at the next shutdown."

A definition of plant operating time has been added. For the purpose of this subpart, "plant operating time means the period of time in hours that either a sinter machine or blast furnace is in operation."

The definition of shutdown in the General Provisions has been added to the subpart for clarity. A "shutdown means the cessation of operation of an affected source for any purpose."

The definition of startup in the General Provisions has been added to the subpart for clarity. A "startup means the setting in operation of an affected source for any purpose."

2. Standards for Process and Process Fugitive Sources

The requirements for annual compliance tests have been changed. Upon demonstrating compliance for 3 consecutive years, operators will be allowed up to 24 months between compliance tests. Operators will retain the 24 month compliance test schedule as long as each subsequent test demonstrates that the facility is in compliance with the plant wide emission limit.

An operating limit has been added that requires operators to maintain and operate each affected baghouse such that the bag leak detection system does not alarm more than five percent of the time in any 6-month period. Alarms caused by startups, shutdowns, or malfunctions are not included if the condition is described in the startup, shutdown, malfunction plan and the operators follow all the procedures in the plan prescribed for the subject

condition. Alarms caused by a malfunction of the bag leak detection system are also excluded from the alarm time calculation.

3. Monitoring Requirements

The monitoring requirements for baghouses have been modified. Operators will be required to identify, and monitor against, the normal pressure drop range across each baghouse cell. Also, the requirement for a quarterly check of bag tension has been changed to a quarterly visual check of bag tension.

The requirements for demonstrating compliance with the sinter machine building in-draft requirements have been changed. Operators are given three options for the continuous monitoring of in-draft. Under the first option, operators may elect to perform daily checks for in-draft at all doorway openings using an anemometer or equivalent device.

Under the second option, operators are required to establish and maintain the ventilation exhaust rate and damper positions at settings that result in an in-draft at each open doorway. Operators are required to install and operate a flow monitor device on the ventilation system that would continuously record the ventilation exhaust rate. Operators are required to conduct an initial demonstration of in-draft at all doorway openings using an anemometer or equivalent device while simultaneously recording the ventilation system exhaust rate and damper positions. Operators are then required to maintain the ventilation rate at or above the average rate recorded during the in-draft demonstration, and check and record daily the damper positions to ensure that they are maintained in the position they were in when the in-draft demonstration was performed.

As a third option, operators may petition the Administrator or delegated authority for an alternative monitoring method by following the procedures and requirements in § 63.8(f) of the General Provisions.

C. Summary of Environmental, Energy, and Economic Impacts

There are only three existing primary lead smelters that will be subject to the standards, and no new facilities are anticipated to be constructed in the next 5 years. The required levels of control are based on existing SIP emission limits for lead. No additional emission controls will be required to comply with the standards. Therefore, no quantifiable emission reduction or other environmental impacts are anticipated to result from this rulemaking. However,

it is anticipated that improved baghouse operation and maintenance procedures coupled with continuous bag leak detection will result in unquantifiable reductions in emissions of lead compounds and other metal HAP.

Similarly, cost and economic impacts are expected to be minimal. The only costs associated with the standards are those required to perform compliance assurance activities such as performance testing, monitoring, reporting, and recordkeeping. These costs are minimal, and will not result in any significant economic impact.

III. Public Participation

Prior to proposal of the standards, the EPA met with representatives from the only operators of primary lead smelters. The EPA discussed the standards being evaluated for proposal. Comments submitted following this meeting were incorporated into the proposed rule as appropriate.

The standards were proposed and published in the **Federal Register** on April 17, 1998 (63 FR 19200). The preamble to the proposed standards described the technical basis, purpose, and impacts of the proposed standards. Public comments were solicited at the time of proposal.

To provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposed standards, the opportunity for a public hearing was offered at proposal; however, no requests for a hearing were received. The public comment period was from April 17, 1998 to June 16, 1998. Two comment letters were received. The comments were carefully considered in formulating the final rule.

A supplemental proposal was published in the **Federal Register** on February 12, 1999 (64 FR 7149). That notice proposed an operating limit that would require owners and operators of a primary lead smelter (referred to as operators in the remainder of this preamble) to operate and maintain each affected baghouse such that the required bag leak detection system would not sound more than five percent of the operating time. Again the opportunity for a public hearing was offered at proposal; however, no requests for a hearing were received. The public comment period was from February 12, 1999 to March 15, 1999. Three comment letters were received. Again, the comments were carefully considered in formulating the final rule.

IV. Summary of Comments and Responses

The EPA received two comment letters (one letter contained joint comments from two commenters) on the initial proposal, and three letters commenting on the supplemental proposal (again, one letter contained joint comments from two commenters). Comment summaries and EPA responses are presented below.

A. Comments on April 1998 Proposal

The comments contain both favorable and adverse comments. Topics and requirements which received favorable and supportive comments include the following:

- The use of lead as a surrogate pollutant for all metal HAP,
- The conclusion that organic HAP emissions from blast furnaces are not significant enough to warrant regulation,
- The use of a plant-wide emission limit,
- The requirement that sinter plants be enclosed and ventilated to a baghouse or equivalent control device,
- The requirement that certain process fugitive emission sources be equipped with a hood and ventilated to a baghouse or equivalent control device,
- Allowing 2 years to achieve compliance, and
- The requirement for an approved plan for the control of fugitive dust emissions.

Topics and provisions of the proposed rule which received adverse comments are summarized below with the EPA's responses.

Comment. One commenter stated that it is not possible to maintain a sinter machine building "at a lower than ambient pressure to ensure in-draft through any doorway opening" at all times. They argue that static pressure measured at any one point in a building is the sum of the pressures caused by the combination of several effects including mechanical or forced ventilation, stack effects, wind influences and local effects. A ventilation system that is designed and operated for a specific building can effectively control the escape of most fugitive emissions. However, the variable influence of stack draft, wind, and local effects will cause the actual building static pressure to vary over space and time, thereby making it impossible to comply with a standard that requires maintaining a building at lower than ambient pressure at all times.

The commenter suggested that the EPA give operators the following three

alternatives. First, require operators to submit to the Administrator or delegated authority a statement from a professional engineer certifying that the design of the ventilation system in the sinter buildings is sufficient to attain in-draft with all doorways in their customary position during normal operation. Each operator would be required to design and operate its ventilation system to meet a minimum exhaust flow rate, and would have to restrict the total surface area of doorways open during normal operation to some maximum.

Second, allow for more flexible performance tests (i.e., use of anemometers) to account for wind effects. The commenter suggested that the performance demonstrations be limited to periods when the wind speed is less than five miles per hour.

The third suggestion was to allow operators flexibility in developing site-specific methods to demonstrate compliance with the in-draft requirement. All site specific alternatives would be subject to approval of the Administrator or delegated authority.

Response. The EPA has considered the comment, and agrees to modify the requirements for sinter building in-draft. The EPA believes that with some modification, the alternatives suggested by the commenter are better than the negative pressure requirements contained in the proposal. As such, the EPA is making the following changes to the proposed rule.

Operators are required to perform an initial compliance demonstration for the sinter machine building in-draft requirement. Operators are required to demonstrate in-draft at all doorway openings using an anemometer or equivalent device. The demonstration is to be conducted when wind speed is less than two meters per second (five miles per hour.)

Operators are given three options for the continued monitoring of in-draft. Under the first option, operators may elect to perform daily checks for in-draft at all doorway openings using an anemometer or equivalent device. This option is similar to the option given in the proposed rule, however, the checks for in-draft are limited to days when the ambient wind speed is less than two meters per second (five miles per hour.)

Under the second option, operators are required to establish and maintain the ventilation exhaust rate and damper positions at settings that result in an in-draft at each open doorway. Operators are required to install and operate a flow monitor device on the ventilation system that would continuously record

the ventilation exhaust rate. Operators are required to conduct an initial demonstration of in-draft at all doorway openings using an anemometer or equivalent device while simultaneously recording the ventilation system exhaust rate and damper positions. Again, the demonstration is not to be conducted when wind speeds are greater than two meters per second (five miles per hour.) Operators are then required to maintain the ventilation rate at or above the average rate recorded during the in-draft demonstration, and check and record daily the damper positions to ensure that they are maintained in the position they were in when the in-draft demonstration was performed.

As a third option, the EPA is adding a reference to the section of the General Provisions which describes the procedures for requesting an alternative monitoring method, 40 CFR 63.8(f). This reference is being added to highlight the availability of this option.

