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Tuesday
November 9, 1999

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

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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 246

RIN 0584–AC74

Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Local Agency Expenditure Reports

AGENCY: Food and Nutrition Service, USDA.

ACTION: Direct final rule.

SUMMARY: This direct final rule amends the regulations for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) to give State agencies greater flexibility in the way they collect expenditure data from local agencies. State agencies will be allowed to permit local agencies to submit expenditure reports up to quarterly, rather than monthly as is currently required. This rule responds to a recommendation suggested by some State agencies and is intended to allow State agencies to streamline program administration.

DATES: This rule will become effective on January 24, 2000, unless we receive written adverse comments or notices of intent to submit adverse comments postmarked on or before December 9, 1999.

ADDRESSES: Comments should be sent to Patricia N. Daniels, Director, Supplemental Food Program Division, Food and Nutrition Service, U.S. Department of Agriculture, Park Office Center, Room 540, 3101 Park Center Drive, Alexandria, VA 22302–1594. All written submissions will be available for public inspection at this address during normal business hours (8:30 a.m. to 5 p.m., Mondays through Fridays).

FOR FURTHER INFORMATION CONTACT: Debbie McIntosh at the above address or telephone (703) 305–2710.

SUPPLEMENTARY INFORMATION:

Background

What is the Current Requirement for Reporting Expenditures?

Under the WIC Program, we provide funds to State agencies to pay for the food costs and nutrition services and administration (NSA) costs incurred by the State agencies and their local agencies. We distribute these funds to State agencies pursuant to the funding formulas at 7 CFR 246.16. Section 246.16(d) requires State agencies to provide to local agencies all funds made available by the Department, except those funds necessary for allowable State agency NSA costs and food costs paid directly by the State agency. Section 246.16(d) further requires State agencies to distribute the funds based on claims submitted at least monthly by the local agency.

How Does This Direct Final Rule Change the Reporting Requirement?

Some State agencies are experimenting with ways to streamline program administration. Among the suggestions we have received is a recommendation to permit local agency NSA expenditure reports to be filed quarterly, instead of monthly. State agencies have pointed out that many other Federal programs use quarterly reporting. Accordingly, we have decided to change the WIC regulations on this point.

Under this change, State agencies may permit local agencies to submit their expenditure reports quarterly. State agencies may require more frequent reports if they wish. A parallel change is made to the current requirement that State agencies offset advances against incoming claims each month. Instead, offset is required as the claims are submitted. This accommodates whatever reporting period a State agency chooses.

Does This Change Affect Local Agency Reports of Food Cost Expenditures?

This change would apply to local agency reports of both NSA expenditures and food cost expenditures. The primary effect of this change would be for NSA expenditure reports, because in most State agencies the food costs are paid by the State agency rather than the local agencies. However, this rule does extend State agencies the same flexibility in setting the reporting period for food cost reports by local agencies. If a State agency chooses to permit bimonthly or quarterly reporting of food cost expenditures, the food costs must still be broken down by month within the reporting period.

Why Is This a Direct Final Rule?

The Department has decided to promulgate this change as a direct final rule in light of its noncontroversial nature and in order to give State agencies this option as quickly as possible. Readers should refer to our policy statement on the use of direct final rules (October 23, 1997, 52 FR 55141) for a description of the direct final rulemaking process. If we receive timely adverse comments or notices of intent to submit adverse comments within the scope of this rulemaking, we will publish timely notification of withdrawal of this rule in the **Federal Register**.

Executive Order 12866

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

Regulatory Flexibility Act

This action has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The Administrator of the Food and Nutrition Service (FNS) has certified that this action will not have a significant economic impact on a substantial number of small entities. While procedures in this rulemaking will affect State and local agencies that administer the WIC Program, any economic effect will not be significant.

Unfunded Mandate Reform Act of 1995

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Public Law 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, FNS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or

to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires FNS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or lease burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector of $100 million or more in any one year. Thus, this direct final rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12372

This program is listed in the Catalog of Federal Domestic Assistance under 10.557. For the reasons set forth in 7 CFR Part 3015, Subpart V and the final rule-related notice published at 48 FR 29115, June 24, 1983, this program is included in the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Paperwork Reduction Act of 1995

This final rule contains no new information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). The existing recordkeeping and reporting requirements, which were approved by OMB under control number 0584–0045, will not change as a result of this final rule.

Executive Order 12988

This direct final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations, or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the **EFFECTIVE DATE** section of the preamble. Prior to any judicial challenge to the application of the provisions of this rule, all applicable administrative procedures must be exhausted.

List of Subjects in 7 CFR Part 246

Administrative practice and procedure, Civil rights, Food assistance programs, Food and Nutrition Service, Food donations, Grant programs—health, Grant programs—social programs, Indians, Infants and children, Maternal and child health, Nutrition, Nutrition education, Penalties, Reporting and recordkeeping requirements, Public assistance programs, WIC, Women.

Accordingly, 7 CFR Part 246 is amended as follows:

PART 246—SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

1. The authority citation for Part 246 continues to read as follows:

Authority: 42 U.S.C. 1786.

§ 246.16 [Amended]

2. In § 246.16, amend the introductory text of paragraph (d) as follows:

a. in the second sentence, remove the word ''monthly'' and add in its place the word ''quarterly'';

b. in the third sentence, remove the words ''each month'' and add it their place the words ''as they are submitted''.

Dated: October 29, 1999.

Samuel Chambers, Jr.,

Administrator, Food and Nutrition Service.

[FR Doc. 99–29319 Filed 11–8–99; 8:45 am]

BILLING CODE 3410–30–P

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 905

[No. 99–54]

RIN 3069–AA81

Availability of Unpublished Information

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is adopting without change as a final rule the interim final rule that added a new part 905 to its regulations governing the availability of unpublished information. The final rule describes the procedures a person or entity must follow when requesting unpublished Finance Board information either by document or by testimony of current or former Finance Board employees or agents and the practices and procedures the Finance Board will use in responding to such requests.

EFFECTIVE DATE: The final rule will become effective on December 9, 1999.

FOR FURTHER INFORMATION CONTACT: Janice A. Kaye, Attorney-Advisor, Office of General Counsel, by telephone at 202/408–2505, by electronic mail at *kayej@fhfb.gov*, or by regular mail at the Federal Housing Finance Board, 1777 F Street, NW, Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Background

In August 1999, the Finance Board published an interim final rule with request for comments that added a new part 905 to its regulations. *See* 64 FR 44103 (August 13, 1999), *codified* at 12 CFR part 905. Part 905 establishes procedures that must be followed by persons or entities requesting unpublished Finance Board information either by document or by testimony of current or former Finance Board employees or agents, and practices and procedures the Finance Board will use in responding to such requests. The 60-day public comment period for the interim final rule closed on October 12, 1999. *See id.*

II. Analysis of Public Comments and the Final Rule

The Finance Board received no comments in response to the interim final rule. Thus, for the reasons set forth in detail in the interim final rulemaking, the Finance Board is adopting the interim final rule that added part 905 to govern the availability of unpublished information as a final rule without change.

III. Regulatory Flexibility Act

The Finance Board adopted part 905 in the form of an interim final rule and not as a proposed rule. Therefore, the provisions of the Regulatory Flexibility Act do not apply. *See* 5 U.S.C. 601(2) and 603(a).

IV. Paperwork Reduction Act

The final rule does not contain any collections of information pursuant to the Paperwork Reduction Act of 1995. *See* 44 U.S.C. 3501 *et seq.* Consequently, the Finance Board has not submitted any information to the Office of Management and Budget for review.

List of Subjects in 12 CFR Part 905

Confidential business information, Federal home loan banks, Freedom of information, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Finance Board hereby adopts the interim final rule adding 12 CFR part 905 that was published at 64 FR 44103 on August 13, 1999, as a final rule without change.

By the Board of Directors of the Federal Housing Finance Board.

Dated: November 1, 1999.

Bruce A. Morrison,

Chairperson.

[FR Doc. 99–29245 Filed 11–8–99; 8:45 am]

BILLING CODE 6725–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29830; Amdt. No. 1958]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:.

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (NFDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on October 29, 1999.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME;

§ 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

. . . *Effective December 2, 1999*

Rolla/Vichy, MO, Rolla National, GPS RWY 4, Orig
Albany, NY, Albany Intl, VOR RWY 1, Amdt 19A, CANCELLED
Albany, NY, Albany Intl, VOR OR GPS RWY 19, Amdt 19A, CANCELLED
Ponca City, OK, Ponca City Muni, VOR–A, Amdt 9

. . . *Effective December 30, 1999*

Kingman, AZ, Kingman, GPS RWY 3, Orig
Kingman, AZ, Kingman, GPS RWY 21, Orig
Eureka, CA, Murray Field, GPS RWY 11, Orig
Eureka, CA, Murray Field, VOR/DME RNAV RWY 11, Amdt 6
Santa Ynez, CA, Santa Ynez, GPS RWY 8, Orig
Cocoa, FL, Merritt Island, GPS RWY 11, Amdt 1
Keystone Heights, FL, Keystone Airpark, VOR/DME RWY 4, Amdt 1, CANCELLED
Williston, FL, Williston Muni, GPS RWY 22, Orig
Williston, FL, Williston Muni, VOR/DME RWY 22, Amdt 1, CANCELLED
Pekin, IL, Pekin Muni, VOR or GPS–A, Amdt 6
Pekin, IL, Pekin Muni, VOR/DME RNAV or GPS RWY 9, Amdt 5
Plainfield, IL, Clow Intl, VOR or GPS–A, Amdt 2
Fort Wayne, IN, Smith Field, VOR RWY 13, Amdt 9
Sullivan, IN, Sullivan County, NDB RWY 36, Amdt 7
Sullivan, IN, Sullivan County, VOR/DME–A, Amdt 2
Hopedale, MA, Hopedale Industrial Park, GPS–A, orig
Hopedale, MA, Hopedale Industrial Park, VOR–A, Amdt 6, CANCELLED
Pontiac, MI, Oakland County International, LOC BC RWY 27L, Orig
Pontiac, MI, Oakland County International, LOC/DME BC RWY 27L, Amdt 7, CANCELLED
Caledonia, MN, Houston County, VOR/DME or GPS–A, Amdt 3
Caledonia, MN, Houston County, GPS RWY 31, Orig
Dodge Center, MN, Dodge Center, GPS RWY 34, Amdt 2
Maple Lake, MN, Maple Lake Muni, VOR–A, Amdt 3
Worthington, MN, Worthington Muni, VOR or GPS RWY 11, Amdt 2
Worthington, MN, Worthington Muni, VOR or GPS RWY 17, Amdt 9
Worthington, MN, Worthington Muni, VOR OR GPS RWY 35, Amdt 5
Gulfport, MS, Gulfport-Biloxi Regional, VOR/DME OR TACAN RWY 32, Amdt 3
Moberly, MO, Omar N. Bradley, NDB RWY 13, Amdt 4, CANCELLED
Moberly, MO, Omar N. Bradley, NDB RWY 31, Amdt 4, CANCELLED
Springfield, MO, Springfield-Branson Regional, VOR OR TACAN RWY 20, Amdt 18
Springfield, MO, Springfield-Branson Regional, NDB RWY 2, Amdt 17
Springfield, MO, Springfield-Branson Regional, NDB RWY 14, Amdt 11
Springfield, MO, Springfield-Branson Regional, ILS RWY 2, Amdt 17
Springfield, MO, Springfield-Branson Regional, GPS RWY 2, Orig
Artesia, NM, Artesia Muni, NDB RWY 12, Amdt 4
Artesia, NM, Artesia Muni, NDB RWY 30, Amdt 4
Artesia, NM, Artesia Muni, GPS RWY 12, Orig
Artesia, NM, Artesia Muni, GPS RWY 30, Orig
Carlsbad, NM, Cavern City Air Terminal, GPS RWY 21, Amdt 1
Rochester, NY, Greater Rochester Intl, ILS RWY 4, Amdt 17
Rochester, NY, Greater Rochester Intl, ILS RWY 28, Amdt 28
Chapel Hill, NC, Horace Williams, RADAR–1, Amdt 8, CANCELLED
Ocracoke, NC, Ocracoke Island, NDB OR GPS–A, Amdt 1A, CANCELLED
Raleigh-Durham, NC, Raleigh-Durham Intl, RADAR–1, Amdt 7C, CANCELLED
Enid, OK, Enid Woodring Muni, GPS RWY 17, Orig
Enid, OK, Enid Woodring Muni, GPS RWY 35, Orig
Watonga, OK, Watonga, GPS RWY 17, Orig
Astoria, OR, Astoria Regional, VOR RWY 8, Amdt 12
Kutztown, PA, Kutztown, GPS RWY 17, Amdt 1
Philadelphia, PA, Northeast Philadelphia, GPS RWY 15, Amdt 1
Philadelphia, PA, Northeast Philadelphia, GPS RWY 33, Amdt 1
Loris, SC, Twin City, GPS RWY 26, Orig
Miller, SD, Miller Muni, GPS RWY 15, Orig
Miller, SD, Miller Muni, GPS RWY 33, Orig
Longview, TX, Gregg County, VOR–A, Orig
Longview, TX, Gregg County, VOR/DME OR TACAN RWY 13, Orig
Longview, TX, Gregg County, VOR OR TACAN RWY 13, Amdt 20, CANCELLED
Lyndonville, VT, Caledonia County, GPS RWY 2, Orig
Richmond, VA, Chesterfield County, ILS RWY 33, Amdt 1
South Hill, VA, Mecklenburg-Brunswick Regional, LOC RWY 1, Orig
South Hill, VA, Mecklenburg-Brunswick Regional, NDB RWY 1, Orig
South Hill, VA, Mecklenburg-Brunswick Regional, NDB OR GPS RWY 1, Amdt 1, CANCELLED

[FR Doc. 99–29310 Filed 11–8–99; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29831; Amdt. No. 1959]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAP) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the **Federal Register** on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAP, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAP). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAMs for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on November 29, 1999.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR of TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

*** * * Effective Upon Publication**

FDC date	State	City	Airport	FDC No.	SIAP
08/23/99	MD	Cumberland	Greater Cumberland Regional	9/6272	LOC/DME Rwy 23 Amdt 5C...
08/23/99	MD	Westminster	Carroll County Regional/Jack B. Poage Field.	9/6265	VOR or GPS Rwy 34 Amdt 3...
08/23/99	NJ	Millville	Millville Muni	9/6254	NDB or GPS Rwy 14 Amdt 5...
08/23/99	NJ	Toms River	Robert J. Miller Airpark	9/6271	VOR or GPS Rwy 24 Amdt 3A...
08/23/99	NJ	Wildwood	Cape May County	9/6257	VOR/DME RNAV or GPS Rwy 19 Amdt 6A...
08/24/99	MI	Iron Mountain/Kingsford	Ford	9/6295	ILS Rwy 1, Amdt 11...
10/10/99	ND	Fargo	Hector Intl	9/8206	VOR/DME or TACAN or GPS Rwy 17 Orig–A...
10/10/99	ND	Fargo	Hector Intl	9/8207	NDB Rwy 17 Amdt 14A...
10/10/99	ND	Fargo	Hector Intl	9/8208	VOR or TACAN or GPS Rwy 35 Amdt 12...