Comment. One commenter identified an error in the proposed rule. Section 63.1546(b) states "Operators shall determine compliance with the doorway in-draft requirements for buildings in 63.1543(b) and 63.1544(c) * * *". However, building in-draft requirements are contained in § 63.1543(c).

Response. This error is corrected in the final rule.

Comment. One commenter stated that they are required to test for particulate matter and lead as part of their SIP requirements. The commenter requests that operators be given the flexibility to use the "hybrid Method 5-12" to test for particulate matter and lead simultaneously.

Response. The rule specifies that EPA Method 12 be used to measure lead emission rates. There is no EPA Method 5-12. However, section 8.1 of EPA Method 12 allows for the simultaneous measurement of both lead and particulate matter. As such, no change is being made to address this comment.

Comment. The proposed rule requires quarterly checks of bag tension on certain types of baghouses. One commenter stated that none of their facilities are currently required to check bag tension under existing SIPs. They claim that measuring bag tension would be a time-consuming process resulting in extended periods of worker exposure to high temperatures and potentially lead. They recommend that the requirement for bag tension testing be eliminated, or at a minimum modified to an annual visual check to make certain bags are not kinked (knead or bent) or lying on their sides.

Response. The EPA agrees with the commenter that measuring bag tension

is a time-consuming process that can create increased risks of worker exposures to lead. The EPA also agrees that a visual check is sufficient to determine adequate bag tension. As such, the EPA is amending § 63.1547(c)(6) to require quarterly visual inspections of bag tension to make certain bags are not kinked or lying on their sides.

Comment. One commenter stated that the proposed requirement for bag leak detection devices does not provide for alternative/equivalent methods, such as opacity monitors, which are already in use at some facilities. As such, the regulation would impose unnecessary additional costs by not including other compliance methods.

Response. The EPA is adding a definition of bag leak detection system in the final rule. This definition was inadvertently left out of the proposal. Based on the definition, a "bag leak detection system means a system that is capable of monitoring particulate matter (dust) loadings in the exhaust of a baghouse in order to detect bag failures. A bag leak detection system includes, but is not limited to, an instrument that operates on triboelectric, light scattering, transmittance or other effect to monitor relative particulate matter loadings." This is the same definition that appears in the final rule for secondary lead smelters (40 CFR part 63, subpart X) and several other currently proposed rules which include bag leak detection requirements.

Based on the definition and the requirements of § 63.1547(e)(1), an opacity monitor can be used as a bag leak detection system if the manufacturer of the opacity monitor certifies that it is capable of detecting particulate matter emissions at concentrations of 10 milligram per actual cubic meter or less. However, due to the poor correlation between opacity and particulate matter at low grain loadings, it is doubtful that any conventional opacity monitors have the sensitivity necessary to meet this requirement. Bag leak detection systems based on triboelectric or light scattering effects are capable of detecting particulate matter emissions well below the level of visible emissions, and are believed to be more reliable, accurate, and cost effective than opacity monitors for detecting broken bags in baghouses.

Comment. One commenter stated that the condition of the fan has little, if any, direct effect on baghouse performance. They suggested that this requirement be on an annual basis rather than a quarterly basis.

Response. The EPA concurs that fan condition may have little effect on

baghouse performance. However, fan condition can greatly affect hood capture efficiency and consequently fugitive emissions. The rule allows for the use of vibration detectors to conduct the inspection, which does not require the operator to shutdown the fan or remove it from service. As such, the EPA believes that requiring quarterly inspection of fan condition does not place an undue burden on the industry. No change to the final rule is being made to address this comment.

Comment. One commenter stated that the benefits associated with the suite of monitoring requirements are unclear and at best very low. They suggest that the proposed bag leak detection system requirements alone should be adequate to ensure proper baghouse functioning.

Response. The EPA's proposed operating procedures requirements for baghouses represent a two-pronged approach to baghouse operation—preventative maintenance and baghouse failure monitoring, coupled with timely corrective action. The inspection and maintenance requirements in the proposed rule are intended to ensure the proper operation of the baghouse and to reduce the number of baghouse upsets through prevention. The bag leak detection requirements are intended to assist in early detection of baghouse failures allowing for timely corrective action.

The proposed inspection and maintenance requirements represent a minimal, yet practical, strategy for ensuring proper baghouse operation. The EPA believes that good inspection and maintenance practices are critical to achieving and maintaining the high level of control that baghouses are capable of. Furthermore, these requirements do not result in significant costs or burden.

Comment. One commenter stated that the time limits for initiating corrective action may be impossible to fulfill. With regard to the bag leak detection alarm, the preamble to the proposed rule states, "An alarm by itself does not indicate noncompliance with the lead limit, but would indicate an increase in emissions and trigger an inspection of the baghouse to determine the cause of the alarm." The preamble goes on to state, "The owner or operator would be considered out of compliance upon failure to initiate corrective actions within 1 hour of the alarm." They also point out that the rule states in section 63.1547(f)(1) that "the procedures used to determine the cause of the alarm must be initiated within 30 minutes of the alarm." They comment that reading these provisions together suggests that facilities must always initiate

procedures to determine the cause of the alarm within 30 minutes, and to identify the needed repair or response and begin corrective action within 1 hour.

Response. The 30-minute reference in the preamble to the proposed rule is an error. Both the preamble and the rule were intended to refer to the same time period, i.e., the period of time allowed between the time an alarm occurs and the time when procedures to determine the cause of the alarm are initiated. The rule requires facilities to initiate the procedures outlined in their corrective action plan within 1 hour of the alarm and correct the problem as soon as practicable.

Comment. One commenter stated that compliance testing should be required on a less than annual basis. Proposed section 63.1543(d) requires facilities to conduct compliance tests for lead compounds on an annual basis. The commenter suggests that the EPA should permit a reduction in the frequency of testing on a site-by-site basis, based upon the results of annual testing. For example, if 3 years of testing shows the standard is consistently being met, they suggest that a facility be able to reduce the frequency of its testing.

Response. The EPA agrees that less frequent testing should be allowed when facilities are able to demonstrate compliance consistently. As such, the final rule allows operators up to 24 months between compliance tests if the results of the three most recent compliance tests demonstrate compliance.

Comment. One commenter stated that the recordkeeping requirements for the bag leak detection system are inconsistent with recordkeeping requirements for fugitive dust and baghouse inspection and maintenance. Proposed section 63.1549(b)(3) and (4), which refers to control of fugitive dust emissions and baghouse inspection and maintenance procedures, requires recordkeeping if it is part of the practices described in the respective SOP manual. The commenter also stated that the recordkeeping requirements proposed in section 63.1549(b)(2) for the bag leak detection system are not contingent on such requirements being part of the SOP manual, and are thus inconsistent with section 63.1549(b)(3) and (4).

Response. The rule requires facilities to develop site specific SOP manuals for baghouse inspection and maintenance procedures. Since these SOP manuals are site-specific, the EPA has left it up to the operator to work with the Administrator or delegated authority to develop appropriate site specific recordkeeping and reporting

requirements. However, the EPA has specified recordkeeping and reporting requirements for bag leak detector system alarms since these records are necessary to demonstrate compliance with the operating standards for bag leak detection (section 63.1543(f) and (g)). No change is being made to the rule to address this comment.

Comment. One commenter stated that a minimum differential pressure should be specified and continuously monitored to ensure the baghouse or equivalent control device is maintained at a pressure that is lower than ambient pressure.

Response. The rule requires daily monitoring of the pressure drop across each baghouse cell. The EPA agrees that a minimum pressure drop should be identified and monitored against. However, several factors affect the pressure drop across a baghouse cell including filter material, cell geometry, cleaning cycles, and air-to-cloth ratio. As such, the minimum pressure drop across the cell is baghouse specific, if not cell specific. Furthermore, there is little or no correlation between baghouse pressure drop and emissions. Therefore, it would be inappropriate for the rule to identify a minimum pressure drop. However, the EPA has amended the rule to require operators to monitor the pressure drop across each cell to ensure that it is within the normal operating range for that cell. Operators will be required to identify the normal operating range for each baghouse cell in the baghouse operation and maintenance SOP.

Comment. One commenter stated that the lead production rate should be calculated on data from the previous 12 months of operation. The commenter adds that the requirement does not consider plant shutdown, when lead production is zero; hence, artificially low emissions could result from the recommended calculation.