FDC date	State	City	Airport	FDC No.	SIAP
10/10/99	ND	Fargo	Hector Intl	9/8209	ILS Rwy 35 Amdt 32B...
10/10/99	ND	Fargo	Hector Intl	9/8210	ILS Rwy 17 Amdt 4A...
10/13/99	CA	Livermore	Livermore Muni	9/8034	ILS Rwy 25R Amdt 7...
10/13/99	CA	Oceanside	Oceanside Muni	9/8028	VOR or GPS–A Amdt 3B...
10/13/99	CA	Oceanside	Oceanside Muni	9/8029	GPS Rwy 6 Orig...
10/13/99	CA	Oceanside	Oceanside Muni	9/8036	GPS Rwy 24 Orig...
10/13/99	CA	San Luis Obispo	San Luis Obispo County—McChesney Field.	9/8033	VOR or TACAN or GPS–A Amdt 6...
10/13/99	ID	Coeur D'Alene	Coeur D'Alene Air Terminal	9/8050	VOR or GPS–A, Orig...
10/13/99	ID	Coeur D'Alene	Coeur D'Alene Air Terminal	9/8051	NDB or GPS Rwy 5, Amdt 1...
10/13/99	ID	Coeur D'Alene	Coeur D'Alene Air Terminal	9/8052	ILS Rwy 5, Amdt 4...
10/13/99	ID	Idaho Falls	Fanning Field	9/8053	NDB Rwy 20, Amdt 10...
10/13/99	ID	Idaho Falls	Fanning Field	9/8054	VOR or GPS Rwy 2, Amdt 6...
10/13/99	ID	Idaho Falls	Fanning Field	9/8055	VOR or GPS Rwy 20, Amdt 9...
10/14/99	ID	Arco	Arco-Butte County	9/8072	NDB–A, Orig...
10/14/99	ID	Idaho Falls	Fanning Field	9/8097	LOC BC Rwy 2, Amdt 6...
10/14/99	VA	Charlottesville	Charlottesville-Albemarle	9/8113	NDB Rwy 3 Amdt 15A...
10/15/99	NC	Ahoskie	Tri-County	9/8126	NDB or GPS Rwy 1, Amdt 1C...
10/15/99	NY	Batavia	Genesee County	9/8129	ILS Rwy 28, Amdt 4...
10/19/99	AR	Mountain Home	Baxter County Regional	9/8225	GPS Rwy 23, Orig...
10/19/99	AR	Mountain Home	Baxter County Regional	9/8227	GPS Rwy 5, Orig–A...
10/19/99	AR	Mountain Home	Baxter County Regional	9/8228	VOR–A Amdt 9A...
10/19/99	NE	Albion	Albion Muni	9/8229	NDB or GPS Rwy 32, Orig...
10/20/99	MA	New Bedford	New Bedford Regional	9/8240	LOC BC Rwy 23 Amdt 11...
10/20/99	MA	Taunton	Taunton Muni	9/8239	NDB or GPS Rwy 30 Amdt 4...
10/20/99	MA	McComb	McComb-Pike County—John E. Lewis Field.	9/8259	VOR//DME RNAV or GPS Rwy 33, Amdt 6...
10/20/99	NY	Penn Yan	Penn Yan	9/8238	NDB Rwy 28 Amdt 6...
10/20/99	TN	Rogersville	Hawkins County	9/8250	GPS Rwy 7, Orig...
10/21/99	NY	Watertown	Watertown Intl	9/8265	ILS Rwy 7 Amdt 6...
10/22/99	ID	Lewiston	Lewiston-Nez Perce County	9/8317	ILS Rwy 26, Amdt 11...
10/22/99	ID	Lewiston	Lewiston-Nez Perce County	9/8319	VOR or GPS Rwy 8, Amdt 5A...
10/22/99	ID	Lewiston	Lewiston-Nez Perce County	9/8320	VOR or GPS Rwy 26, Amdt 12A...
10/22/99	ME	Sanford	Sanford Regional	9/8290	NDB Rwy 7 Amdt 1...
10/22/99	ME	Sanford	Sanford Regional	9/8291	VOR Rwy 25 Amdt 13B...
10/22/99	ME	Sanford	Sanford Regional	9/8292	VOR or GPS Rwy 7 Amdt 3A...
10/22/99	TN	Memphis	Memphis Intl	9/8328	NDB or GPS Rwy 9, Amdt 26...
10/22/99	TN	Nashville	Nashville Intl	9/8295	ILS Rwy 20R, Amdt 7A...
10/22/99	TN	Nashville	Nashville Intl	9/8296	ILS Rwy 20L, Amdt 4...
10/22/99	TN	Nashville	Nashville Intl	9/8297	ILS Rwy 31, Amdt 7...
10/22/99	TN	Nashville	Nashville Intl	9/8298	ILS Rwy 2C, Orig–B...
10/22/99	TN	Nashville	Nashville Intl	9/8299	Radar–1, Amdt 22A...
10/22/99	TN	Nashville	Nashville Intl	9/8300	ILS Rwy 2R, Amdt 5...
10/22/99	TN	Nashville	Nashville Intl	9/8327	VOR/DME or GPS Rwy 13, Amdt 13...
10/25/99	ID	Twin Falls	Twin Falls/Joslin Field—Magic Valley Regional.	9/8367	VOR Rwy 25, Amdt 15...
10/25/99	ID	Twin Falls	Twin Falls/Joslin Field—Magic Valley Regional.	9/8369	ILS Rwy 25, Amdt 7...
10/25/99	ID	Twin Falls	Twin Falls/Joslin Field—Magic Valley Regional.	9/8370	NDB or GPS Rwy 25, Amdt 5...
10/25/99	ID	Twin Falls	Twin Falls/Joslin Field—Magic Valley Regional.	9/8372	VOR or GPS Rwy 7, Amdt 3...
10/25/99	NC	Salisbury	Rowan County	9/8357	ILS Rwy 20, Orig...
10/25/99	ND	Fargo	Hector Intl	9/8374	Radar–1 Amdt 10...
10/26/99	AR	Mountain Home	Baxter County Regional	9/8404	VOR/DME RNAV Rwy 5, Amdt 1A...
10/26/99	ID	Sandpoint	Sandpoint	9/8388	GPS–B, Orig...
10/26/99	ID	Twin Falls	Twin Falls/Joslin Field—Magic Valley Regional.	9/8380	VOR/DME Rwy 7, Orig...

[FR Doc. 99–29311 Filed 11–8–99; 8:45 am]
BILLING CODE 4910–13–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1616

Final Rule; Standard for the Flammability of Children's Sleepwear: Sizes 0 Through 6X; Standard for the Flammability of Children's Sleepwear: Sizes 7 Through 14; Correction

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule; correction.

SUMMARY: This document makes minor technical corrections to the final rule published in the **Federal Register** of June 28, 1999 (64 FR 34533) regarding labeling of children's sleepwear. These are changes to the instructions to the Federal Register and do not affect the substantive labeling requirement. The instructions stated to revise the authority citations for parts 1615 and 1616. However, the authority citations are under subpart A rather than the entire part in each of those parts. Amendatory Instruction 3, on page 34538, amending § 1616.5 directed the Federal Register to redesignate footnotes 2–6 as 3–7. However, previously there was no footnote 2. Therefore, there is no need to redesignate any footnotes.

DATES: Effective on June 28, 2000.

FOR FURTHER INFORMATION CONTACT: Patricia M. Pollitzer, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0980, extension 2219.

Correction

In final rule FR Doc. 99–16320, beginning on page 34533 in the issue of June 28, 1999, make the following corrections.

1. On page 34535, in the third column, correct amendatory instruction 1 under part 1615 to read ''The authority citation for subpart A of part 1615 is revised to read as follows:''

2. On page 34536, in the first column, correct amendatory instruction 1 under part 1616 to read ''The authority citation for subpart A of part 1616 is revised to read as follows:''

3. On page 34538, in the first column, remove instruction 3.

Dated: November 2, 1999.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 99–29226 Filed 11–8–99; 8:45 am]
BILLING CODE 6355–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–99–181]

RIN 2115–AA97

Safety Zone: Sciame Construction Fireworks, East River, Manhattan, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Sciame Construction Fireworks Display located in the East River, New York. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in a portion of the East River.

DATES: This rule is effective from 6:30 p.m. until 8 p.m. on Thursday, December 9, 1999. There is no rain date for this event.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at Coast Guard Activities New York, 212 Coast Guard Drive, room 205, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (718) 354–4193.

FOR FURTHER INFORMATION CONTACT: Lieutenant J. Lopez, Waterways Oversight Branch, Coast Guard Activities New York (718) 354–4193.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing an NPRM due to the date the Application for Approval of Marine Event was received, there was insufficient time to draft and publish an NPRM and still publish the final rule with more than 30 days before its effective date. Any delay encountered in this regulation's effective date would be contrary to public interest since immediate action is needed to close the waterway and protect the maritime public from the hazards associated with this fireworks display. This event is only one and a half hours long and will have negligible impact on vessel traffic in the area due to the fact that vessels can travel to the east and west of the safety zone.

Background and Purpose

Bay Fireworks has submitted an application to hold a fireworks program on the waters of the East River, New York. The fireworks program is being sponsored by Sciame Construction. This regulation establishes a safety zone in all waters of the East River within a 180-yard radius of the fireworks barge in approximate position 40°42′08″ N 074°00′06″ W (NAD 1983), approximately 250 yards east of Pier 14, Manhattan, New York. The safety zone is in effect from 6:30 p.m. until 8 p.m. on Thursday, December 9, 1999. There is no rain date for this event. The safety zone prevents vessels from transiting a portion of the East River and is needed to protect boaters from the hazards associated with fireworks launched from a barge in the area. Recreational and commercial vessel traffic will be able to transit through the eastern 100 yards and the western 100 yards of the 500-yard wide East River during the event. This safety zone precludes the waterway users from entering only the safety zone itself. Public notifications will be made prior to the event via the Local Notice to Mariners and marine information broadcast.

Regulatory Evaluation

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the minimal time that vessels will be restricted from the zone, that vessels may still transit through the East River during the event, and extensive advance notifications which will be made.

Small Entities

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

For reasons discussed in the Regulatory Evaluation above, the Coast Guard certifies under section 605(b) of

the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This final rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this final rule under the principles and criteria contained in Executive Order 13132 and has determined that this final rule does not have implications for federalism under that Order.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) [Pub. L. 104–4, 109 Stat. 48] requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. UMRA requires a written statement of economic and regulatory alternatives for rules that contain *Federal mandates.* A Federal mandate is a new or additional enforceable duty imposed on any State, local, or tribal government, or the private sector. If any Federal mandate causes those entities to spend, in the aggregate, $100 million or more in any one year, the UMRA analysis is required. This final rule does not impose Federal mandates on any State, local, or tribal governments, or the private sector.

Environment

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

List of Subjects in 33 CFR Part 165

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

Regulation

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

PART 165—[AMENDED]

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

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

2. Add temporary § 165.T01–181 to read as follows:

§ 165.T01–181 Safety Zone: Sciame Construction Fireworks, East River, Manhattan, New York.

(a) Location. The following area is a safety zone: All waters of the East River within a 180-yard radius of the fireworks barge in approximate position 40°42′08″ N 074°00′06″ W (NAD 1983), approximately 250 yards east of Pier 14, Manhattan, New York.

(b) *Effective period.* This section is effective from 6:30 p.m. until 8 p.m. on Thursday, December 9, 1999. There is no rain date for this event.

(c) *Regulations.*

(1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard.

Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: November 2, 1999.

R.E. Bennis,

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

[FR Doc. 99–29309 Filed 11–8–99; 8:45 am]

BILLING CODE 4910–15–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[CC Docket No. 94–54, WT Docket No. 98–100, GN Docket No. 94–33; FCC 99–250]

Interconnection and Resale Obligations in the Commercial Mobile Radio Services and Forbearance Issues

AGENCY: Federal Communications Commission.

ACTION: Final rule; reconsideration.

SUMMARY: This document generally affirms the Commission's earlier decision in this proceeding to extend the cellular resale rule to include certain broadband personal communications service (PCS) and specialized mobile radio providers and to sunset the rule as of November 24, 2002. However, this document modifies the previous decision by removing customer premises equipment (CPE) and CPE in bundled packages from the scope of the resale rule, by revising the scope of the resale rule to exclude all C, D, E, and F block PCS licensees that do not own and control and are not owned and controlled by cellular or A or B block licensees, and by exempting from the rule all SMR and other Commercial Mobile Radio Services (CMRS) providers that do not utilize in-network switching facilities. This document also clarifies certain aspects of the resale rule, and denies a Petition for Reconsideration of the Commission's denial of a request for forbearance from the resale rule. The action is intended to resolve issues raised in several Petitions regarding the CMRS resale rule and forbearance.

DATES: Effective January 10, 2000.

FOR FURTHER INFORMATION CONTACT: Jane Phillips, 202–418–1310.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order on Reconsideration (MO&O) in CC Docket No. 94–54, WT Docket No. 98–100, and GN Docket No. 94–33; FCC 99–250, adopted September 15, 1999, and released September 27, 1999. The complete text of this MO&O is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, S.W., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services (ITS, Inc.), CY–B400, 445 12th Street, S.W., Washington, DC.

Synopsis of the MO&O

1. The First Report and Order in this proceeding (61 FR 38399, July 24, 1996) promulgated a rule prohibiting certain CMRS providers from restricting the resale of their services during a transitional period. This resale rule, which previously had applied only to cellular providers, was extended to PCS and certain specialized mobile radio (covered SMR) services. The First Report and Order (First R&O) sunset this resale rule five years after the date of the award of the last group of initial licenses for broadband PCS, which the Commission subsequently determined to be November 25, 1997. (*See* Public Notice of July 2, 1998, in CC Docket No. 94–54, 13 FCC Rcd 17427, 1998.) Accordingly, the resale rule is currently set to expire at the close of November 24, 2002.

2. This Memorandum Opinion and Order on Reconsideration (MO&O) generally affirms the Commission's decisions in the First R&O to extend the cellular resale rule to include certain

broadband PCS service and SMR providers, and to sunset the rule as of November 24, 2002. However, the MO&O modifies the initial decision in three key respects. First, the MO&O removes customer premises equipment (CPE) and CPE in bundled packages from the scope of the resale rule. Second, the MO&O revises the scope of the resale rule to exclude all C, D, E, and F block PCS licensees that do not own and control and are not owned and controlled by cellular or A or B block PCS licenses. Third, the MO&O exempts from the rule all SMR and other Commercial Mobile Radio Service (CMRS) providers that do not utilize in-network switching facilities. In addition, the MO&O clarifies certain other aspects of the resale rule. Finally, the MO&O denies a Petition for Reconsideration of the Commission's denial of a request for forbearance from the resale rule filed by the Broadband Personal Communications Services Alliance of the Personal Communications Industry Association (PCIA), pursuant to section 10(a) of the Communications Act (Act). (*See* 47 U.S.C. 160(a)(1)–(3).

3. The MO&O denies a request by several petitioners that the Commission reconsider its decision in the First R&O to extend the resale rule to broadband PCS and covered SMR providers. The Commission finds that no new arguments have been presented and that circumstances have not changed since the adoption of the First R&O in a way that would warrant elimination of the resale rule prior to the sunset date. The Commission continues to believe that, as a general matter, the benefits of the resale rule outweigh its costs during this transitional period as the marketplace becomes more competitive. These public interest benefits include: (1) Encouraging competitive pricing; (2) discouraging unjust, unreasonable, and unreasonably discriminatory carrier practices; (3) reducing the need for detailed regulatory intervention and the administrative expenditures and potential for market distortions that may accompany such intervention; (4) promoting innovation and the efficient deployment and use of telecommunications facilities; (5) improving carrier management and marketing; (6) generating increased research and development; and (7) affecting positively the growth of the market for telecommunications services. Therefore, the MO&O retains the rule with certain modifications and clarifications.

4. The MO&O also affirms the Commission's decision to terminate the resale rule at the end of the sunset period. Some petitioners argue that the Commission should refrain from sunsetting the rule at the end of the five year period because the market for cellular and substitute services is not fully competitive and will remain at this level for the foreseeable future. The MO&O finds that such petitioners fail to present any new facts or arguments to persuade the Commission that the decision to sunset the resale rule should be revised in any way. Others contend that the sunset for cellular providers was promulgated without sufficient notice because the Commission failed to indicate in the First Notice of Proposed Rulemaking (59 FR 35664, July 13, 1994) or the Second Notice of Proposed Rulemaking (60 FR 20949, April 28, 1999) that it was considering the adoption of a sunset provision for the cellular resale requirement. The MO&O rejects this position, concluding that any suggestion that the sunset provision was promulgated without sufficient notice in the Second Notice of Proposed Rulemaking is without merit. Other parties oppose the sunset provision claiming that any restriction on resale violates sections 201(b) and 202(a) of the Communications Act, unless the restricting party proves that resale would cause public harm. The MO&O disagrees with this interpretation, finding that those who support this argument have misconstrued the obligations imposed by sections 201(b) and 202(a) and that the statutory arguments are thus without merit.

5. Although the MO&O maintains the sunset of the resale rule, the Commission's decision should not be construed as a lack of commitment to ensuring compliance with the resale obligation during the period in which it is force. On the contrary, the Commission intends to take effective and expeditious action against any carrier that fails to comply with its obligations under the resale rule.

6. The Commission recognizes that, in addition to simple refusals to offer resale agreements, violations of the resale requirements may take a variety of forms, including a carrier's unreasonable refusal to offer resellers the same bundled packages of airtime and enhanced services or the same volume discounts that the carrier offers to its retailers. Thus, the Commission intends to look closely at allegations of unreasonable restrictions on resale and to resolve expeditiously complaints about whether the challenged restriction on resale is reasonable. The Commission intends to initiate a stepped up mediation program under which it will first attempt to resolve any formal or informal complaints filed by a reseller through negotiation. In those instances where the parties cannot reach agreement or where negotiation does not appear to be a viable approach, the Commission will expedite the complaint proceeding, to the fullest extent possible, in order to ascertain whether the carrier in question is acting in derogation of the resale rule requirement. In cases in which the Commission determines that a violation of the rule has occurred, it intends to impose rigorous enforcement measures, including, in appropriate cases, the revocation of licenses and the imposition of forfeiture penalties.

7. The MO&O also considers petitions requesting that the Commission reverse the decision in the First R&O that the resale rule applies to bundled packages of services such as CPE of enhanced services. The Commission finds the petitioners' argument that the Commission provided no notice to parties that the resale requirement might be extended to bundled packages but has eliminated CPE and CPE in bundled packages from the scope of the resale rule. The MO&O retains the rule, however, for bundled packages that include enhanced services, because, at least as CMRS enhanced services are presently provided, neither subscribers nor resellers can purchase the service component of the bundle from one provider and the enhanced service component of the bundle from another provider.

8. The MO&O next modifies the scope of the resale rule. The First R&O concluded that the benefits of the mandatory CMRS resale rule will continue to exceed its costs so long as mobile voice and data markets are not yet fully competitive. The MO&O relies on this cost/benefit methodology to revise tune the scope of the resale rule by eliminating from its coverage those providers or services for which analysis suggests that the rule is unnecessary.

9. First, a review of the record convinces the Commission that the benefits that might accrue as a result of imposing resale obligations on C, D, E, and F block broadband PCS licensees are outweighed, at this time, by the burdens such obligations impose on these carriers. In contrast to more established firms, no significant benefits accrue from subjecting smaller, new entrant competitors with limited network infrastructure and minimal market share to the requirements of the resale rule. The MO&O concludes that the A and B-block licensees are the more likely of the broadband PCS block licensees to have capacity to resell, whereas the C, D, E, and F block licensees have the greater need to

purchase capacity for resale, due to their relative underdevelopment. The Commission thus believes that there are benefits from subjecting A and B block licensees to the resale rule and to exempting licensees in the C, D, E, and F blocks, whose minimal development and incentive to restrict resale suggest that a resale requirement for them would be of limited, if any, utility. The Commission recognizes that many cellular and A and B block licensees also own licenses in the C, D, E, and F blocks. Therefore, the MO&O excludes from the coverage of the resale rule only those C, D, E, and F block PCS licensees that do not own and control and are not owned and controlled by firms also holding cellular, A or B block licenses.

10. Second, the MO&O considers exclusion for certain SMR providers. The First R&O limited the scope of the resale rule to SMR providers in the 800–900 MHz bands that hold geographic area licenses and offer real-time, two-way switched voice service that is interconnected with the public switched network (PSTN) and to Incumbent Wide Area SMR licensees that provide such services. On reconsideration, the Commission now concludes that its objective with respect to SMR is best achieved by limiting the resale rule to reach only those SMR providers that offer real-time two-way switched service that is interconnected with PSTN utilizing an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless hand-off of subscriber calls. In so doing, the Commission abandons its previous criterion, which was based on a carrier's license authority, in favor of a technical and operational criterion, *i.e.*, in-network switching capacity, which more closely parallels the Commission's intention to cover only those SMR carriers that compete directly with providers of cellular service and broadband PCS. The Commission agrees with those petitioners who maintain that the definition of ''covered SMR'' adopted in the First R&O is overinclusive with respect to certain types of SMR systems. The Commission does not believe that it serves the public interest to extend the explicit rule against unreasonable resale restrictions to carriers offering only geographically or functionally limited services, such as dispatch, that are unlikely to be attractive to resellers in any event.

11. Although there may be limited practical significance to extending the exclusion for SMR systems lacking in-network switching capacity to cellular and broadband providers, the Commission concludes that they should be treated consistently with SMR providers to the extent they do not utilize an in-network switching facility or do not meet other elements of the Commission's coverage test. As in the contexts of number portability and E911, the Commission has extended its modified ''covered SMR'' definition to providers of similar service over cellular and broadband PCS spectrum as well.

12. Third, the MO&O reviews other proposed exemptions for SMR. The MO&O rejects the alternative proposal that the resale rule exclude providers or systems that serve fewer than a particular number of mobile of mobile units. The Commission believes that a definition based solely on the size of a system without regard for the types of services provided would be arbitrary and incompatible with its policy objectives. Instead, the Commission seeks to develop a definition that covers providers based on the functional nature of the service they provide.

13. The MO&O also rejects the contention of Nextel Communications Inc. (Nextel) that all SMR providers should be excluded from the requirements of the resale rule. Nextel argues that capacity restraints on SMR spectrum mandate continuing technical control over SMR systems and end users.that cannot accommodate the disjunction between the system operator and the end user that middlemen like resellers create, without significant costs to system integrity. Nextel also argues that its spectrum is highly encumbered and that the relocation is just beginning, and that an SMR provider must integrate the use of this type of spectrum with that allocated on a site-specific-basis, as well as integrating its analog services with its digital offerings. The Commission finds that these arguments have already been made and rejected in this proceeding and there is no new compelling evidence to change the Commission's earlier position. In general, the Commission finds that the problem of transitioning from analog to digital service is not unique to SMR, and that, as indicated in the First R&O, it is unclear how SMR providers would lose control over their daily operations if their services were purchased by parties intending to resell the services rather than being purchased by end users. In particular the Commission notes that Nextel is rapidly moving away from traditional dispatch service with the introduction of its four-function Direct Connect service package. While the coverage and usage demands placed on the system by this package are potentially greater than traditional dispatch, it is not clear, and Nextel does not adequately explain, why a reseller of such a package would place any greater or more unpredictable demands upon Nextel's system than Nextel itself does, in offering this service to its own retail customers. Under these circumstances, the Commission finds unconvincing Nextel's arguments against permitting a reseller to purchase Nextel's Direct Connect service package for resale, or permitting a reseller to acquire the billing data and other information necessary for traditional resale.

14. The MO&O also looks at proposed amendments to the resale rule. The MO&O first considers arguments that the resale rule should be amended to clarify that only ''unreasonable'' restrictions on resale are prohibited. The MO&O agrees with those who ask that the Commission clarify the resale rule to make the text of the rule consistent with existing Commission policy. This change in rule would clarify that the reasonableness standard continues to apply in the resale context. Accordingly, the MO&O amends the rule to prohibit only unreasonable restrictions on resale. However, the Commission does not deem it advisable to delineate in the rule itself what bases it might consider reasonable for denying resale. The MO&O also clarifies, but cannot and does not resolve definitively for each carrier, the issue of billing tapes. To the extent that electronic billing tapes are available, or could be made available without significant alterations to a carrier's billing systems, the Commission would expect that a carrier would provide access to them for a reseller as part of its responsibilities under the resale rule, and the Commission would likely find it a violation of the resale rule should the carrier fail to do so. On the other hand, carriers are not required to undertake major alterations to their billing systems to accommodate reseller requests.

15. The MO&O rejects a proposed amendment to the resale rule that would clarify that resale restrictions based on limited capacity are reasonable and are therefore permitted under the rule. As an initial matter, the MO&O notes that the First R&O indicated clearly that no provider is required to add capacity in order to accommodate a reseller. The Commission does add, however, that virtually all CMRS carriers are adding capacity to their systems in one form or another, as this is a rapidly growing market, and, in that sense, all could claim to be facing capacity restraints to a certain degree. Obviously, a generalized assertion of capacity limitations, where capacity is actively being brought on line and service is being aggressively marketed to retail

customers (including high volume customers), would not provide an adequate basis to deny service to resellers. Beyond this, the Commission declines to make a blanket determination as to what capacity limitations or evidence thereof might constitute reasonable grounds to restrict resale.

16. AT&T Corporation (AT&T) seeks an exemption from the resale rule for data services providers using cellular or broadband PCS spectrum. It points out that such services are presently subject to the resale rule, whereas data service offered by SMR providers are exempt, that such disparate treatment is inequitable and that a comparable exemption should be created for data services provided by cellular and PCS carriers. Upon reconsideration, the Commission reiterates its position in the First R&O that it would be imprudent to distinguish between data services and other services offered using CMRS spectrum and extends the rule to cover SMR as well as another CMRS data services. The MO&O also dismisses arguments that the resale rule should not be applied to data services because the data services market is nascent and no carrier has a competitive advantage.

17. With respect to SMR services, the Commission now concludes that excluding data services from the resale rule would likely create enforcement problems because it can be difficult to determine, as an enforcement matter, whether a carrier is offering voice or data services over digital transmission facilities. Thus, the Commission extends the resale rule to data services offered using SMR spectrum to the same extent that it applies to voice services. The MO&O determines to apply the resale rule to providers of real-time, two-way switched data service that is interconnected with the PSTN and that is offered over cellular, broadband PCS, or SMR spectrum utilizing an in-network switching facility.

18. The MO&O dismisses a request that the Commission clarify that the resale rule does not require unrestricted resale of services that include proprietary technologies and products. Supporters of such a clarification maintain that a resale requirement would reduce the incentive for carriers to innovate by diminishing the competitive advantages yielded by their investment. Absent a more focused showing on this issue, the Commission declines to adopt a general ''proprietary technology'' exception to the resale rule, which would likely prove difficult, and unnecessarily burdensome to administer during the remaining three-year life of the rule.

19. The Commission emphasizes that under the CMRS resale rule, a carrier is not required to offer a reseller wholesale prices or special packages or configurations of services tailored to the reseller's demands, but only to allow a reseller to purchase, at non-discriminatory prices, those services that the carrier is offering to its own retail customers. The MO&O concludes that were the Commission to allow carriers to restrict resale of services that include proprietary technologies before sufficient competition develops, the exception could severely restrict the opportunities for resale. The MO&O reiterates the position taken in the Forbearance Memorandum Opinion and Order (Forbearance M&O) (63 FR 43033, August 11, 1998) that ''the obligation to permit resale [does not] significantly discourage facilities-based carriers from innovating in a market that has not achieved sufficient competition.''

20. The MO&O considers a Petition for Reconsideration of the Forbearance MO&O, filed by the Personal Communications Industry Association (PCIA). PCIA maintains that the resale rule should be sunset immediately for all CMRS providers. PCIA contends that forbearance from the CMRS resale rule is consistent with the three prongs of the forbearance test, and that the record does not contain the evidentiary support required by the Administrative Procedure Act (APA) to sustain the Commission's conclusions concerning the costs and benefits of imposing a resale rule or its determination to deny PCIA's request for forbearance from the rule.[1]

21. The MO&O dismisses PCIA's request, finding that the present approach provides a necessary degree of flexibility for disposing of market-specific forbearance requests, both with respect to the parameters of the market and the criteria indicative of adequate competition. It would be difficult to establish a meaningful bright-line test to be applied across the board in all forbearance proceedings. Furthermore, the near-term sunset of the rule provides an additional reason to retain the present market-by-market approach to forbearance requests respecting resale.

[1] Section 10 of the Communications Act (47 U.S.c. 160) requires forbearance if the Commission determines that (1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable are not unjustly or unreasonably discriminatory; (2) enforcement of such regulation or provision is not necessary for the protection of consumers; and (3) forbearance from applying such provision or regulation is consistent with the public interest.