Response. Based on the proposed rule, lead production is calculated based on production data for the 12 months prior to conducting the test, including periods when the facility is shut down. The EPA believes that this is in agreement with this statement.

As noted, plant shutdowns would result in lower lead production. However, the result of lower lead production would be to increase the calculated, production-based, lead compound emission rate, not reduce it as suggested by the commenter. In fact, if a facility were to experience a prolonged shutdown, it may be impossible to meet the emission limit based on the proposed calculation.

Upon further review, the EPA has decided to amend the procedure for calculation of the production-based, lead compound emission rate to account for periods when the facility is shut down. As amended, the production-based, lead compound emission rate will be calculated by multiplying the sum of lead emission rates (determined through stack testing, in units of grams per hour) from the nine listed sources by the plant operating hours (in units of hours/year) and dividing by the lead production rate (in units of megagrams per year). Plant operating hours are defined as the period of time in hours that either a sinter machine or blast furnace is in operation.

Comment. One commenter suggested that the bag leak detection system alarms should be set at 75 percent or 80 percent of the previous 12-month average. Alternatively the commenter suggests that the system be equipped with two alarms: a high level set at 75 percent to 80 percent of scale, and a high-high alarm that sounds when the maximum value is reached. The commenter also commented that a requirement for time averaging of the emissions should be added. The commenter suggested the use of 1-minute time averages for monitoring the particulate emissions.

Response. The EPA has developed guidance on the use of bag leak detectors based on information provided by bag leak detection system vendors, industry representatives with bag leak detection experience, and an EPA-sponsored field study. The EPA believes that this guidance provides the most appropriate methods for selecting, installing, initializing, and operating bag leak detection systems. No changes to the rule are being made to address this comment.

Comment. One commenter stated that the differential pressure across baghouses equipped with high efficiency particulate arrestor (HEPA) filters should be monitored once per operating shift and at least 8 hours apart or every 24 hours \pm 4 hours. The commenter states that monitoring once a day allows operators to take readings at 0100 hours one day, and at 2300 hours the next day, allowing up to 46 hours to pass between readings.

Response. An exemption to the bag leak detection system requirements is provided in the rule if a baghouse is equipped with a secondary HEPA filter. The exemption is not given if the HEPA filter is the only filter in the system.

Under this configuration, the primary filter collects the bulk of the particulates, while the secondary HEPA filter acts as a finishing filter. Based on

discussions with personnel at a secondary lead smelter using secondary HEPA filters, HEPA filters last several months when used as a secondary filter. As such, the EPA believes that daily checks of the differential pressure across the HEPA filter is adequate. No changes to the rule are being made to address this comment.

Comment. One commenter stated that the rule should specify the building ventilation requirements in a definitive way, e.g., by requiring an exhaust system capable of a given number of air changes per hour.

Response. While air changes per hour may be an important consideration in addressing indoor air quality and worker exposure, it has little meaning when assessing the capture effectiveness of a building. The EPA believes that the requirement that the sinter machine building be ventilated at a rate that ensures in-draft through all open doors provides the best assurance that emissions escaping the building are minimized. No changes to the rule are being made to address this comment.

Comment. One commenter stated that for total enclosures there should be a monitoring device on the exhaust fan (e.g., motor current) to verify continuously that the ventilation system is in operation, and added that failure of the ventilation system should be recorded and included in the reporting requirements.

Response. As discussed above, the EPA has amended the rule to require that operators either (1) install, calibrate, and operate a flow monitor to continuously measure and record total exhaust rate out of the enclosure; or (2) perform daily checks for in-draft, with a vane anemometer or equivalent device, at each doorway normally open. Failure of the ventilation system

would be considered a malfunction of the air pollution control equipment. The rule requires that operators develop a start-up, shut-down, and malfunction plan for all air pollution control equipment. In addition, the rule requires operators to record the occurrence and duration of each malfunction of the source or air pollution control equipment. No additional changes are being made to address this comment.

Comment. One commenter stated that there should be some specified limits on the number of allowable violations (alarms) during a given time period.

Response. On February 12, 1999 (64 FR 7149), the EPA proposed an operating limit that would require operators of primary lead smelters to operate and maintain their baghouses such that the bag leak detection system

did not alarm more than five percent of the time over a 6-month period. The EPA also added the requirement that operators continuously record the output of the bag leak detection system. The EPA added these requirements to help ensure that baghouses are properly operated and maintained, and that enforcement officials will have adequate data to assess compliance with the bag leak detection system requirements.

B. Comments on February 1999 Supplemental Proposal

Comment. One commenter stated that the term "initiate corrective actions" as used in section 63.1547(e)(9) was somewhat ambiguous, and requested that the EPA clarify what constitutes the initiation of corrective action. Furthermore, they noted that, as required in section 63.1547(f), the first steps in the corrective action process is to acknowledge the alarm and determine its cause. It was suggested that the term "initiate corrective action" be changed to "initiate procedures to acknowledge the alarm and determine its cause, as specified in the corrective actions plan."

Response. The EPA is concerned that the term "initiate corrective action" could be misinterpreted to mean the beginning of a physical repair. As pointed out by the commenter, the first step in the corrective action process is to acknowledge (or record) the alarm and to begin procedures for determining the cause of the alarm. As such, the EPA is changing the proposed rule language to capture more accurately what is intended. The new language requires facilities to "record the date and time of the alarm and initiate procedures to determine the cause of a bag leak detection system alarm" within 1 hour.

Comment. The commenters stated that they believe the addition of section 63.1547(e)(9) makes the provision in section 63.1547(f)(1) redundant. They suggest that section 63.1547(f)(1) be removed.

Response. The EPA does not believe that the requirements of section 63.1547(e)(9) and section 63.1547(f)(1) are redundant. The purpose of the operating limit in section 63.1547(e)(9) is to require operators to operate and maintain an affected baghouse such that upset events are limited to a level that the EPA considers acceptable both in terms of number of occurrences and duration. The intent of the requirement that operators record and initiate procedures to determine the cause of the alarm within 1 hour (section 63.1547(f)(1)) is to ensure that operators acknowledge and respond to each alarm in a timely manner.

Please note that the requirements contained in section 63.1547(e)(9) of the supplemental proposal have been revised in the final rule. The requirement to maintain and operate each baghouse such that the alarm on a bag leak detection system does not sound for more than five percent of the total operating time in a 6-month reporting period has been moved to section 63.1543(f) in the final rule. The methodology to be used in calculating the percent of the total operating time that the alarm sounds has been clarified and moved to section 63.1547(g) in the final rule. In addition, the requirements contained in section 63.1547(f)(1) of the original proposal have been moved to section 63.1543(g) in the final rule.

Comment. One commenter stated that it appears that the EPA is proposing to penalize operators for a rapid response to initiate corrective actions by setting 1 hour as a minimum time counted for each alarm while using the actual time for periods which exceed 1 hour. The commenter proposes that the EPA simplify the requirement such that the alarm time should be counted as the actual amount of time taken by the owner or operator to initiate corrective actions for all cases.

Response. As discussed above, the intent of the operating limit on bag leak detection system alarm time is to limit not only the duration, but also the number of alarm-causing events. By rounding the amount of alarm time counted up to 1 hour for any alarm where the operator responds within 1 hour, the total number of potential alarm-causing events is limited to roughly 220 alarms in a 6-month reporting period. Counting fractions of an hour per event could allow for an unlimited number of events. For example, at 10 minutes per event, the total number of alarm-causing events could be as high as 1,300 in a 6-month reporting period.

Comment. One commenter suggested that the operating limit on bag leak detection system alarm time be reviewed and considered for application to other MACT standards using common add-on emissions control technologies (i.e., baghouses).

Response. The EPA intends to incorporate the operating limit on bag leak detection system alarm time in the rules that EPA is currently developing and any future rules where baghouses are used to control HAP emissions. In addition, the EPA is considering amending existing NESHAP where baghouses are used to control HAP emissions to include the operating limit on bag leak detection system alarm time.

Comment. One commenter stated that by limiting the cumulative time that a source may operate before initiating corrective action, rather than before completing corrective action, the proposed changes would provide an incentive for the operator to indefinitely delay completion of corrective action.

Response. The commenter is mistaken. Section 63.6(e)(1)(ii) of the General Provisions requires that malfunctions be corrected as soon as practicable after their occurrence. As such, an operator cannot delay completion of corrective action without being in violation of the General Provisions. However, the EPA has changed section 63.1543(g) of the final rule to require that "The cause of the alarm shall be corrected as soon as practicable." No other changes are being made to the rule to address this comment.