Administrative Matters

Supplemental Final Regulatory Flexibility Analysis

22. As required by the Regulatory Flexibility Act, 5 U.S.C. 604 (RFA),[2] a Final Regulatory Flexibility Analysis (FRFA) was incorporated into the First Report and Order issued in this proceeding. The Commission's Supplemental Final Regulatory Flexibility Analysis (Supplemental FRFA) in this Memorandum Opinion and Order on Reconsideration and Order Denying Petition for Forbearance (Order on Reconsideration) contains information additional to that contained in the FRFA and is limited to matters raised on reconsideration with regard to the First Report and Order and addressed in this Order on Reconsideration. This Supplemental FRFA conforms to the RFA.

I. Need for and Purpose of This Action

23. By resolving the pending petitions for reconsideration or clarification of the First Report and Order, the actions taken in this Order on Reconsideration will affirm and clarify the Commission's CMRS resale policy, which is intended to help bring the benefits of competition to the market for these services while the market is in transition to a fully competitive state. In addition, the Commission's resale policy is intended to help promote competition by allowing new entrants to enter the marketplace quickly by reselling their competitors' services during the time needed to construct their own facilities.

II. Summary of Significant Issues Raised by the Public in Response to the Final Regulatory Flexibility Analysis

24. No petitions for reconsideration were filed in direct response to the FRFA. In petitions for reconsideration or clarification, however, and in responsive pleadings, as well, some issues were raised that might affect small entities. Specifically, some commenters argued that the term covered SMR should be limited to systems that have an in-network switching facility or that serve at least a minimum number of mobile units, *e.g.*, at least 100,000 mobile units that provide real-time, two-way interconnected voice services or that serve at least 20,000 or more subscribers nationwide.

[2] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601 *et seq.*, has been amended by the Contract With American Advancement Act of 1996, Public Law. 104–121, 11 Stat. 847 (1996) (CWAA). Title II of CWAA is the Small Business Regulatory Enforcement Fairness act of 1996 (SBREFA).

25. Several other commenters contended, however, that the number of units served bears no necessary relation to the purposes of limiting SMR coverage and that coverage should be determined based on services that compete with SMR providers. Other commenters contended that SMR systems should be subject to the same rules as cellular and broadband PCS in order to preserve regulatory parity in the CMRS market, and that, if small SMR systems are excluded from the rule, small cellular and broadband PCS systems should also be excluded.

III. Description and Estimates of the Number of Entities Affected by This Order on Reconsideration

26. The RFA directs agencies to provide a description of and, where feasible, an estimate of, the number of small entities that may be affected by the proposed rules, if adopted. (*See* 5 U.S.C. 603(b)(3). The RFA generally defines the term ''small entity'' as having the same meaning as the term ''small business.'' (*See* 5 U.S.C. 601(6). In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[3] A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). (Small Business Act, 15 U.S.C. 632 (1996).

27. *SMR Licensees.* The Commission has defined ''small business'' for purposes of auctioning 900 MHz SMR licenses, 800 MHz SMR licenses for the upper 200 channels, and 800 MHz SMR licenses for the lower 230 channels as a firm that has had average annual gross revenues of $15 million or less in the three preceding calendar years. This small business size standard for the 800 MHz and 900 MHz auctions has been approved by the SBA. The rule amendment adopted in this Order on Reconsideration affects geographic and wide area SMR providers that were not previously subject to the resale rule because they do not offer real-time, two-way PSTN-interconnected voice service. Such SMR providers will now be subject to the CMRS resale rule if they offer real-time, two-way voice or data service that is interconnected with the public switched network, provided they use an in-network switching facility.

28. Sixty winning bidders for geographic area licenses in the 900 MHz SMR band qualified as small business under the $15 million size standard. We conclude that the number of 900 MHz SMR geographic area licensees affected by this rule modification is at least 60.

29. Ten winning bidders for geographic area licenses for the upper 200 channels in the 800 MHz SMR band qualified as small businesses under the $15 million size standard. It is not possible to determine which of these licensees were not covered by the previous rule but intend to offer real-time, two-way PSTN-interconnected voice or data service utilizing an in-network switching facility. Therefore, we conclude that the number of 800 MHz SMR geographic area licensees for the upper 200 channels affected by this rule modification is at least ten.

30. The Commission has determined that 3325 geographic area licenses will be awarded in the 800 MHz SMR auction for the lower 230 channels. Because the auction of these licenses has not yet been conducted, there is no basis to estimate how many winning bidders will qualify as small businesses under the Commission's $15 million size standard. Nor is it possible to determine which of these licensees would not have been covered by the previous rule but will offer real-time, two-way PSTN-interconnected voice or data service utilizing an in-network switching facility. Therefore, we conclude that the number of 800 MHz SMR geographic area licensees for the lower 230 channels that may ultimately be affected by this rule modification is at least 3325.

31. With respect to licensees operating under extended implementation authorizations, approximately 6800 such firms provide 800 MHz or 900 MHz SMR service. However, we do not know how many of these were not covered by the previous rule but intend to offer real-time, two-way PSTN-interconnected voice or data service utilizing an in-network switching facility or which of this subset qualify as small businesses under the $15 million size standard. We assumed, for purposes of the FRFA, and continue to assume for purposes of this Supplemental FRFA, that all of the remaining existing authorizations are held by licensees qualifying as small businesses under the $15 million size standard. Of these, we assume, for purposes of our evaluations and conclusions in this Supplemental FRFA, that none of these licensees was covered by the previous rule but that all of them intend to offer real-time, two-way PSTN-interconnected voice or data service utilizing an in-network switching facility. Therefore, we conclude that the number of SMR licensees operating in the 800 MHz and 900 MHz bands under extended implementation authorizations that may be affected by this rule modification is up to 6800.

32. *Cellular Licensees.* Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees. Therefore, the applicable definition of a small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company employing no more than 1,500 persons. According to the Bureau of the Census, only twelve radiotelephone firms from a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. Therefore, even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. In addition, we note that there are 1,758 cellular licenses; however, a cellular licensee may own several licenses. In addition, according to the most recent Trends in Telephone Service data, 732 carriers reported that they were engaged in the provision of either cellular service or Personal Communications Service (PCS) services, which are placed together in the data. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 732 small cellular service carriers that may be affected by the policies adopted in this Order on Reconsideration.

33. *Broadband Personal Communications Service (PCS).* The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined ''small entity'' for Blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years. For Block F, an additional classification for ''very small business'' was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than

[3] U.S.C. 601(3) (incorporating by reference the definition of ''small business concern'' in 15 U.S.C. 632). Pursuant to the RFA, the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register.**'' 5 U.S.C. 601(3).

$15 million for the preceding three calendar years. No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F. Based on this information, we conclude that the number of small broadband PCS licensees will total 183 small entity PCS providers as defined by the SBA and the Commission's auction rules.

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

34. Neither the rule adopted in the First Report and Order nor the rule modifications adopted in the Order on Reconsideration impose a reporting or recordkeeping requirement. The resale rule does, however, operate as a negative prohibition forbidding restrictions on the resale of covered services. The only compliance costs likely to be incurred, as a result, are administrative costs to ensure that an entity's practices are in compliance with the rule.

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

35. It is important to note, in the first instance, that the imposition of a resale requirement confers substantial benefits on small entities, because a substantial number of those wireless resellers it is designed to protect are small. Moreover, the exemption from its requirements for certain C, D, E and F block licensees also benefits smaller entities because it exempts from the obligations of the resale rule, smaller, new entrant competitors that have little market share and little or no incentive to restrict resale unreasonably.

36. The Commission has also reduced the potential impact of the resale rule on small entities by continuing to exclude from its requirements those entities that have, traditionally, constituted the smallest of the SMR licensees, i.e., those licensees that do not provide services on an interconnected basis. In the Order on Reconsideration, the Commission has adopted an alternative definition of covered SMR that includes only those systems that have an in-network switching facility. This exception to coverage addresses the concerns of SMR providers that primarily offer traditional dispatch services but whose offer of limited interconnection capability might otherwise subject them to the resale rule as previously drafted. Such a result would have been inconsistent with the Commission's determination that only SMR providers that compete directly with cellular and broadband PCS should be subject to the resale rule, because an important indicator of a provider's ability to compete with traditional cellular and broadband PCS providers is whether the provider's system has ''in-network'' switching capability.

37. In-adopting a network switching criterion, the Commission has rejected a definition of SMR covered services that would exempt SMR providers based on their particular number of mobile units or on capacity. Defining the term covered SMR in terms of its number of subscribers or its capacity could exempt from the resale requirement services that compete in markets where competitive conditions do not yet sufficiently protect against unreasonable restrictions on resale. As we observed in the FRFA, our decision to extend the resale rule will not require any carrier to expand its capacity or to change its system in order to accommodate the desires of resellers.

VI. Report to Congress

38. The Commission will send a copy of this Order on Reconsideration, including a copy of this Supplemental Final Regulatory Flexibility Analysis, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, *see* 5 U.S.C. 801(a)(1)(A). In addition, the Order on Reconsideration and this Supplemental FRFA will be sent to the Chief Counsel for Advocacy of the Small Business Administration. Finally, the Order on Reconsideration and Supplemental FRFA (or summaries thereof) will be published in the **Federal Register**. *See* 5 U.S.C. 604(b).

Ordering Clauses

39. Accordingly, the rule amendments and clarifications are adopted and shall be effective January 10, 2000.

40. Further, the Petitions for Reconsideration filed by AT&T Corp., the Personal Communications Industry Association, the American Mobile Telecommunications Association, and Nextel Communications, Inc. in CC Docket 94–54 are granted to the extent indicated herein and otherwise are denied.

41. The Petition for Reconsideration or Clarification filed by Small Business in Telecommunications, Inc. in CC Docket No. 94–54 is accepted to the extent such Petition seeks clarification, and otherwise is rejected as a late-filed Petition for Reconsideration.

42. The Petitions for Reconsideration or Clarification filed by the Cellular Resellers Association, Connecticut Telephone and Communications Systems, Inc. the National Wireless Resellers Association, and Small Business in Telecommunications, Inc. are denied.

43. Additionally, the Petition for Reconsideration filed by the Personal Communications Industry Association pertaining to WT Docket No. 98–100 and GN Docket No. 94–33 is granted to the extent indicated and otherwise is denied.

44. Finally, the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Order on Reconsideration, including the Supplemental Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 20

Communications common carriers.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

Part 20 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 20—COMMERCIAL MOBILE RADIO SERVICE

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

Authority: 47 U.S.C. 154, 160, 251–254, 303, and 332, unless otherwise noted.

2. Section 20.12 is revised to read as follows:

§ 20.12 Resale and roaming.

(a) *Scope of section.* This section is applicable as follows:

(1) *Scope of resale requirement.* Paragraph (b) of this section, concerning resale, is applicable to the following, if such providers offer real-time, two-way switched voice or data service that is interconnected with the public switched network and utilizes an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls:

(i) Providers of Broadband Personal Communications Services (part 24, subpart E of this chapter), except those C, D, E, and F block PCS licensees that do not own and control and are not owned and controlled by firms also holding cellular, A or B block licenses;

(ii) Providers of Cellular Radio Telephone Service (part 22, subpart H of this chapter); and

(iii) Providers of Specialized Mobile Radio Services (part 90, subparts of this chapter).

(2) *Scope of Roaming Requirement.* Paragraph (c) of this section, concerning roaming, is applicable only to providers of Broadband Personal Communications Services (part 24, subpart E of this chapter), providers of Cellular Radio Telephone Service (part 22, subpart H of this chapter), providers of Specialized Mobile Radio Services in the 800 MHz and 900 MHz bands that hold geographic licenses and offer real-time, two-way voice service that is interconnected with the public switched network (included in part 90, subpart S of this chapter) and Incumbent Wide Area SMR Licensees.

(b) *Resale.* The resale requirement is applicable as follows:

(1) Each carrier identified in paragraph (a)(1) of this section shall not restrict the resale of its services, including enhanced services, unless the carrier demonstrates that the restriction is reasonable.

(2) The resale requirement shall not apply to customer premises equipment, whether or not it is bundled with services subject to the resale requirement in this paragraph.

(3) This paragraph shall cease to be effective five years after the last group of initial licenses for broadband PCS spectrum in the 1850–1910 and the 1930–1990 MHz bands is awarded; *i.e.*, at the close of November 24, 2002.

(c) *Roaming.* Each licensee identified in paragraph (a)(2) of this section must provide mobile radio service upon request to all subscribers in good standing to the services of any carrier subject to this section, including roamers, while such subscribers are located within any portion of the licensee's licensed service area where facilities have been constructed and service to subscribers has commenced, if equipment that is technically compatible with the licensee's base stations.

[FR Doc. 99–29220 Filed 11–8–99; 8:45 am]
BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

48 CFR Parts 204, 209, 225, 242, and 247

[DFARS Cases 98–D003, 99–D004, and 99–D010]

Defense Federal Acquisition Regulation Supplement; Contract Administration and Audit Services

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to update policy pertaining to DoD contract administration and audit services. The rule updates references to DoD publications, and reorganizes DFARS test for consistency with the organization of Federal Acquisition Regulation (FAR) text pertaining to contract administration.

EFFECTIVE DATE: November 9, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Layser, Defense Acquisition Regulations Council, PDUSD (AT&L)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0293; telefax (703) 602–0350. Please cite DFARS Case 98–D003.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends the DFARS to update policy pertaining to DoD contract administration and audit services. The rule updates references in the DFARS text and reorganizes portions of DFARS Part 242 for consistency with the organization of FAR Part 42. The rule also adds text at DFARS 242.302(a)(13) to clarify that the Defense Contract Management Command is not responsible for making contract payments.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98–577 and publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 98–D003.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 204, 209, 225, 242, and 247

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR parts 204, 209, 225, 242, and 247 are amended as follows:

1. The authority citation for 48 CFR parts 204, 209, 225, 242, and 247 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 204—ADMINISTRATIVE MATTERS

2. Section 204.202 is amended by revising paragraph (1)(iv) to read as follows:

204.202 Agency distribution requirements.

(1) * * *

(iv) One copy to the contract administration office (CAO) automatic data processing point, except when the DoDAAD code is the same as that of either the CAO or the payment office (see the Federal Directory of Contract Administration Services Components); and

* * * * *

204.7102 [Amended]

3. Section 204.7102 is amended in paragraph (b)(1) by removing the abbreviation ''DoD'' and adding in its place the word ''Federal''; and in paragraph (b)(3) by removing the words ''Office of Defense Commercial Communications'' and adding in their place the words ''Defense Information Technology Contracting Organization''.

PART 209—CONTRACTOR QUALIFICATIONS

209.106–2 [Amended]

4. Section 209.106–2 is amended in paragraph (1) in the first sentence by removing the reference and abbreviation ''DoD 4105.4, DoD'' and adding in their place the words ''the Federal''.

PART 225—FOREIGN ACQUISITION

5. Section 225.872–6 is amended by revising paragraphs (b) and (c)(1) to read as follows:

225.872–6 Audit.

* * * * *

(b) To determine if such an annex is applicable to a particular qualifying country, contact the Deputy Director of Defense Procurement (Foreign Contracting), ((703) 697–9351/2/3, DSN 227–9351/2/3).

(c) * * *

(1) Except for the United Kingdom (UK), send the request to the administrative contracting officer at the cognizant activity listed in Section 2B of the Federal Directory of Contract Administration Services Components. Send the request for audit from the UK directly to their Ministry of Defence.

* * * * *

225.872–7 [Amended]

6. Section 225.872–7 is amended by removing the reference ''OPNAV Instruction 5540.8L'' and adding in its place the reference ''SECNAV Instruction 5510.1H''; and by removing the reference ''AFR 205–4'' and adding in its place the reference ''AFI 31–601''.

PART 242—CONTRACT ADMINISTRATION AND AUDIT SERVICES

7. The heading of Part 242 is revised to read as set forth above.

8. Section 242.002 is added (immediately before subpart 242.1) to read as follows:

242.002 Interagency agreements.

(b)(i) DoD requires reimbursement, at a rate set by the Under Secretary of Defense (Comptroller/Chief Financial Officer), from non-DoD organizations, except for—

(A) Quality assurance, contract administration, and audit services provided under a no-charge reciprocal agreement;

(B) Services performed under subcontracts awarded by the Small Business Administration under FAR subpart 19.8; and

(C) Quality assurance and pricing services performed for the Supply and Services Canada.

(ii) Departments and agencies may request an exception from the reimbursement policy in paragraph (b)(i) of this section from the Under Secretary of Defense (Comptroller/Chief Financial Officer). A request must show that an exception is in the best interest of the Government.

(iii) Departments and agencies must pay for services performed by non-DoD activities, foreign governments, or international organizations, unless otherwise provided by reciprocal agreements.

(S–70)(i) Foreign governments and international organizations may request contract administration services on their direct purchases from U.S. producers. Direct purchase is the purchase of defense supplies in the United States through commercial channels for use by the foreign government or international organization.

(ii) Supply and Services Canada (SSC) is permitted to submit its requests for contract administration services directly to the cognizant contract administration office.

(iii) Other foreign governments (including Canadian government organizations other than SSC) and international organizations send their requests for contract administration services to the DoD Central Control Point (CCP) at the Defense Contract Management Command (DCMC), New York, NY. Contract administration offices provide services only upon request from the CCP. The CCP shall—

(A) Determine whether the request is from a friendly foreign government or an international agency in which the United States is a participant;

(B) Determine whether the services are consistent with the DoD mutual security program policies (the Assistant Secretary of Defense (International Security Affairs) is the source of information for questions as to the eligibility of foreign governments to receive services);

(C) Ensure that the reimbursement arrangements are consistent with paragraph (b) of this section;

(D) Coordinate with appropriate contract administration offices to determine whether DoD can provide the services;

(E) Notify the requestor that the request is accepted, or provide reasons why it cannot be accepted;

(F) Distribute the acquisition documents and related materials to contract administration offices; and

(G) Receive statements of costs incurred by contract administration offices for reimbursable services and forward them for billing to the Security Assistance Accounting Center.

Subpart 242.1—[Removed]

9. Subpart 242.1 is removed.

10. Subpart 242.2 is revised to read as follows:

Subpart 242.2—Contract Administration Services

Sec.

242.200–70 Scope of subpart.
242.202 Assignment of contract administration.

242.200–70 Scope of subpart.

This subpart does not address the contract administration role of a contracting officer's representative (see 201.602).

242.202 Assignment of contract administration.

(a)(i) DoD activities shall not retain any contract for administration that requires performance of any contract administration function at or near contractor facilities, except contracts for—

(A) The National Security Agency;

(B) Research and development with universities;

(C) Flight training;

(D) Consultant support services;

(E) Mapping, charting, and geodesy services;

(F) Base, post, camp, and station purchases;

(G) Operation or maintenance of, or installation of equipment at, radar or communication network sites;

(H) Communications services;

(I) Installation, operation, and maintenance of space-track sensors and relays;

(J) Dependents Medicare program contracts;

(K) Stevedoring contracts;

(L) Construction and maintenance of military and civil public works, including harbors, docks, port facilities, military housing, development of recreational facilities, water resources, flood control, and public utilities;

(M) Architect-engineer services;

(N) Airlift and sealift services (Air Mobility Command and Military Sealift Command may perform contract administration services at contractor locations involved solely in performance of airlift or sealift contracts);

(O) Subsistence supplies;

(P) Ballistic missile sites (contract administration offices may perform supporting administration of these contracts at missile activation sites during the installation, test, and checkout of the missiles and associated equipment); and

(Q) Operation and maintenance of, or installation of equipment at, military test ranges, facilities, and installations.

(ii) Contract administration functions for base, post, camp, and station contracts on a military installation are normally the responsibility of the installation or tenant commander. However, the Defense Contract Management Command (DCMC) shall, upon request of the military department, and subject to prior agreement, perform contract administration services on a military installation.

(iii) DCMC shall provide preaward survey assistance for post, camp, and station work performed on a military installation. The contracting office and the DCMC preaward survey monitor should jointly determine the scope of the survey and individual responsibilities.

(iv) To avoid duplication, contracting offices shall not locate their personnel at contractor facilities, except—

(A) In support of contracts retained for administration in accordance with paragraph (a)(i) of this section; or

(B) As permitted under subpart 242.74.

(e)(1)(A) In special circumstances, a contract administration office may request support from a component not listed in the Federal Directory of Contract Administration Services Components (available via the Internet at http://www.dcmc.hq.dla.mil/casbook/casbook.htm). An example is a situation where the contractor's work site is on a military base and a base organization is asked to provide support. Before formally sending the request, coordinate with the office concerned to ensure that resources are available for, and capable of, providing the support.

(B) When requesting support on a subcontract that includes foreign contract military sale (FMS) requirements, the contract administration office shall—

(*1*) Mark ''FMS Requirement'' on the face of the documents; and

(*2*) For each FMS case involved, provide the FMS case identifier, associated item quantities, DoD prime contract number, and prime contract line/subline item number.

11. Section 242.302 is amended by removing paragraph (a)(8); and by adding, after paragraph (a)(9), paragraph (a)(13) to read as follows:

242.302 Contract administration functions.

(a) * * *

(13)(A) Do not delegate the responsibility to make payments to the Defense Contract Management Command (DCMC).

(B) For contracts assigned to DCMC for contract administration, designate as the payment office—

(*1*) The cognizant Defense Finance and Accounting Service (DFAS) payment office as specified in the Federal Directory of Contract Administration Services Components (available via the Internet at http://www.dcmc.hq.dla.mil/casbook/casbook.htm), for contracts funded with DoD funds;

(*2*) The department or agency payment office, if authorized by defense financial management regulations or if the contract is funded with non-DoD funds; or

(*3*) Multiple payment offices under paragraphs (a)(13)(B) (*1*) and (*2*) of this section, if the contract is funded with both DoD and non-DoD funds.

(C) For contracts not assigned to DCMC, select a payment office or offices under department/agency procedures. DoD personnel may use the DFAS Reference Tool, available via the Internet at http://referencetool.dfas.mil, to identify cognizant DFAS payment offices.

* * * * *

242.705–1 [Amended]

12. Section 242.705–1 is amended in paragraph (a)(1) in the first sentence by removing the parenthetical ''(ACO)'' and adding in its place the parenthetical ''(ACOs)''; and by removing paragraph (b).

242.705–2 [Amended]

13. Section 242.705–2 is amended by removing paragraph (b)(2)(ii); and by redesignating paragraph (b)(2)(iv) as paragraph (b)(2)(iii).

242.7400 [Amended]

14. Section 242.7400 is amended in paragraph (a) in the second sentence, in the parenthetical, by removing the reference ''242.203(a)(i) and (v)'' and adding in its place the reference ''242.202(a)''.

Part 247—Transportation

247.305–10 [Amended]

15. Section 247.305–10 is amended in paragraph (b)(iv) introductory text by removing the reference and abbreviation ''DoD 4105.4, DoD'' and adding in their place the words ''the Federal''.

16. Section 247.370 is amended by revising paragraph (b)(1) to read as follows:

247.370 Use of Standard Form 30 for consignment instructions.

* * * * *

(b) * * *

(1) For contracts assigned for any contract administration function listed in FAR subpart 42.3 to any office listed in the Federal Directory of Contract Administration Services Components, within five working days;

* * * * *

[FR Doc. 99–29036 Filed 11–8–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

48 CFR Parts 208 and 251

[DFARS Case 99–D022]

Defense Federal Acquisition Regulation Supplement; Coordinated Acquisition Procedures Update

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to update procedures relating to the DoD Coordinated Acquisition Program and contractor use of Government supply sources. The rule updates organization names, addresses, and telephone numbers.

EFFECTIVE DATE: November 9, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa Rider, Defense Acquisition Regulations Council, PDUSD(AT&L)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–4245; telefax (703) 602–0350. Please cite DFARS Case 99–D022.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends DFARS 208.7003–1 to update Defense Logistics Agency (DLA) organization names and addresses, and to specify that a DoD activity submitting a request to DLA for a waiver under the Integrated Material Management Program must submit a copy of the request to the Defense Logistics Support Command. The rule also amends DFARS 251.102 to update address and telephone number information relating to requests for Government publications.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98–577 and publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 99–D022.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 208 and 251

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR parts 208 and 251 are amended as follows:

1. The authority citation for 48 CFR parts 208 and 251 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

2. Section 208.7003–1 is amended in the heading by removing the word ''material'' and adding in its place the world ''materiel''; and by revising paragraph (b)(2)(ii) to read as follows:

208.7003–1 Assignments under integrated materiel management (IMM).

* * * * *

(b) * * *

(2) * * *

(ii) For DLA:

Defense Supply Center, Columbus, ATTN: DSCC–BDL, P.O. Box 3990, Columbus, OH 43216–5000

Defense Energy Support Center, ATTN: DESC–FI, 8725 John J. Kingman Road, Fort Belvoir, VA 22060–6222

Defense Supply Center, Richmond, ATTN: DSCR–RZO, 8000 Jefferson Davis Highway, Richmond, VA 23297–5000

Defense Supply Center, Philadelphia, ATTN: DSCP–ILSI (for General and Industrial), DSCP–OCS (for Medical, Clothing, and Textiles), 700 Robbins Avenue, Bldg. 4, Philadelphia, PA 19111–5096

In addition, forward a copy of each request to:

Defense Logistics Support Command, ATTN: DLSC–LS, 8725 John J. Kingman Road, Fort Belvoir, VA 22060–6221.

* * * * *

PART 251—USE OF GOVERNMENT SOURCES BY CONTRACTORS

3. Section 251.102 is amended in Table 51–1 by revising paragraph 2.b. to read as follows:

25.102 Authorization to use Government supply sources.

* * * * *

TABLE 51–1—AUTHORIZATION TO PURCHASE FROM GOVERNMENT SUPPLY SOURCES

* * * * *

2. * * *

b. Requisitioning from the General Services Administration (GSA) or the Department of Defense (DoD). Place orders in accordance with this authorization and, as appropriate, the following:

(1) Federal Standard Requisitioning and Issues Procedures (FEDSTRIP) (GSA FEDSTRIP Operating Guide: FPMR 101–26.2 (41 CFR 101–26.2)). Copies are available from the Superintendent of Documents, Government Printing Office, Washington, DC 20402; telephone (202) 512–1800; telefax (202) 512–2250.

(2) Military Standard Requisitioning and Issue Procedures (MILSTRIP) (DoD 4000.25–1–M). Copies are available from the Defense Logistics Agency, Administrative Support Center East, ATTN: ASCE–WS, 14 Dedication Drive, Suite 3, POD 43, New Cumberland, PA 17070–5011; telephone 1–888–DLA–PUBS (352–7827), or (717) 770–6034; telefax (717) 770–4817.

* * * * *

[FR Doc. 99–29037 Filed 11–8–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

48 CFR Part 215

[DFARS Case 99–D001]

Defense Federal Acquisition Regulation Supplement; Weighted Guidelines and Performance-Based Payments

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to modify the weighted guidelines method of computing profit objectives. The rule adds contracts with performance-based payments to the types of contracts that affect a contractor's cost risk.

EFFECTIVE DATE: November 9, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra G. Haberlin, Defense Acquisition Regulations Council, PDUSD (AT&L) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0289; telefax (703) 602–0350. Please cite DFARS Case 99–D001.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS 215.404–4, Profit, requires contracting officers to use the weighted guidelines method of developing a prenegotiation profit or fee objective on most negotiated contract actions that require cost analysis. This method focuses on three profit factors: performance risk, contract type risk, and facilities capital employed. Calculations using these profit factors result in values that become part of the profit objective.

For contract type risk, the calculations include an assessment of the degree of cost risk that the contractor accepts under varying contract types as adjusted by the costs of contractor-provided financing. Prior to issuance of this final rule, DFARS 215.404–71–3, Contract type risk and working capital adjustment, provided only two financing choices for fixed-price and fixed-price incentive contracts: The contract either would provide progress payments or would offer no financing. This final rule adds contracts with performance-based payments as a third choice.

This rule amends DFARS 215.404–71–3 as follows:

1. Adds firm-fixed-price and fixed-price incentive contracts with performance-based payments to the table of contract types at 215.404–71–3(c).

2. Adds evaluation criteria at 215.404–71–3(d) that contracting officers should consider when determining the value for contract type risk associated with contracts using performance-based payments.

3. Removes the reference to the flexible progress payments type of financing at 215.404–71–3(e)(3). DoD does not permit the use of flexible progress payments for contracts awarded as a result of solicitations issued on or after November 11, 1993. A final rule, published in the **Federal Register** on February 23, 1999 (64 FR 8731), removed references to flexible progress payments from DFARS Part 232. The change to 215.404–71–3(e)(3) in this final rule does not reflect a policy change but merely removes obsolete language.

4. Makes editorial changes.

DoD published a proposed rule in the **Federal Register** on May 4, 1999 (64 FR 23814). Three sources submitted comments on the proposed rule. DoD considered all comments in the development of the final rule.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities have a dollar value less than the simplified acquisition threshold and, therefore, would not use the weighted guidelines method of profit computation. The weighted guidelines method normally is used to compute profit objectives on negotiated contract actions at or above $500,000.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 215

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR part 215 is amended as follows:

1. The authority citation for 48 CFR part 215 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 215—CONTRACTING BY NEGOTIATION

2. Section 215.404–71–3 is amended by revising paragraphs (c), (d), and (e) to read as follows:

215.404–71–3 Contract type risk and working capital adjustment.