Comment. One commenter stated that the MACT technology should be reanalyzed to account for the particulate HAP control which is achievable during a one-time performance test conducted on a newly constructed or reconstructed baghouse. The commenter continues to state that while some operators might choose to maintain and promptly repair their air pollution control devices, the rules could not be enforced to require this level of control.

Response. The EPA believes that the commenter has misinterpreted the rule. The commenter infers that the lead emission limits should be based on the level of control that a brand new baghouse can achieve since only a one-time test is required. However, the rule requires annual compliance testing, not a one-time compliance test. Furthermore, the rule contains federally enforceable requirements for the operation and maintenance of each affected baghouse. No change is being made to the rule to address this comment.

V. Administrative Requirements

A. Docket

The docket is an organized and complete file of all the information considered by the EPA in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the

record in the case of judicial review. (See section 307(d)(7)(A) of the Act.)

B. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a "significant regulatory action" because none of the listed criteria apply to this action. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

C. 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, 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. None of these entities own or operate an affected source. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, 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. No tribal governments own or operate an affected source. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

E. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with “Federal mandates” that may result in expenditures by State, local, and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a

written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The maximum total annual cost of this rule for any year has been estimated to be less than \$250,000. Thus, today’s rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, the EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no requirements that apply to such governments or impose obligations upon them. Therefore, today’s rule is not subject to the requirements of section 203 of the UMRA.

F. Regulatory Flexibility Act

As amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), 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, as well as take other actions intended to minimize the rule’s potential impact on small entities, 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 government jurisdictions.

The EPA has determined that none of the existing primary lead smelters are small entities, and has concluded that this proposed rule would not have a significant economic impact on a substantial number of small entities. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

G. Paperwork Reduction Act

The information collection requirements in this rule will be submitted for approval to the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1856.02) and a copy may be obtained from Sandy Farmer by mail at OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., SW, Washington, DC 20460, by email at farmer.sandy@epamail.epa.gov, or by calling (202) 260-2740. A copy may also be downloaded off the internet at <http://www.epa.gov/icr>. The information requirements are not effective until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized by section 114 of the Act (42 U.S.C. § 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to Agency policies set forth in 40 CFR part 2, subpart B.

The rule would require maintenance inspections of the control devices but would not require any notifications or reports beyond those required by the General Provisions. The recordkeeping requirements require only the specific information needed to determine compliance.

The annual monitoring, reporting, and recordkeeping burden for this collection (averaged over the first 3 years after the effective date of the rule) is estimated to be 2,002 labor hours per year at a total annual cost of \$114,900. This estimate includes a one-time performance test and report (with repeat tests where needed); one-time purchase and

installation of bag leak detection systems; one-time submission of a startup, shutdown, and malfunction plan with semiannual reports for any event when the procedures in the plan were not followed; semiannual excess emission reports; maintenance inspections; notifications; and recordkeeping. Total capital/startup costs associated with the monitoring requirements over the 3-year period of the ICR are estimated at \$107,500, with operation and maintenance costs of \$5,500/yr.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

H. Submission to Congress and the General Accounting Office

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

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. No. 104-113, section 12(d) (15 U.S.C. 272 note), directs all Federal agencies to use voluntary consensus standards instead of government-unique standards in their regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., material specifications, test method, sampling and analytical procedures, business practices, etc.) that are developed or adopted by one or more voluntary consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the National Fire Protection Association (NFPA), and the Society of Automotive Engineers (SAE). The NTTAA requires Federal agencies like EPA to provide Congress, through OMB, with explanations when an agency decides not to use available and applicable voluntary consensus standards.

During this rulemaking the Agency searched for voluntary consensus standards that might be applicable. The search has identified no applicable voluntary standards. Accordingly, the NTTAA requirement to use applicable voluntary consensus standards does not apply to this rule.

As part of a larger effort, the EPA is undertaking a project to cross-reference existing voluntary consensus standards on testing, sampling, and analysis, with current and future EPA test methods. When completed, this project will assist the EPA in identifying potentially-applicable voluntary consensus standards which can then be evaluated for equivalency and applicability in determining compliance with future regulations.

J. Pollution Prevention Considerations

The Pollution Prevention Act of 1990 (42 U.S.C. 13101 *et seq.*, Pub. L. 101-508, November 5, 1990) establishes the national policy of the United States for pollution prevention. This act declares that: (1) pollution should be prevented or reduced whenever feasible, (2) pollution that cannot be prevented or reduced should be recycled or reused in an environmentally-safe manner wherever feasible, (3) pollution that cannot be recycled or reused should be treated, and (4) disposal or release into the atmosphere should be chosen only if none of the other options is available.

The plant wide emission limit approach in this final rule promotes the use of pollution prevention alternatives by giving facilities full credit for source reduction in determining compliance with the emission limit. Furthermore, the focus of the fugitive dust requirements is on work practice and operating standards that reduce emission potential, rather than capture and treatment options.

K. Protection of Children From Environmental Health Risks and Safety Risk Under Executive Order 13045

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

The EPA interprets Executive Order (E.O.) 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the E.O. has the potential to influence the regulation. This rule is not subject to E.O. 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. Furthermore, this rule has been determined not to be "economically significant" as defined under E.O. 12866.

L. Judicial Review

Under section 307(b)(1) of the Act, judicial review of a NESHAP is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this final rule. Under section 307(b)(2) of the Act, the requirements that are the subject of today's action may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements, Primary lead smelters.

Dated: May 13, 1999.

Carol M. Browner,
Administrator.

BILLING CODE 6560-50-P

For reasons set out in the preamble, 40 CFR part 63 is amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

1. The authority citation for part 63 continues to read as follows:

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

2. Part 63 is amended by adding subpart TTT, to read as follows:

Subpart TTT—National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting

Sec.

- 63.1541 Applicability.
- 63.1542 Definitions.
- 63.1543 Standards for process and process fugitive sources.
- 63.1544 Standards for fugitive dust sources.
- 63.1545 Compliance dates.
- 63.1546 Test methods.
- 63.1547 Monitoring requirements.
- 63.1548 Notification requirements.
- 63.1549 Recordkeeping and reporting requirements.
- 63.1550 Delegation of authority.

Subpart TTT—National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting

§ 63.1541 Applicability.

(a) The provisions of this subpart apply to the following affected sources at primary lead smelters: sinter machine, blast furnace, dross furnace, process fugitive sources, and fugitive dust sources. The provisions of this subpart do not apply to secondary lead smelters, lead refiners, or lead remelters.

(b) Table 1 of this subpart specifies the provisions of subpart A that apply and those that do not apply to owners and operators of primary lead smelters. The following sections of part 63 apply to this subpart as stated in subpart A and Table 1: § 63.1 (Applicability), § 63.2 (Definitions), § 63.3 (Units and abbreviations), § 63.4 (Prohibited activities and circumvention), § 63.5 (Construction and reconstruction), § 63.7 (Performance testing requirements), § 63.8 (Monitoring requirements), § 63.12 (State authority and delegations), § 63.13 (Addresses of State air pollution control agencies and EPA Regional Offices), § 63.14 (Incorporations by reference), and § 63.15 (Availability of information confidentiality). The following sections of part 63 apply to the extent specified

in this subpart and Table 1: § 63.6 (Compliance with standards and maintenance requirements), § 63.9 (Notification requirements), and § 63.10 (Recordkeeping and reporting requirements). Section § 63.11 (Control device requirements) does not apply to this subpart.

§ 63.1542 Definitions.

Terms used in this subpart are defined in the Act, in subpart A of this part, or in this section as follows:

Bag leak detection system means a system that is capable of continuously monitoring relative particulate matter (dust) loadings in the exhaust of a baghouse in order to detect bag leaks and other upset conditions. A bag leak detection system includes, but is not limited to, an instrument that operates on triboelectric, light scattering, light transmittance, or other effect to continuously monitor relative particulate matter loadings.

Blast furnace means any reduction furnace to which sinter is charged and which forms separate layers of molten slag and lead bullion.

Building means a roofed and walled structure with limited openings to allow access and egress for people and vehicles.

Charging location means the physical opening through which raw materials are introduced into a sinter machine, blast furnace, or dross furnace.

Dross furnace means any smelting furnace to which drosses are charged and which chemically and physically separates lead from other impurities.