* * * * *

(c) *Values: Normal and designated ranges.*

Contract type	Notes	Normal value (percent)	Designated range (percent)
Firm-fixed-price, no financing	(1)	5.0	4 to 6.
Firm-fixed-price, with performance-based payments	(6)	4.0	2.5 to 5.5
Firm-fixed-price, with progress payments	(2)	3.0	2 to 4.
Fixed-price incentive, no financing	(1)	3.0	2 to 4.
Fixed-price incentive, with performance-based payments	(6)	2.0	0.5 to 3.5.
Fixed-price with redetermination provision	(3)	.....	
Fixed-price incentive, with progress payments	(2)	1.0	0 to 2.
Cost-plus-incentive-free	(4)	1.0	0 to 2.
Cost-plus-fixed-fee	(4)	0.5	0 to 1.
Time-and-materials (including overhaul contracts priced on time-and-materials basis)	(5)	0.5	0 to 1.
Labor-hour	(5)	0.5	0 to 1.
Firm-fixed-price, level-of-effort	(5)	0.5	0 to 1.

(1) ''No financing'' means either that the contract does not provide progress payments or performance-based payments, or that the contract provides them only on a limited basis, such as financing of first articles. Do not compute a working capital adjustment.

(2) When the contract contains provisions for progress payments, compute a working capital adjustment (Block 26).

(3) For the purposes of assigning profit values, treat a fixed-price contract with redetermination provisions as if it were a fixed-price incentive contract with below normal conditions.

(4) Cost-plus contracts shall not receive the working capital adjustment.

(5) These types of contracts are considered cost-plus-fixed-fee contracts for the purposes of assigning profit values. They shall not receive the working capital adjustment in Block 26. However, they may receive higher than normal values within the designated range to the extent that portions of cost are fixed.

(6) When the contract contains provisions for performance-based payments, do not compute a working capital adjustment.

(d) *Evaluation criteria.*

(1) *General.* The contracting officer should consider elements that affect contract type risk such as—

(i) Length of contract;

(ii) Adequacy of cost data for projections;

(iii) Economic environment;

(iv) Nature and extent of subcontracted activity;

(v) Protection provided to the contractor under contract provisions (e.g., economic price adjustment clauses);

(vi) The ceilings and share lines contained in incentive provisions;

(vii) Risks associated with contracts for foreign military sales (FMS) that are not funded by U.S. appropriations; and

(viii) When the contract contains provisions for performance-based payments—

(A) The frequency of payments;

(B) The total amount of payments compared to the maximum allowable amount specified at FAR 32.1004(b)(2); and

(C) The risk of the payment schedule to the contractor.

(2) *Mandatory.* The contracting officer shall assess the extent to which costs have been incurred prior to the definitization of the contract action (also see 217.7404–6(a)). The assessment shall include any reduced contractor risk on both the contract before definitization and the remaining portion of the contract. When costs have been incurred prior to definitization, generally regard the contract type risk to be in the low end of the designated range. If a substantial portion of the costs have been incurred prior to definitization, the contracting officer may assign a value as low as 0 percent, regardless of contract type.

(3) *Above normal conditions.* The contracting officer may assign a higher than normal value when there is substantial contract type risk. Indicators of this are—

(i) Efforts where there is minimal cost history;

(ii) Long-term contracts without provisions protecting the contractor, particularly when there is considerable economic uncertainty;

(iii) Incentive provisions (e.g., cost and performance incentives) that place a high degree of risk on the contractor;

(iv) FMS sales (other than those under DoD cooperative logistics support arrangements or those made from U.S. Government inventories or stocks) where the contractor can demonstrate that there are substantial risks above those normally present in DoD contracts for similar items; or

(v) An aggressive performance-based payment schedule that increases risk.

(4) *Below normal conditions.* The contracting officer may assign a lower than normal value when the contract type risk is low. Indicators of this are—

(i) Very mature product line with extensive cost history;

(ii) Relative short-term contracts;

(iii) Contractual provisions that substantially reduce the contractor's risk;

(iv) Incentive provisions that place a low degree of risk on the contractor;

(v) Performance-based payments totaling the maximum allowable amount(s) specified at FAR 32.1004(b)(2); or

(vi) A performance-based payment schedule that is routine with minimal risk.

(e) *Costs financed.*

(1) Costs financed equal total costs multiplied by the portion (percent) of costs financed by the contractor.

(2) Total costs equal Block 20 (i.e., all allowable costs, including general and administrative and independent research and development/bid and proposal, but excluding facilities capital cost of money), reduced as appropriate when—

(i) The contractor has little cash investment (e.g., subcontractor progress payments liquidated late in period of performance);

(ii) Some costs are covered by special financing provisions, such as advance payments; or

(iii) The contract is multiyear and there are special funding arrangements.

(3) The portion that the contractor finances is generally the portion not covered by progress payments, i.e., 100 percent minus the customary progress payment rate (see FAR 32.501). For example, if a contractor receives progress payments at 75 percent, the portion that the contractor finances is 25 percent. On contracts that provide progress payments to small businesses, use the customary progress payment rate for large businesses.

* * * * *

[FR Doc. 99–29038 Filed 11–8–99 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 601

Responsibilities of the Administrator

AGENCY: Federal Transit Administration, DOT.

ACTION: Final rule.

SUMMARY: The Federal Transit Administration (FTA) is amending 49 CFR Part 601 to make express that the Deputy Administrator serves as the Administrator's ''first assistant'' within the meaning of the Federal Vacancies Reform Act of 1998 and thus serves as the Acting Administrator when the Administrator's position is vacant.

EFFECTIVE DATE: November 9, 1999.

FOR FURTHER INFORMATION CONTACT: Elizabeth A.S. Martineau, Office of Chief Counsel, Federal Transit Administration, Room 9316, 400 Seventh Street, SW., Washington, DC 20590 (202) 366–1936.

SUPPLEMENTARY INFORMATION: This rule amends 49 CFR section 601.4 to provide that the Deputy Administrator is the Administrator's ''first assistant'' for purposes of the Federal Vacancies Reform Act of 1998 (Pub. L. 105–277) and to delete references to agency officials who shall perform the duties of the Administrator in the absence or disability of the ''first assistant'' and to, instead, refer to the internal FTA order on succession of authority. This rules does not impose substantive requirements; it simply updates the Code of Federal to conform FTA's organizational provisions to the Federal Vacancies Reform Act to 1998, which alters the way in which vacancies in presidentially appointed, Senate-conformed offices within the executive branch may be filled on a temporary basis.

This final rule is ministerial in nature and relates only to agency management, organization, procedure, and practice and is not a regulation or rule for the purposes of Executive Order No. 12866. Therefore, the FTA has determined that notice and comment are unnecessary and that the rule is exempt for prior notice and comment requirements under 5 U.S.C. 553(b)(3)(A). These changes will not have substantive impact and FTA does not expect to receive substantive comments on the rule. Therefore, FTA finds that there is good cause under 5 U.S.C. 553(d)(3) to make this rule effective less than 30 days after publication in the **Federal Register.**

Regulatory Analyses and Notices

FTA has determined that this action is not a significant regulatory action under Executive Order 12866 or under the Department's Regulatory Policies and Procedures. There are no costs associated with this rule. FTA certifies that this rule will not have a significant economic impact on a substantial number of small entities. FTA does not believe that there are sufficient federalism implications to warrant the preparation of a federalism assessment.

Paper Reduction Act

This rule contains no information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Unfunded Mandates Reform Act of 1995

FTA has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this rulemaking.

List of Subjects in 49 CFR Part 601

Authority delegations (Government agencies), Organization and functions (Government agencies).

For the reasons set forth in the preamble, the Federal Transit Administration amends 49 CFR Part 601 as follows:

PART 601—[Amended]

1. The authority citation for Part 601 is revised to read as follows:

Authority: 49 U.S.C. 1657, 1659; Reorganization Plan No. 2 of 1968 (82 Stat. 1369); 49 CFR 1.51.

2. Revise section 601.4 to read as follows:

§ 601.4 Responsibilities of the Administrator.

The Administrator is responsible for the planning, direction, and control of the activities of FTA and has authority to approve urban mass transportation grants, loans, and contracts. The Deputy Administrator is the ''first assistant'' for purposes of the Federal Vacancies Reform Act of 1998 (Pub. L. 105–277) and shall, in the event of the absence or disability of the Administrator, serve as the Acting Administrator, subject to the limitations in that Act. In the event of the absence or disability of both the Administrator and the Deputy Administrator, officials designated by the agency's internal order on succession shall serve as Acting Deputy Administrator and shall perform the duties of the Administrator, except for any non-delegable statutory and/or regulatory duties.

Issued on: October 29, 1999.

Gordon J. Linton,

Administrator.

[FR Doc. 99–28877 Filed 11–8–99; 8:45 am]

BILLING CODE 4910–57–M

Proposed Rules

Federal Register
Vol. 64, No. 216
Tuesday, November 9, 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 AGRICULTURE

Office of the Secretary

7 CFR Part 785

Farm Service Agency

7 CFR Part 1946

RIN 0560–AE02

Certified Mediation Program

AGENCY: Farm Service Agency, USDA.

ACTION: Proposed rule.

SUMMARY: The Farm Service Agency (FSA) proposes to amend its Agricultural Loan Mediation Program regulations to implement the requirements of the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (the 1994 Act). The 1994 Act expands the scope of issues that may be mediated in State mediation programs certified by FSA. This regulation proposes to establish and modify requirements and procedures for certification and funding of State mediation programs. This action will also move the mediation provisions from the Rural Development chapter of the CFR to the FSA chapter.

DATES: Comments on this proposed rule must be received on or before January 10, 2000 to be assured of consideration. The comment period for information collections under the Paperwork Reduction Act of 1995 continues through January 10, 2000.

ADDRESSES: Send comments in duplicate to Executive Director for State Operations, Farm Service Agency, U.S. Department of Agriculture, Room 3090 S, STOP 0539, 1400 Independence Avenue, SW, Washington, DC 20250–0539, or by fax to 202–690–3009. All written comments will be available for public inspection at the above address between 8 a.m. and 5 p.m., EST, Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Chester A. Bailey, Mediation Coordinator, FSA, at the above address, telephone 202–720–1471.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Federal Assistance Program

The title and number of the Federal assistance program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies, is the Certified Mediation Program-10.435.

Executive Order 12372

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

Environmental Evaluation

It has been determined that this action will not have a significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed under the National Environmental Policy Act of 1969.

Executive Order 12612

This document has been reviewed in accordance with Executive Order 12612, Federalism. The agency has determined that this action does not have significant Federalism implications.

Executive Order 12988

This proposed rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted (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 this rule, and (3) administrative proceedings published at 7 CFR part 11 must be exhausted before action for judicial review may be brought.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this program. The administration certifies that this program will not have a significant impact on a substantial number of small entities. By statute this grant program applies only to States. These grants cannot be made to small entities or individuals. Small entities may participate in mediation, however, to the same extent as individual and other entities affected by adverse decisions covered by certified mediation programs.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 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 Agency 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, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objective of the rule.

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

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, FSA will submit an emergency information collection request (ICR) to OMB for the approval of the Certified Mediation Program reports as necessary for the proper functioning of the program.

Title: Certified Mediation Program.

OMB Control Number: 0560–0165.

Type of Request: Reinstatement, with change, of previously approved collection for which approval has expired.

Abstract: The information collected under OMB Control Number 0560–0165, as identified above, is needed to enable

FSA to administer effectively the Certified Mediation Program.

FSA requires some of the information it collects to be reported in a standard manner. Although other institutions, public and private, generally require and collect information similar to that requested by FSA, there is a wide diversity in reporting practices.

The amendment contained in this information collection that requires clearance by OMB is ''Agricultural Mediation and Related Requirements including, State Certification and Grant Administration Provisions.'' The information to be collected includes an application for certification, reverification for subsequent annual approval, application for Federal Assistance, reporting requirements, and audit reports.

The information requested is reported annually and is necessary for the FSA to determine eligibility, and to administer the mediation grant program in an equitable and cost-effective manner.

Estimate of Burden: The public reporting burden for this information collection is estimated to average 34 hours per respondent.

Respondents: State agencies.

Estimated Number of Respondents: 24.

Estimated Number of Responses per Respondents: 1.

Estimated Total Annual Burden on Respondents: 816 hours.

Topics for comments include: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information gathering technology. Comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to Chester A. Bailey, Mediation Coordinator, FSA, USDA, STOP 0539, 1400 Independence Avenue, SW, Washington, DC 20250–0539, (202) 720–1471. Copies of the information collected may be obtained from Chester A. Bailey at the above address.

OMB is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department of Agriculture (USDA) on the proposed regulation.

Discussion of Proposed Rule

Title V of the Agricultural Credit Act of 1987 (7 U.S.C. 5106 *et seq.*) (1987 Act) authorized the Secretary of Agriculture to qualify States as certified to develop State mediation programs that mediate agricultural loan disputes. The Secretary delegated this authority at that time to the Administrator of the Farmers Home Administration (FmHA). In addition, the 1987 Act required FmHA to participate in mediation in certified States.

To be certified under the 1987 Act, a State was required to: (1) Provide mediation services to producers and their creditors that, if decisions are reached, result in mediated, mutually agreeable decisions between parties under an agricultural loan mediation program; (2) be authorized or administered by an agency of the State government or by the Governor of the State; (3) provide for the training of mediators; (4) provide that the mediation sessions be confidential; and (5) ensure that all lenders and borrowers of agricultural loans receive adequate notification of the mediation program.

The 1987 Act authorized funding of $7.5 million a year for each of the fiscal years 1988 through 1991, with matching grants to the States limited to $500,000 or 50 percent of the cost of a State's program, whichever is less. The Food, Agriculture, Conservation, and Trade Act of 1990 extended this authority through 1995, and the Agricultural Credit Improvement Act of 1992 increased the maximum percentage of the grant to 70 percent. The 1994 Act extended the program through 2000.

Sections 275 and 282 of the 1994 Act establish the role of mediation in the administrative appeals process, expand the range of issues that can be mediated by certified State mediation programs, and explain the procedures and criteria under which a State, upon its application, can be certified by the Secretary of Agriculture as a qualifying State. The 1994 Act requires that, if mediation is available as a part of the USDA agency's informal appeals process, the appeal participant in a qualifying State will be offered the opportunity to mediate. As part of USDA's reorganization, the Secretary re-delegated the responsibility for State certification and administration of the grant program to the Administrator, FSA.

The 1994 Act restates the requirements for certification of a State's mediation program contained in the 1987 Act. Additional requirements are that the State mediation program ensure, in the case of issues other than agricultural loans covered by the mediation program, that persons directly affected by actions of the USDA receive adequate notification of the mediation program. The 1994 Act re-emphasizes the importance of qualifying States adequately training mediators to address all issues covered by their mediation programs.

For the administration of the matching grant program in qualifying States, FSA will continue to use the uniform standards prescribed in 7 CFR part 3015, ''Uniform Federal Assistance Regulations,'' and 7 CFR part 3016, ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.'' These generally applicable rules are sufficiently well known to the States to permit an informed comment on these proposed rules.

This rule also continues the practice of making the grant year for all qualifying States run concurrently with the Federal fiscal year, which commences on October 1.

The significant changes to the mediation regulations contained herein are: (1) All references to ''agricultural loan mediation'' are replaced with ''certified mediation''; (2) issues that may be mediated by a State mediation program are expanded to include certain issues specified in the 1994 Act and non-specified issues the Secretary deems appropriate; (3) USDA agencies will participate in good faith in mediation under the same terms and conditions applicable to agricultural producers, creditors, if applicable, and other persons directly affected by actions of the USDA; (4) participants may be offered the opportunity to choose mediation as part of an agency's informal appeal process; (5) certified State mediation programs are required to train mediators adequately to address all issues covered by the program; (6) added is a condition that a certified mediation program must ensure, for issues other than agricultural loans covered by the mediation program, that persons directly affected by actions of USDA receive adequate notification of the mediation program; (7) the confidentiality provisions of the Administrative Dispute Resolution Act of 1996 apply to the certified mediation

program, but this regulation clarifies that this does not alter the State's responsibility to provide the Government access to its records as required by 7 CFR 3015.24; (8) more specific information concerning the State's mediation program is required as a certification condition; (9) procedures are clarified to eliminate confusion about administration of mediation grants; (10) the mission of State-certified mediation programs is specified to provide mediation services to agricultural producers, their creditors and other persons directly affected by actions of the USDA; (11) provisions for audit and penalties for non-compliance are amended to remove internal administrative procedures and for clarity; (12) the basis on which grant funds will be allocated to certified State mediation programs is clarified and described; (13) ''mediation'' is defined; and (14) the method of payment of grant funds has been changed to permit advances of funds earlier in the fiscal year of appropriation. The advance payment will expedite receipt of grant funds by the State programs, so as to assist the State's need to budget, obligate and spend the funds in a timely and efficient manner and enhance operation of the program. At the same time, State programs are required to obligate, spend, and account for grant funds and for the State's matching fund obligation in accordance with USDA grant regulations. In addition carryover of unspent funds is specifically allowed. Carryover balances must be obligated and liquidated by the State program during the subsequent fiscal year.

Request for Comment

FSA encourages interested persons to comment on this proposed regulation, and particularly solicits comments on the following specific matters:

1. Training and reporting. FSA asks for comment on the request for information on training programs implemented by States under the recent statutory amendments, and on the requirement for reporting quarterly on the certified State program.

2. Issues available for mediation. The 1994 Act expanded the issues available for mediation. Many State programs have made mediation available for the new issues. FSA is interested in learning whether States offer mediation in the new issues, and the experience of State programs in mediating these issues.

3. Mediation not involving USDA agencies and programs. Certified State mediation programs may offer mediation services on issues that do not affect USDA agencies and programs. Costs of such services which are inconsistent with the statutory purposes of the program, however, will not be considered part of the costs for operating the program in determining the amount of the grant.

4. Grant determination; reserve. An important change from the prior regulation is the change in the manner of determining the amount of grant funds available to certified States. Previously, certified States were awarded grants based on their requests, subject to the statutory limitations. Where total requests exceeded the appropriation, funds were allocated, pro-rata, based on the ratio of one State's request to all States' requests. In other words, the award was mathematical, without consideration of other factors. This regulation provides that awards should be made based on factors contained this proposed rule.

In addition, the proposed regulation creates a reserve of 10 percent of each grant award that will be obligated later in the fiscal year, to newly-qualified States, or reallocated to States to meet excess demand for mediation services, and then to requesting States. The reserve mechanism is intended to enable the program to fund a mediation program in a State that becomes newly-qualified in the first half of the fiscal year. Under the current regulation, a newly-certified State program must await award of grant funds until the following fiscal year. The proposed regulation will enable the program to respond to increased demand for mediation services in a more timely manner, and to adjust a small percentage of funds to meet excess demand. Ultimately, the reserve, net of any such adjustment, will be allocated to States to which it had been awarded initially, in time to be used toward States' cash flow needs with respect to the mediation program. States receiving a grant of less than $50,000 are exempt from this reserve requirement.

5. The proposed regulation makes clear that financial advisory and counseling services are permitted to be funded by the program only in those limited circumstances where a financial needs test is met, provided the work product of such services is available to all parties, and the services are assigned and provided under the control of a mediator. USDA views the mediation process as a viable and desirable means of resolving disputes. To the extent these services can be shown to serve this objective in specific instances, USDA supports them under this program. Generally, however, FSA views the use of grant funds to provide financial advisory or other services in an advocacy context to be inconsistent with the premise of a mediation program, to provide a neutral forum for resolution of disputes. FSA seeks comment on this clarification.

List of Subjects in 7 CFR Parts 785 and 1946

Agriculture, Federal-State relations, Grant programs—Intergovernmental relations, Mediation.

Accordingly, 7 CFR chapters VII and XVIII are proposed to be amended, as follows:

1. Part 785 is added to read as follows:

PART 785—CERTIFIED MEDIATION

Sec.

785.1 General.
785.2 Definitions.
785.3 Process for certification.
785.4 Grants.
785.5 Penalty for non-compliance.
785.6 Nondiscrimination.
785.7 OMB control number.

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; and 7 U.S.C. 5104.

§ 785.1 General.

(a) This part provides procedures for a State to be certified by the Farm Service Agency (FSA) as a qualifying State that provides mediation services for issues affecting USDA agencies and programs. A certified State may receive Federal grant funds for operation and administration of the State's certified agricultural mediation program.

(b) USDA agencies will participate in good faith in mediation conducted pursuant to a State's certified mediation program, and will cooperate in good faith with requests for information or analysis of information made in the course of mediation under a certified program and, if applicable, present and explore debt restructuring proposals advanced in the course of such mediation.

(c) Where mediation is available as part of a USDA agency's informal appeal process, the participant will be offered the opportunity to mediate under a State's certified mediation program, in accordance with regulations applicable to such appeal process.

§ 785.2 Definitions.

Certified mediation program means a program for the resolution of disputes through mediation, authorized or administered by a State, that meets the requirements for certification contained in § 785.3.

Confidentiality means the mediator shall not disclose any confidential communication divulged during the mediation process except as required by § 3015.24 of this title in relation to an

audit or evaluation of mediation services funded in whole or in part by USDA.

Fiscal year means the period of time beginning October 1 of one year and ending September 30 of the next year and designated by the year in which it ends.

FSA means the Farm Service Agency of USDA, or a successor agency.

Mediation means a process in which a trained, neutral person assists disputing parties in voluntarily reaching their own settlement of issues but has no authoritative decision-making power.

Qualifying State means a State with a certified mediation program that has not expired or been withdrawn under § 785.5(b).

USDA means the United States Department of Agriculture.

§ 785.3 Process for certification.

(a) *Deadline for request.* (1) On or before August 1 of each year, the Governor of a State or head of a State agency designated by the Governor of a State may submit a written request to FSA to be certified as a qualifying State. The State must be certified in order to be eligible for a USDA grant for the fiscal year commencing October 1 of that same year.

(2) Requests for certification will be accepted after August 1 of each year; however, the State will only be considered in order of date received for reserve grant funds available under § 785.4(c).

(b) *Contents of request.* The request for certification must include:

(1) Documents and information in support of the request concerning the program, including:

(i) A description of the program;

(ii) Identification of issues available for mediation;

(iii) Management of the program;

(iv) Services offered by the program;

(v) Budget;

(vi) Source and amount of State funding;

(vii) Costs (fixed and variable);

(viii) Staffing level;

(ix) Amount of contract labor;

(x) Relevant State statutes and regulations in effect; and

(xi) Any other information requested by FSA;

(2) A description of the State program's education and training requirements for mediators including:

(i) Training in mediation skills and in USDA programs; and

(ii) Identification and compliance with any State law requirements.

(3) A certification by the Governor, or head of a State agency designated by the Governor, that the State's mediation program:

(i) Provides mediation services to producers, their creditors, and other persons directly affected by actions of the USDA, that, if decisions are reached, result in mediated, mutually agreeable decisions between the parties under the program;

(ii) Provides mediation services for disputes involving agricultural loans (includes both loan making and loan servicing issues), or agricultural loans and one or more of the following issues under the jurisdiction of USDA:

(A) Wetlands determinations;

(B) Compliance with farm programs, including conservation programs;

(C) Rural water loan programs;

(D) Grazing on National Forest System lands;

(E) Pesticides; or

(F) Such other issues as the Secretary considers appropriate;

(iii) Is authorized or administered by an agency of the State government or by the Governor of the State;

(iv) Provides for training of mediators in mediation skills and in all issues covered by the State's mediation program;

(v) Provides that the mediation sessions, and records relating to mediation sessions, shall be confidential;

(vi) Ensures that all lenders and borrowers of agricultural loans receive adequate notification of the mediation program; and

(vii) Ensures, for issues other than agricultural loans covered by the State's mediation program, that persons directly affected by an adverse decision of an officer, employee, or committee of a USDA agency receive adequate notification of the mediation program.

(viii) Prohibits discrimination in its programs on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, and marital or familial status.

(4) If a grant is requested in accordance with § 785.4, the request for certification also must include the information required by parts 3015 and 3016 of this title and § 785.4(a)(2) and (b).

(c) *Request by qualifying State.* If the State is a qualifying State at the time the request is made, the written request need only describe the changes to the program since the previous year's request, together with such documents and information as are necessary concerning such changes, and a certification that the remaining elements of the program will continue as described in the previous application.

(d) *Address.* The request for certification should be mailed to: Administrator, Farm Service Agency, U.S. Department of Agriculture, STOP 0501, 1400 Independence Avenue, SW, Washington, DC 20013–0570.

§ 785.4 Grants.

(a) *Eligibility criteria for grant.* To be eligible to receive a grant, a State must:

(1) Have a certified mediation program in accordance with § 785.5(b) , which certification has not been withdrawn; and

(2) Provide detailed estimates of the cost of operating and administering the State's mediation program;

(b) *Application.* A State requesting a grant will submit to the Administrator:

(1) The standard form for Federal assistance which can be obtained from any FSA State office;

(2) Detailed estimates of the cost of operation and administration of the program;

(3) Information pertaining to the factors contained in paragraphs (c)(1) through (5) of this section;

(4) Any additional information requested by FSA.

(c) *Distribution criteria.* Grants will fund mediation activities within the State programs that are consistent with the statutory purposes of the certified mediation program and paragraph (g) of this section. Costs of services that are not consistent with such purposes are not considered part of the cost of operation and administration of the mediation program for the purpose of determining the amount of the grant. The factors used to determine the amount of a grant to a certified State include:

(1) Demand for and use of mediation services (historical and anticipated);

(2) Issues available for mediation;

(3) Demonstrated success of the program, such as:

(i) Number of inquiries;

(ii) Number of requests for and use of mediation services;

(iii) Number of resolutions;

(iv) Timeliness of mediation services; and

(v) Activities promoting awareness and use of mediation;

(4) Use of program funds (budget and actual); and

(5) Material changes in the State program.

(d) *Maximum grant amount; distribution.* (1) A grant payment shall not exceed 70 percent of the eligible cost of operation and administration of the certified mediation program within the State consistent with the purposes of this program. In no case will the total amount of a grant to any State exceed $500,000 per fiscal year.

(2) Grant funds will be paid in advance, in installments throughout the

Federal fiscal year as requested by a certified program and approved by FSA. The initial payment shall represent at least one-fourth of the State's grant award. The initial payment will be made as soon as practicable after certification, or recertification, and after funds are appropriated and available.

(3) Payment of grant funds will be by electronic wire transfer to the designated account of each certified State program, as approved by FSA. The certified program shall submit to FSA the wire transfer information upon notice of certification, or recertification, and keep current such information.

(e) *Reserve.* FSA will reserve distribution to States of 10 percent of the grant allocated to each State. This reserve requirement does not apply to any State allocated a grant in the amount of $50,000 or less.

(1) As determined by the FSA Administrator and consistent with the limitations in paragraph (d) of this section, the reserve will be allocated and used to fund:

(i) Grants to qualifying States that apply for certification after August 1; and

(ii) Excess demand for mediation services in certified States.

(2) The reserve will be allocated to certified States as initially determined, except to the extent reduced, pro-rata, for amounts allocated under paragraph (e)(1) of this section.

(3) FSA will consider any State request for reallocation of grant funds, appropriated by Congress for the current year, based on excess demand made by any State and submitted on or before March 1 of the fiscal year.

(4) Reserve funds obligated under this part will be made available by March 31.

(f) *Administration of grants.* (1) FSA will administer the program in accordance with the requirements of parts 3015 and 3016 of this title. Any State requesting and receiving a grant must comply with the provisions of those regulations.

(2) A State program is encouraged to obligate its award funds within the Federal fiscal year of the award. Any funds remaining unobligated by the State program at the end of the fiscal year of award, however, may be carried forward for use in the next fiscal year for costs resulting from obligations of the subsequent funding period. Any carryover balances plus any additional obligated fiscal year grant will not exceed the lesser of 70 percent of the State's administrative cost for the subsequent fiscal year, or $500,000. Carryover balances must be obligated and liquidated by the State program in the subsequent fiscal year.

(3) Grant funds not spent in accordance with this subpart will be subject to de-obligation and must be returned to USDA.

(g) *Grant purposes.* Grants made under this part will be used to pay for the eligible costs of operation and administration of the State's mediation program, consistent with the statutory purposes of this program. Authorized uses of grant funds include only the following:

(1) Eligible costs are limited to those allowable under § 3016.22 of this title that are reasonable and necessary to carry out the State's certified mediation program in providing mediation services for agricultural producers and their creditors, and other persons directly affected by actions of the USDA within the State, in accordance with the certified mediation grant program. Eligible costs are:

(i) Staff salaries;

(ii) Reasonable fees and costs of mediators;

(iii) Office rent and expenses, such as utilities and equipment rental;

(iv) Office supplies;

(v) Administrative costs, such as workers' compensation, liability insurance, employer's share of Social Security, and travel that is necessary to provide mediation services;

(vi) Education and training of mediators involved in mediation;

(vii) Security systems necessary to assure confidentiality of mediation sessions and records of mediation sessions;

(viii) Costs associated with publicity and promotion of the program; and

(ix) Financial advisory and counseling services: *Provided,* That:

(A) They are incidental to a pending mediation case;

(B) A financial need is demonstrated and approved under guidelines established by the State mediation program and reported to FSA;

(C) The work product of such services is available to all parties to the mediation;

(D) Services are provided under control of the mediator; and

(E) They are determined by the mediator in advance to be reasonable and necessary in the circumstances, and consistent with the goal and purpose of mediation in a particular case.