Drossing and refining kettle means an open-top vessel that is constructed of cast iron or steel and is indirectly heated from below and contains molten lead for the purpose of drossing, refining, or alloying lead. Included are pot furnaces, receiving kettles, and holding kettles.

Fugitive dust source means a stationary source of hazardous air pollutant emissions at a primary lead smelter resulting from the handling, storage, transfer, or other management of lead-bearing materials where the source is not associated with a specific process, process vent, or stack. Fugitive dust sources include roadways, storage piles, materials handling transfer points, and materials transport areas.

Furnace area means any area of a primary lead smelter in which a blast furnace or dross furnace is located.

Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused

in part by poor maintenance or careless operation are not malfunctions.

Materials storage and handling area means any area of a primary lead smelter in which lead-bearing materials (including ore concentrate, sinter, granulated lead, dross, slag, and flue dust) are stored or handled between process steps, including areas in which materials are stored in piles, bins, or tubs, and areas in which material is prepared for charging to a sinter machine or smelting furnace.

Operating time means the period of time in hours that an affected source is in operation beginning at a startup and ending at the next shutdown.

Plant operating time means the period of time in hours that either a sinter machine or blast furnace is in operation.

Plant roadway means any area of a primary lead smelter that is subject to vehicle traffic, including traffic by fork lifts, front-end loaders, or vehicles carrying ore concentrates or cast lead ingots. Excluded from this definition are employee and visitor parking areas, provided they are not subject to traffic by vehicles carrying lead-bearing materials.

Primary lead smelter means any facility engaged in the production of lead metal from lead sulfide ore concentrates through the use of pyrometallurgical techniques.

Process fugitive source means a source of hazardous air pollutant emissions at a primary lead smelter that is associated with lead smelting or refining but is not the primary exhaust stream and is not a fugitive dust source. Process fugitive sources include sinter machine charging locations, sinter machine discharge locations, sinter crushing and sizing equipment, furnace charging locations, furnace taps, drossing kettles, and refining kettles.

Refining and casting area means any area of a primary lead smelter in which drossing or refining operations occur, or casting operations occur.

Shutdown means the cessation of operation of an affected source for any purpose.

Sinter machine means any device in which a lead sulfide ore concentrate charge is heated in the presence of air to eliminate sulfur contained in the charge and to agglomerate the charge into a hard porous mass called sinter.

Sinter machine area means any area of a primary lead smelter where a sinter machine, or sinter crushing and sizing equipment is located.

Sinter machine discharge end means the physical opening at the end of a sinter machine where the sinter exits the sinter machine.

Startup means the setting in operation of an affected source for any purpose.

Tapping location means the opening through which lead and slag are removed from the furnace.

§ 63.1543 Standards for process and process fugitive sources.

(a) No owner or operator of any existing, new, or reconstructed primary lead smelter shall discharge or cause to be discharged into the atmosphere lead compounds in excess of 500 grams of lead per megagram of lead metal produced (1.0 pounds of lead per ton of lead metal produced) from the aggregation of emissions discharged from the air pollution control devices used to control emissions from the sources listed in paragraphs (a)(1) through (a)(9) of this section.

- (1) Sinter machine;
- (2) Blast furnace;
- (3) Dross furnace;
- (4) Dross furnace charging location;
- (5) Blast furnace and dross furnace tapping location;
- (6) Sinter machine charging location;
- (7) Sinter machine discharge end;
- (8) Sinter crushing and sizing equipment; and
- (9) Sinter machine area.

(b) The process fugitive sources listed in paragraphs (a)(4) through (a)(8) of this section shall be equipped with a hood and shall be ventilated to a baghouse or equivalent control device. The hood design and ventilation rate shall be consistent with American Conference of Governmental Industrial Hygienists recommended practices.

(c) The sinter machine area shall be enclosed in a building that is ventilated to a baghouse or equivalent control device at a rate that maintains a positive in-draft through any doorway opening.

(d) Except as provided in paragraph (e) of this section, following the initial test to demonstrate compliance with paragraph (a) of this section, the owner or operator of a primary lead smelter shall conduct a compliance test for lead compounds on an annual basis (no later than 12 calendar months following any previous compliance test).

(e) If the three most recent compliance tests demonstrate compliance with the emission limit specified in paragraph (a) of this section, the owner or operator of a primary lead smelter shall be allowed up to 24 calendar months from the last compliance test to conduct the next compliance test for lead compounds.

(f) The owner or operator of a primary lead smelter shall maintain and operate each baghouse used to control emissions from the sources listed in paragraphs (a)(1) through (a)(9) of this section such that the alarm on a bag leak detection

system required under § 63.1547(c)(9) does not sound for more than five percent of the total operating time in a 6-month reporting period.

(g) The owner or operator of a primary lead smelter shall record the date and time of a bag leak detection system alarm and initiate procedures to determine the cause of the alarm according to the corrective action plan required under § 63.1547(c)(9) within 1 hour of the alarm. The cause of the alarm shall be corrected as soon as practicable.

§ 63.1544 Standards for fugitive dust sources.

(a) Each owner or operator of a primary lead smelter shall prepare, and at all times operate according to, a standard operating procedures manual that describes in detail the measures that will be put in place to control fugitive dust emissions from the sources listed in paragraphs (a)(1) through (a)(5) of this section:

- (1) Plant roadways;
- (2) Material storage and handling area(s);
- (3) Sinter machine area(s);
- (4) Furnace area(s); and
- (5) Refining and casting area(s).

(b) Notwithstanding paragraph (c) of this section, the standard operating procedures manual shall be submitted to the Administrator or delegated authority for review and approval.

(c) Existing manuals that describe the measures in place to control fugitive dust sources required as part of a State implementation plan for lead shall satisfy the requirements of paragraph (a) of this section provided they address the sources listed in paragraphs (a)(1) through (a)(5) of this section.

§ 63.1545 Compliance dates.

(a) Each owner or operator of an existing primary lead smelter shall achieve compliance with the requirements of this subpart no later than May 4, 2001.

(b) Each owner or operator of a primary lead smelter that commences construction or reconstruction after April 17, 1998, shall achieve compliance with the requirements of this subpart by June 4, 1999 or upon startup of operations, whichever is later.

§ 63.1546 Test methods.

(a) The following procedure shall be used to determine compliance with the emissions standard for lead compounds under § 63.1543(a):

(1) The lead compound emission rate, in units of grams of lead per hour, for each source listed in § 63.1543(a)(1) through § 63.1543(a)(9) shall be

determined according to the following test methods in appendix A of part 60 of this chapter:

(i) Method 1 shall be used to select the sampling port location and the number of traverse points.

(ii) Method 2 shall be used to measure volumetric flow rate.

(iii) Method 3 shall be used for gas analysis.

(iv) Method 4 shall be used to determine moisture content of the stack gas

(v) Method 12 shall be used to measure the lead emission rate of the stack gas. The minimum sample volume shall be 0.85 dry standard cubic meters (30 dry standard cubic feet) and the minimum sampling time shall be 60 minutes for each run. Three runs shall be performed and the average of the three runs shall be used to determine compliance.

(2) The lead production rate, in units of megagrams per hour, shall be determined based on production data for the previous 12 calendar months according to the procedures detailed in paragraphs (a)(2)(i) through (a)(2)(v) of this section:

(i) Total lead products production multiplied by the fractional lead content shall be determined in units of megagrams.

(ii) Total copper matte production multiplied by the fractional lead content shall be determined in units of megagrams.

(iii) Total copper speiss production multiplied by the fractional lead content shall be determined in units of megagrams.

(iv) Total lead production shall be determined by summing the values obtained in paragraphs (a)(2)(i) through (a)(2)(iii) of this section.

(v) The lead production rate, in units of megagrams per hours, shall be calculated based on the total lead production, as determined in accordance with paragraph (a)(2)(iv) of this section, divided by the total plant operating time, in hours, for the previous 12 months.

(3) The sum of lead compound emission rates for the sources in § 63.1543(a)(1) through (a)(9), as determined in accordance with paragraph (a)(1) of this section, shall be divided by the lead production rate, as determined in accordance with paragraph (a)(2)(v) of this section, to obtain a production-based, lead compound emission rate in units of grams of lead per megagram of lead metal produced. The production-based, lead compound emission rate shall be used to determine compliance with the

emissions standard for lead compounds under § 63.1543(a).

(b) Owner and operators shall perform an initial compliance test to demonstrate compliance with the sinter building in-draft requirements of § 63.1543(c) at each doorway opening in accordance with paragraphs (b)(1) through (b)(4) of this section.

(1) Use a propeller anemometer or equivalent device.

(2) Determine doorway in-draft by placing the anemometer in the plane of the doorway opening near its center.

(3) Determine doorway in-draft for each doorway that is open during normal operation with all remaining doorways in their customary position during normal operation.

(4) Do not determine doorway in-draft when ambient wind speed exceeds 2 meters per second.

§ 63.1547 Monitoring requirements.

(a) Owners and operators of primary lead smelters shall prepare, and at all times operate according to, a standard operating procedures manual that describes in detail the procedures for inspection, maintenance, and bag leak detection and corrective action for all baghouses that are used to control process, process fugitive, or fugitive dust emissions from any source subject to the lead emission standards in §§ 63.1543 and 63.1544, including those used to control emissions from general ventilation systems.

(b) The standard operating procedures manual for baghouses required by paragraph (a) of this section shall be submitted to the Administrator or delegated authority for review and approval.

(c) The procedures specified in the standard operating procedures manual for inspections and routine maintenance shall, at a minimum, include the requirements of paragraphs (c)(1) through (c)(9) of this section.

(1) Daily monitoring of pressure drop across each baghouse cell to ensure pressure drop is within the normal operating range identified in the standard operating procedures manual.

(2) Weekly confirmation that dust is being removed from hoppers through visual inspection or equivalent means of ensuring the proper functioning of removal mechanisms.

(3) Daily check of compressed air supply for pulse-jet baghouses.

(4) An appropriate methodology for monitoring cleaning cycles to ensure proper operation.

(5) Monthly check of bag cleaning mechanisms for proper functioning through visual inspection or equivalent means.

(6) Quarterly visual check of bag tension on reverse air and shaker-type baghouses to ensure that bags are not kinked (knead or bent) or laying on their sides. Such checks are not required for shaker-type baghouses using self-tensioning (spring loaded) devices.

(7) Quarterly confirmation of the physical integrity of the baghouse through visual inspection of the baghouse interior for air leaks.

(8) Quarterly inspection of fans for wear, material buildup, and corrosion through visual inspection, vibration detectors, or equivalent means.

(9) Except as provided in paragraph (h) of this section, continuous operation of a bag leak detection system.

(d) The procedures specified in the standard operating procedures manual for maintenance shall, at a minimum, include a preventative maintenance schedule that is consistent with the baghouse manufacturer's instructions for routine and long-term maintenance.

(e) The bag leak detection system required by paragraph (c)(9) of this section shall meet the specifications and requirements of (e)(1) through (e)(8) of this section.

(1) The bag leak detection system must be certified by the manufacturer to be capable of detecting particulate matter emissions at concentrations of 10 milligram per actual cubic meter (0.0044 grains per actual cubic foot) or less.

(2) The bag leak detection system sensor must provide output of relative particulate matter loadings, and the owner or operator shall continuously record the output from the bag leak detection system.

(3) The bag leak detection system must be equipped with an alarm system that will sound when an increase in relative particulate loading is detected over a preset level, and the alarm must be located such that it can be heard by the appropriate plant personnel.

(4) Each bag leak detection system that works based on the triboelectric effect shall be installed, calibrated, and maintained in a manner consistent with guidance provided in the U.S. Environmental Protection Agency guidance document "Fabric Filter Bag Leak Detection Guidance" (EPA-454/R-98-015). Other bag leak detection systems shall be installed, calibrated, and maintained in a manner consistent with the manufacturer's written specifications and recommendations.

(5) The initial adjustment of the system shall, at a minimum, consist of establishing the baseline output by adjusting the sensitivity (range) and the averaging period of the device, and establishing the alarm set points and the alarm delay time.

(6) Following initial adjustment, the owner or operator shall not adjust the sensitivity or range, averaging period, alarm set points, or alarm delay time, except as detailed in the approved SOP required under paragraph (a) of this section. In no event shall the sensitivity be increased by more than 100 percent or decreased more than 50 percent over a 365-day period unless a responsible official certifies that the baghouse has been inspected and found to be in good operating condition.

(7) For negative pressure, induced air baghouses, and positive pressure baghouses that are discharged to the atmosphere through a stack, the bag leak detector must be installed downstream of the baghouse and upstream of any wet acid gas scrubber.

(8) Where multiple detectors are required, the system's instrumentation and alarm may be shared among detectors.

(f) The standard operating procedures manual required by paragraph (a) of this section shall include a corrective action plan that specifies the procedures to be followed in the event of a bag leak detection system alarm. The corrective action plan shall include, at a minimum, procedures to be used to determine the cause of an alarm, as well as actions to be taken to minimize emissions, which may include, but are not limited to, the following.

(1) Inspecting the baghouse for air leaks, torn or broken bags or filter media, or any other condition that may cause an increase in emissions.

(2) Sealing off defective bags or filter media.

(3) Replacing defective bags or filter media, or otherwise repairing the control device.

(4) Sealing off a defective baghouse compartment.

(5) Cleaning the bag leak detection system probe, or otherwise repairing the bag leak detection system.

(6) Shutting down the process producing the particulate emissions.

(g) The percentage of total operating time the alarm on the bag leak detection system sounds in a 6-month reporting period shall be calculated in order to determine compliance with the five percent operating limit in § 63.1543(f). The percentage of time the alarm on the bag leak detection system sounds shall be determined according to paragraphs (g)(1) through (g)(5) of this section.

(1) Alarms that occur due solely to a malfunction of the bag leak detection system shall not be included in the calculation.

(2) Alarms that occur during startup, shutdown, or malfunction shall not be included in the calculation if the

condition is described in the startup, shutdown, and malfunction plan and the owner or operator follows all the procedures in the plan defined for this condition.

(3) For each alarm where the owner or operator initiates procedures to determine the cause of an alarm within 1 hour of the alarm, 1 hour of alarm time shall be counted.

(4) For each alarm where the owner or operator does not initiate procedures to determine the cause of the alarm within 1 hour of the alarm, alarm time will be counted as the actual amount of time taken by the owner or operator to initiate procedures to determine the cause of the alarm.

(5) The percentage of time the alarm on the bag leak detection system sounds shall be calculated as the ratio of the sum of alarm times to the total operating time multiplied by 100.

(h) Baghouses equipped with HEPA filters as a secondary filter used to control process or process fugitive sources subject to the lead emission standards in § 63.1543 are exempt from the requirement in § 63.1543(c)(9) to be equipped with a bag leak detector. The owner or operator of an affected source that uses a HEPA filter shall monitor and record the pressure drop across the HEPA filter system daily. If the pressure drop is outside the limit(s) specified by the filter manufacturer, the owner or operator must take appropriate corrective measures, which may include, but not be limited to, the following:

(1) Inspecting the filter and filter housing for air leaks and torn or broken filters.

(2) Replacing defective filter media, or otherwise repairing the control device.

(3) Sealing off a defective control device by routing air to other control devices.

(4) Shutting down the process producing the particulate emissions.

(i) Owners and operators shall monitor sinter machine building in-draft to demonstrate continued compliance with the operating standard specified in § 63.1543(c) in accordance with either paragraph (i)(1), (i)(2), or (i)(3) of this section.

(1) Owners and operators shall check and record on a daily basis doorway in-draft at each doorway in accordance with the methodology specified in § 63.1546(b).

(2) Owners and operators shall establish and maintain baseline ventilation parameters which result in a positive in-draft according to paragraphs (i)(2)(i) through (i)(2)(iv) of this section.

(i) Owners and operators shall install, calibrate, maintain, and operate a

monitoring device that continuously records the actual volumetric flow rate through each separately ducted hood; or install, calibrate, maintain, and operate a monitoring device that continuously records the volumetric flow rate at the control device inlet of each exhaust system ventilating the building. The flow rate monitoring device(s) can be installed in any location in the exhaust duct such that reproducible flow rate monitoring will result. The flow rate monitoring device(s) shall have an accuracy of plus or minus 10 percent over its normal operating range and shall be calibrated according to manufacturer's instructions.

(ii) During the initial demonstration of sinter building in-draft, and at any time the owner or operator wishes to re-establish the baseline ventilation parameters, the owner or operator shall continuously record the volumetric flow rate through each separately ducted hood, or continuously record the volumetric flow rate at the control device inlet of each exhaust system ventilating the building and record exhaust system damper positions. The owner or operator shall determine the average volumetric flow rate(s) corresponding to the period of time the in-draft compliance determinations are being conducted.

(iii) The owner or operator shall maintain the volumetric flow rate(s) at or above the value(s) established during the most recent in-draft determination at all times the sinter machine is in operation. Volumetric flow rate(s) shall be calculated as a 15-minute average.

(iv) If the volumetric flow rate is monitored at the control device inlet, the owner or operator shall check and record damper positions daily to ensure they are in the positions they were in during the most recent in-draft determination.

(3) An owner or operator may request an alternative monitoring method by following the procedures and requirements in § 63.8(f) of the General Provisions.

§ 63.1548 Notification requirements.

(a) The owner or operator of a primary lead smelter shall comply with all of the notification requirements of § 63.9 of subpart A, General Provisions.

(b) The owner or operator of a primary lead smelter shall submit the fugitive dust control standard operating procedures manual required under § 63.1544(a) and the standard operating procedures manual for baghouses required under § 63.1547(a) to the Administrator or delegated authority along with a notification that the smelter is seeking review and approval

of these plans and procedures. Owners or operators of existing primary lead smelters shall submit this notification no later than November 6, 2000. The owner or operator of a primary lead smelter that commences construction or reconstruction after April 17, 1998, shall submit this notification no later than 180 days before startup of the constructed or reconstructed primary lead smelter, but no sooner than September 2, 1999.

§ 63.1549 Recordkeeping and reporting requirements.

(a) The owner or operator of a primary lead smelter shall comply with all of the recordkeeping requirements of § 63.10 of subpart A, General Provisions.

(b) In addition to the general records required by paragraph (a) of this section, each owner or operator of a primary lead smelter shall maintain for a period of 5 years, records of the information listed in paragraphs (b)(1) through (b)(8) of this section.

(1) Production records of the weight and lead content of lead products, copper matte, and copper speiss.

(2) Records of the bag leak detection system output.

(3) An identification of the date and time of all bag leak detection system alarms, the time that procedures to determine the cause of the alarm were initiated, the cause of the alarm, an explanation of the actions taken, and the date and time the cause of the alarm was corrected.

(4) Any recordkeeping required as part of the practices described in the standard operating procedures manual required under § 63.1544(a) for the control of fugitive dust emissions.

(5) Any recordkeeping required as part of the practices described in the standard operating procedures manual for baghouses required under § 63.1547(a).

(6) If an owner or operator chooses to demonstrate continuous compliance with the sinter building in-draft requirement under § 63.1543(c) by employing the method allowed in § 63.1546(i)(1), the records of the daily doorway in-draft checks, an identification of the periods when there was not a positive in-draft, and an explanation of the corrective actions taken.

(7) If an owner or operator chooses to demonstrate continuous compliance with the sinter building in-draft requirement under § 63.1543(c) by employing the method allowed in § 63.1546(i)(2), the records of the output from the continuous volumetric flow monitor(s), an identification of the periods when the 15-minute volumetric

flow rate dropped below the minimum established during the most recent in-draft determination, and an explanation of the corrective actions taken.

(8) If an owner or operator chooses to demonstrate continuous compliance with the sinter building in-draft requirement under § 63.1543(c) by employing the method allowed in § 63.1546(i)(2), and volumetric flow rate is monitored at the baghouse inlet, records of the daily checks of damper positions, an identification of the days that the damper positions were not in the positions established during the most recent in-draft determination, and an explanation of the corrective actions taken.

(c) Records for the most recent 2 years of operation must be maintained on site. Records for the previous 3 years may be maintained off site.

(d) The owner or operator of a primary lead smelter shall comply with all of the reporting requirements of § 63.10 of subpart A, General Provisions.

(e) In addition to the information required under § 63.10 of the General Provisions, the owner or operator shall provide semi-annual reports containing the information specified in paragraphs (e)(1) through (e)(7) of this section to the Administrator or designated authority.

(1) The reports shall include records of all alarms from the bag leak detection system specified in § 63.1547(e).

(2) The reports shall include a description of the actions taken

following each bag leak detection system alarm pursuant to § 63.1547(f).

(3) The reports shall include a calculation of the percentage of time the alarm on the bag leak detection system sounded during the reporting period pursuant to § 63.1547(g).

(4) If an owner or operator chooses to demonstrate continuous compliance with the sinter building in-draft requirement under § 63.1543(c) by employing the method allowed in § 63.1546(i)(1), the reports shall contain an identification of the periods when there was not a positive in-draft, and an explanation of the corrective actions taken.

(5) If an owner or operator chooses to demonstrate continuous compliance with the sinter building in-draft requirement under § 63.1543(c) by employing the method allowed in § 63.1546(i)(2), the reports shall contain an identification of the periods when the 15-minute volumetric flow rate(s) dropped below the minimum established during the most recent in-draft determination, and an explanation of the corrective actions taken.

(6) If an owner or operator chooses to demonstrate continuous compliance with the sinter building in-draft requirement under § 63.1543(c) by employing the method allowed in § 63.1546(i)(2), and volumetric flow rate is monitored at the baghouse inlet, the reports shall contain an identification of the days that the damper positions were not in the positions established during

the most recent in-draft determination, and an explanation of the corrective actions taken.

(7) The reports shall contain a summary of the records maintained as part of the practices described in the standard operating procedures manual for baghouses required under § 63.1547(a), including an explanation of the periods when the procedures were not followed and the corrective actions taken.

(8) The reports shall contain a summary of the fugitive dust control measures performed during the required reporting period, including an explanation of any periods when the procedures outlined in the standard operating procedures manual required by § 63.1544(a) were not followed and the corrective actions taken. The reports shall not contain copies of the daily records required to demonstrate compliance with the requirements of the standard operating procedures manuals required under §§ 63.1544(a) and § 63.1547(a).

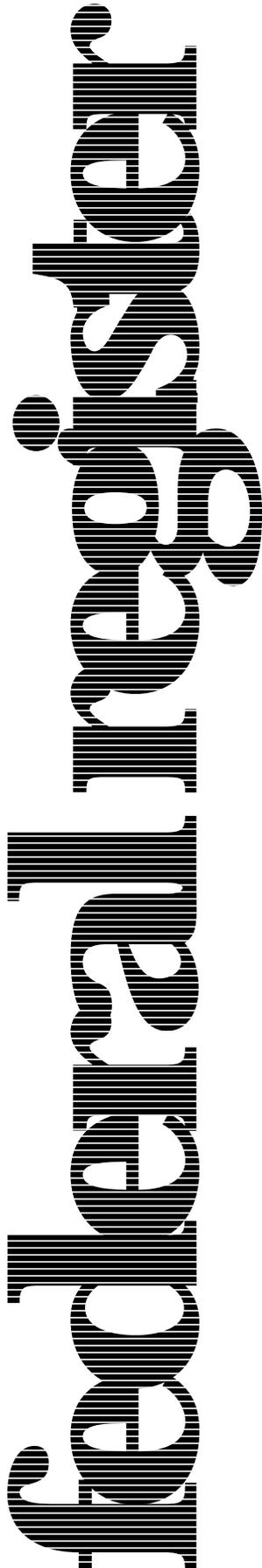
§ 63.1550 Delegation of authority

(a) In delegating implementation and enforcement authority to a State under section 112(1) of the act, the authorities contained in paragraph (b) of this section shall be retained by the Administrator and not transferred to a State.

(b) Authorities which will not be delegated to States: no restrictions.

TABLE 1 OF SUBPART TTT—GENERAL PROVISIONS APPLICABILITY TO SUBPART TTT

Reference	Applies to subpart TTT	Comment
§ 63.1	Yes	
§ 63.2	Yes	
§ 63.3	Yes	
§ 63.4	Yes	
§ 63.5	Yes	
§ 63.6(a), (b), (c), (e), (f), (g), (i) and (j)	Yes	
§ 63.6(d) and (h)	No	No opacity limits in rule.
§ 63.7	Yes	
§ 63.8	Yes	
§ 63.9 (a), (b), (c), (d), (e), (g), (h)(1) through (3), (h)(5) and (6), (i) and (j)	Yes	
§ 63.9(f) and (h)(4)	No	No opacity or visible emission limits in rule.
§ 63.10	Yes	
§ 63.11	No	Flares will not be used to comply with the emission limits.
§ 63.12 through 63.15	Yes	



Friday
June 4, 1999

Part IV

**Department of
Education**

**Office of Postsecondary Education;
Underground Railroad Educational and
Cultural Program: Inviting Applications
for Grants Under the Underground
Railroad Educational and Cultural
Program for Fiscal Year (FY) 1999; Notice**

DEPARTMENT OF EDUCATION

[CFDA No. 84.345]

**Office of Postsecondary Education;
Underground Railroad Educational and
Cultural Program: Notice Inviting
Applications for Grants Under the
Underground Railroad Educational and
Cultural Program for Fiscal Year (FY)
1999**

Purpose of program: To provide grants to nonprofit educational organizations that are established to research, display, interpret, and collect artifacts relating to the history of the Underground Railroad.

Eligible applicants: Nonprofit educational organizations that are established to research, display, interpret, and collect artifacts relating to the history of the Underground Railroad.

Deadline for transmittal of applications: July 6, 1999.

Deadline for intergovernmental review: September 7, 1999.

Available funds: \$1,750,000.

Estimated range of awards: \$100,000 to \$1,750,000.

Estimated Average Size of Awards: \$580,000.

Estimated number of awards: 1-3.

Note: The Department is not bound by any estimates in this notice.

Applicable statute and regulations: (a) Section 841 of the Higher Education Amendments of 1998, Public Law 105-244, 20 U.S.C. section 1153; and (b) the Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 82, 85, and 86.

Other Requirements*Authorized Activities*

As required by statute, each nonprofit educational organization awarded a grant under this program must enter into an agreement with the Department. Each agreement must require the organization—

(1) To establish a facility to house, display, and interpret the artifacts related to the history of the Underground Railroad, and to make the interpretive efforts available to institutions of higher education that award a baccalaureate or graduate degree;

(2) To demonstrate substantial private support for the facility through the implementation of a public-private partnership between a State or local public entity and a private entity for the support of the facility. The private entity must provide matching funds for the support of the facility in an amount

equal to 4 times the amount of the contribution of the State or local public entity, except that not more than 20 percent of the matching funds may be provided by the Federal Government;

(3) To create an endowment to fund any and all shortfalls in the costs of the on-going operations of the facility;

(4) To establish a network of satellite centers throughout the United States to help disseminate information regarding the Underground Railroad throughout the United States, if these satellite centers raise 80 percent of the funds required to establish the satellite centers from non-Federal public and private sources;

(5) To establish the capability to electronically link the facility with other local and regional facilities that have collections and programs that interpret the history of the Underground Railroad; and

(6) To submit, for each fiscal year for which the organization receives funding under this program, a report to the Department that contains—

(a) A description of the programs and activities supported by the funding;

(b) The audited financial statement of the organization for the preceding fiscal year;

(c) A plan for the programs and activities to be supported by the funding as the Secretary may require; and

(d) An evaluation of the programs and activities supported by the funding as the Secretary may require.

Selection Criteria

Applications for Underground Railroad Educational and Cultural Program grants will be evaluated using the following weighted selection criteria from section 841 of the Higher Education Amendments of 1998 and 34 CFR 75.210. The maximum score for each criterion is indicated in parentheses. The maximum overall score is 100 points. Your grant application must carefully address each of the selection criteria and describe your efforts in these areas in detail.

(1) *Overall Concept* (20 points). How well the facility supported by the proposed grant would effectively house, display, and interpret artifacts related to the history of the Underground Railroad and make the interpretive efforts available to institutions of higher education that award a baccalaureate or graduate degree.

(2) *Public-Private Support* (20 points). How well the applicant organization demonstrates substantial private support for the facility through the implementation of a public-private partnership between a State or local public entity and a private entity for the

support of the facility. The private entity must provide matching funds for the support of the facility in an amount equal to 4 times the amount of the contribution of the State or local public entity, except that not more than 20 percent of the matching funds may be provided by the Federal Government.

(3) *Endowment* (5 points). How well the applicant organization addresses the requirement to create an endowment to fund any and all shortfalls in the costs of the on-going operations of the facility.

(4) *Satellite Center* (10 points). How well the applicant organization addresses the requirement to establish a network of satellite centers throughout the United States to disseminate information regarding the Underground Railroad and demonstrates the ability to raise 80 percent of the funds required from non-Federal public and private sources.

(5) *Electronic Link* (10 points). How well the applicant organization addresses the requirement to establish the capability to electronically link the facility with other local and regional facilities that have collections and programs which interpret the history of the Underground Railroad.

(6) *Quality of Program Personnel* (10 points). The Secretary considers the quality of the personnel who will carry out the proposed program. In determining the quality of project personnel, the Secretary considers the following:

(a) The qualifications including relevant training and experience of key personnel. (5 points)

(b) 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. (5 points)

(7) *Quality of Management Plan* (15 points). The Secretary considers the quality of the management plan for the proposed grant program. In determining the quality of the management plan for the proposed project, the Secretary considers the following:

(a) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks. (5 points)

(b) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project. (5 points)

(c) How the applicant will ensure that a diversity of perspectives are brought to

bear in the operation of the proposed project. (5 points)

(8) *Quality of Project Evaluation* (10 points). The Secretary considers the quality of the evaluation to be conducted of the proposed program. In determining the quality of the evaluation, the Secretary considers the following:

(a) The extent to which the methods of evolution are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project. (7 points)

(b) The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing in other settings. (3 points)

Application Requirements

An application submitted for funding under this program must include—

(1) The name, address, and web site address, if any, of the nonprofit educational organization seeking to participate, and the name, title, mailing and e-mail address, and telephone number of a contact person for the organization.

(2) A description of the facility that will be used to house, display, and interpret the artifacts related to the history of the Underground Railroad and to make the interpretive efforts available to institutions of higher education that award a baccalaureate or graduate degree.

(3) A description of the substantial private support for the facility through the implementation of a public-private partnership between a State or local public entity and a private entity for the support of the facility and documentation that these entities will provide matching funds as required in section 841(b)(2) of the Higher Education Amendments of 1998.

(4) A description of how the endowment will be created to fund any and all shortfalls in the costs of the on-

going operations of the facility and expected sources of these funds.

(5) A statement as to whether the applicant organization intends to establish a network of satellite centers throughout the United States to help disseminate information regarding the Underground Railroad throughout the United States. If the applicant's organization does intend to establish a network, the applicant must describe the network and document how the satellite centers will raise 80 percent of the funds required from non-Federal public and private sources.

(6) A detailed description of how the applicant intends to electronically link the facility with other local and regional facilities that have collections and programs which interpret the history of the Underground Railroad, including a listing of the facilities the applicant intends to include.

Instructions for Submitting an Application

Applicants should submit a narrative that addresses the elements described in this notice under "Application Requirements." There is no prescribed application form for the program. All applications should clearly designate a contact person, telephone number, and the e-mail address of the contact person. Applicants need only submit one original application. No copies are necessary. Applications must be postmarked on or before the deadline date.

Mail the application on or before the deadline date to Linda Kleckner, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4050, ROB-3, Washington, DC 20202, or hand deliver the application by 4:30 p.m. (Washington, DC time) on the deadline date to Linda Kleckner, U.S. Department of Education, Seventh & D Streets, SW., Room 4050, ROB-3, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Linda Kleckner at the address in the

previous paragraph, by e-mail at Linda_Kleckner@ed.gov, or by telephone at (202) 708-9086.

Information concerning the program can also be found on the Web site of the Department (<http://ed.gov>). Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

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.

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Program Authority: Section 841 of the Higher Education Amendments of 1998, Pub. L. 105-244, 20 U.S.C. 1153.

Dated: May 28, 1999.

David A. Longanecker,
Assistant Secretary for Postsecondary Education.

[FR Doc. 99-14117 Filed 6-3-99; 8:45 am]

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws

Update Service) on 202-523-6641. This list is also available online at <http://www.nara.gov/fedreg>.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202-512-1808). The text will also be made available on the Internet from GPO Access at <http://www.access.gpo.gov/nara/index.html>. Some laws may not yet be available.

H.R. 1034/P.L. 106-32

To declare a portion of the James River and Kanawha Canal in Richmond, Virginia, to be nonnavigable waters of the United States for purposes of title 46, United States Code, and the other maritime laws of the United States. (June 1, 1999; 113 Stat. 115)
Last List May 26, 1999

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