(2) Grant funds may not be used for:

(i) Purchase of capital assets, real estate, or vehicles and repair or maintenance of privately-owned property;

(ii) Political activities;

(iii) Routine administrative activities not allowable under OMB Cost Principles found in part 3015, subpart T, of this title and OMB Circular No. A–87; and

(iv) Services provided by a State program that are not consistent with the statutory purposes of the certified mediation program, including advocacy services on behalf of a mediation participant, such as representation before an administrative appeals entity of USDA or other Federal Government department.

(h) *Reporting requirements.* (1) Qualifying States receiving grants must provide to the FSA Administrator by October 31 following the fiscal year of the grant, an annual report on:

(i) The performance and effectiveness of the State's certified mediation program;

(ii) Recommendations for improving the delivery of mediation services to producers;

(iii) The savings to the State as a result of having a certified mediation program; and

(iv) Such other matters relating to the program as the State elects to report, or as FSA may require.

(2) In addition to the auditing requirements of part 3015, subpart I and § 3016.26 of this title, the qualifying State receiving a grant must submit an audit report to the FSA Administrator in accordance with OMB Circular A–128.

(i) *Access to records.* Notwithstanding the confidentiality of mediation sessions, the State must provide the Government access to its records in accordance with § 3015.24 of this title. State mediators will notify all participants in writing at the beginning of the mediation session that USDA, the Comptroller General of the United States, the FSA Administrator, or any of their representatives will have access to mediation records to conduct an audit or evaluation of mediation services funded in whole or in part by USDA. The notice will be signed and dated by all participants and placed in the mediation file.

§ 785.5 Penalty for non-compliance.

(a) The Administrator is authorized to withdraw certification of the program, terminate or suspend the grant, and impose any other penalties or sanctions authorized by law if the Administrator determines that:

(1) A State's certified mediation program, at any time, does not meet the requirements contained in § 785.3 for certification;

(2) Grant funds are not being used as required;

(3) The certified program is not being operated in accordance with the statutory purpose of the grant program,

the regulations, the grant agreement and the representations and information provided by the State; or

(4) The certified program fails to grant access to mediation records in accordance with § 785.4.

(b) In the event that any penalty or withdrawal of certification for non-compliance is enforced, USDA agencies will cease to participate in mediation conducted by the State certified mediation program.

§ 785.6 Nondiscrimination.

The provisions of parts 15, 15b and 1901, subpart E, of this title and part 90 of title 45 apply to activities financed by grants made under this part.

§ 785.7 OMB Control Number.

The information collection requirements in this regulation have been approved by the Office of Management and Budget and assigned OMB control number 0560–0165.

PART 1946—[REMOVED AND RESERVED]

2. Part 1946 is removed and reserved.

Signed at Washington, DC, on October 29, 1999.

August Schumacher, Jr.,

Under Secretary for Farm and Foreign Agricultural Services.

[FR Doc. 99–29212 Filed 11–8–99; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–192–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Bombardier Model CL–600–2B19 (Regional Jet Series 100 and 200) series airplanes, that currently requires repetitive inspections to detect cracks of a certain bulkhead web of the fuselage at certain locations, and repair, if necessary. This action would revise the repetitive inspection intervals for certain airplanes, and would require modification or repair, as applicable. This proposal is prompted by the development of a modification that will adequately address the identified unsafe condition. The actions specified by the proposed AD are intended to detect and correct fatigue cracking, which could result in uncontrolled depressurization of the airplane and/or reduced structural integrity of the fuselage.

DATES: Comments must be received by December 9, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–192–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 Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: George Duckett, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7525; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this 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–192–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–192–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On July 11, 1997, the FAA issued AD 97–14–11, amendment 39–10082 (62 FR 38206, July 17, 1997), applicable to certain Bombardier Model CL–600–2B19 (Regional Jet Series 100 and 200) series airplanes, to require repetitive inspections to detect cracks of a certain bulkhead web of the fuselage at certain locations, and repair, if necessary. That action was prompted by a report of a pressurization problem during flight, which was caused by fatigue cracking in the underfloor pressure bulkhead of the fuselage. The requirements of that AD are intended to detect and correct such fatigue cracking, which could result in uncontrolled depressurization of the airplane and/or reduced structural integrity of the fuselage.

Actions Since Issuance of Previous Rule

In the preamble of AD 97–14–11, the FAA indicated that the actions required by that AD were considered ''interim action'' and that further rulemaking action was being considered to require modification of the affected fuselage frames once new service information was available. The manufacturer has now released such information, and the FAA has determined that further rulemaking is indeed necessary; this proposed AD follows from that determination.

Issuance of New Service Information

The manufacturer has issued Canadair Regional Jet Alert Service Bulletin A601R–53–045, Revision 'D,' including Appendix 1, dated December 22, 1997, which describes procedures for repetitive detailed inspections to detect cracks of a certain bulkhead web of the fuselage at certain locations; and follow-on corrective actions, if necessary. The

inspections also involve determining whether a crack located at the pressure bulkhead of frame station (FS)409+128 is within certain limits specified in the alert service bulletin.

In the event that a crack is determined to be outside the limits specified in Part A of the Accomplishment Instructions of the alert service bulletin, the follow-on corrective actions would include a high frequency eddy current (HFEC) inspection of the forward side of the web, to detect cracks of fuselage FS409+128 bulkhead web along the upper edge of the horizontal angle. As listed in Part A of paragraph 2.B. of the Accomplishment Instructions, airplanes may be returned to service provided that any cracking detected is within certain limits specified in the alert service bulletin.

The manufacturer also has issued Canadair Regional Jet Service Bulletin 601R–53–046, Revision 'B,' dated December 22, 1997, which describes procedures for repair of the pressure bulkhead at FS409+128.

The manufacturer also has issued Canadair Regional Jet Service Bulletin 601R–53–047, Revision 'D,' including Appendix 1 and Appendix 2, dated December 22, 1997, describes procedures for modification of the affected areas of the pressure bulkhead at FS409+128. This modification is only applicable to those airplanes that have been inspected and are found to be free of cracks. The modification involves the installation of reinforcement components for the pressure bulkhead at FS409+128.

Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition. Transport Canada Civil Aviation (TCCA) classified Canadair Regional Jet Service Bulletins A601R–53–045 and 601R–53–046 as mandatory, but did not classify Service Bulletin 601R–53–047 as mandatory, and issued Canadian airworthiness directive CF–97–11R2, dated December 22, 1997, in order to assure the continued airworthiness of these airplanes in Canada.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 97–14–11 to continue to require repetitive inspections to detect cracks of a certain bulkhead web of the fuselage at certain locations. This proposed AD would revise the repetitive inspection intervals for certain airplanes, and would require modification or repair, as applicable. Accomplishment of the modification or repair would terminate the requirements of this proposed AD. Certain actions would be required to be accomplished in accordance with the service bulletins described previously.

Operators should note that, while it is not the FAA's normal policy to allow flight with known cracks, this AD does permit further flight with cracking within certain limits. The results of a review, conducted by the manufacturer, revealed that cracking in the underfloor pressure bulkhead of the fuselage will not result in rapid decompression of the airplane. Therefore, according to the review, if the crack size limits are strictly observed and if repetitive inspections are performed at the required intervals, cracks that grow beyond the limits will be detected, and corrective action taken, before they can grow to a size that would create an unacceptable risk of structural failure. Transport Canada Civil Aviation concurs with the findings of this review. In consideration of these findings and based on the FAA's criteria for flight with known cracking, the FAA has determined that further flight with cracking within certain limits in the center pressure bulkhead is permissible for an interim period.

Differences Between Proposed Rule and Service Bulletin

Operators should note that the Canadair Regional Jet Alert Service Bulletin A601R–53–045, Revision 'D,' including Appendix 1, dated December 22, 1997, recommends that the initial inspection be performed no later than 10 flight hours after the alert service bulletin date of issuance. This proposed AD would increase the initial inspection threshold to require the initial inspection be performed within 20 flight hours after the effective date of this AD. In developing an appropriate initial inspection compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but also the degree of urgency associated with addressing the subject unsafe condition. In light of these factors, the FAA finds a compliance time of 20 flight hours for initiating the required actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Operators also should note that, although the Canadair Regional Jet Service Bulletins A601R–53–045, Revision 'D,' and 601R–53–046, Revision 'B,' specify that the manufacturer may be contacted for disposition of certain cracking conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA.

Differences Between Proposed Rule and Foreign Airworthiness Directive

The proposed AD would differ from the parallel Canadian airworthiness directive in that it would require accomplishment of the modification described in Canadair Regional Jet Service Bulletin 601R–53–047, Revision 'D,' within 9 months after the effective date of this AD. The parallel Canadian airworthiness directive recommends, but does not require, the accomplishment of the modification. Additionally, in the event that cracking within certain limits is found, this proposed AD would require a repair to be accomplished within 6 months after the effective date of this AD, or within 3 months after the initial date the crack was detected, whichever occurs later. The Canadian airworthiness directive specifies that the airplane may be returned to service provided that re-inspections are accomplished at certain flight hour intervals. The FAA has determined that, in this case long-term continued operational safety will be adequately assured by accomplishing the modification or repair to remove the source of the problem, rather than by accomplishing repetitive inspections at certain flight hour intervals.

Explanation of Applicability

The applicability of this proposed AD would affect Bombardier Model CL–600–2B19 (Regional Jet Series 100) series airplanes, whereas the previously issued AD 97–14–11 addressed Bombardier Model CL–600–2B19 (Regional Jet Series 100 and 200) series airplanes. The FAA inadvertently referenced Bombardier Model CL–600–2B19 (Regional Jet Series 200) series

airplanes in the previously issued AD. This airplane series is not type certificated in the U.S.

Additionally, the applicability of this proposed AD excludes any airplane on which Canadair Regional Jet Service Bulletins 601R–53–046, Revision 'B,' dated December 22, 1997, and 601R–53–047, Revision 'D,' including Appendix 1 and Appendix 2, dated December 22, 1997, has been accomplished.

Cost Impact

There are approximately 77 airplanes of U.S. registry that would be affected by this proposed AD.

The inspection that is currently required by AD 97–14–11 takes approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required inspection on U.S. operators is estimated to be $9,960, or $120 per airplane, per inspection cycle.

The repair that is proposed in this AD action would take approximately 300 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $1,828. Based on these figures, the cost impact of the repair on U.S. operators is estimated to be $19,828 per airplane.

The modification that is proposed in this AD action would take approximately 212 hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $935. Based on these figures, the cost impact of the modification on U.S. operators is estimated to be $13,655 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. However, the FAA has been advised that the manufacturer has committed previously to its customers that it will bear the labor costs associated with the repair and modification associated with accomplishing the actions required by this AD. Additionally, the manufacturer has indicated the warranty remedies may be available to defer the cost of the replacement parts also associated with accomplishing the actions required by this proposed AD.

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 removing amendment 39–10082 (62 FR 38206, July 17, 1997), and by adding a new airworthiness directive (AD), to read as follows:

Bombardier, Inc. *(Formerly Canadair):* Docket 98–NM–192–AD. Supersedes AD 97–14–11, Amendment 39–10082.

Applicability: Model CL–600–2B19 (Regional Jet Series 100) series airplanes, serial numbers 7003 through 7185 inclusive; except those airplanes on which Canadair Regional Jet Service Bulletin 601R–53–046, Revision 'B,' dated December 22, 1997, or 601R–53–047, Revision 'D,' including Appendix 1 and Appendix 2, dated December 22, 1997, has been accomplished; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d)(1) 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 detect and correct fatigue cracking in the underfloor pressure bulkhead of the fuselage, which could result in uncontrolled depressurization of the airplane and/or reduced structural integrity of the fuselage, accomplish the following:

Detailed Visual Inspections

(a) Perform a detailed visual inspection to detect cracks at FS409+128 of the bulkhead web drawing number 601R32208–123 of the fuselage, in accordance with Canadair Regional Jet Alert Service Bulletin A601R–53–045, Revision 'D,' including Appendix 1 and Appendix 2, dated December 22, 1997, at the time specified in paragraph (a)(1) or (a)(2) of this AD, as applicable, until accomplishment of paragraph (b) or (c) of this AD, as applicable.

(1) For airplanes that have accomplished a detailed visual inspection in accordance with AD 97–14–11 prior to the effective date of this AD: Perform a subsequent detailed visual inspection prior to the accumulation of 1,000 total flight hours, or within 100 flight hours after the immediately preceding inspection accomplished in accordance with AD 97–14–11, whichever occurs later. Thereafter, repeat the inspection at intervals not to exceed 100 flight hours.

(2) For airplanes that have not accomplished a detailed visual inspection in accordance with AD 97–14–11 prior to the effective date of this AD: Perform a detailed visual inspection within 20 flight hours after the effective date of this AD. Perform a subsequent detailed visual inspection prior to the accumulation of 1,000 total flight hours, or within 100 flight hours after accomplishment of the immediately preceding inspection, whichever occurs later. Thereafter, repeat the inspection at intervals not to exceed 100 flight hours.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc. may be used. Surface cleaning and elaborate access procedures may be required.''

Note 3: Accomplishment of the inspection required by paragraph (a) of this AD, prior to the effective date of this AD in accordance with Canadair Regional Jet Alert Service Bulletin A601R–53–045, dated June 25, 1997; Revision 'A,' including Appendix 1, dated June 26, 1997; Revision 'B,' including Appendix 1, dated June 27, 1997; or Revision

'C,' including Appendix 1, dated July 2, 1997; is considered acceptable for compliance with the applicable action specified by this AD.

Modification

(b) For any airplane on which no cracking has been detected during any inspection required by paragraph (a) of this AD: Within 9 months after the effective date of this AD, modify FS409+128 of the bulkhead web drawing number 601R32208–123 of the fuselage in accordance with Canadair Regional Jet Service Bulletin 601R–53–047, including Appendix 1, Revision 'D,' dated December 22, 1997. Accomplishment of this modification terminates the requirements of this AD.

Note 4: Any modification accomplished prior to the effective date of this AD in accordance with Canadair Regional Jet Service Bulletin 601R–53–047, including Appendix 1 and Appendix 2, dated July 18, 1997; Revision 'A,' including Appendix 1, dated July 31, 1997; Revision 'B,' including Appendix 1, dated August 22, 1997; or Revision 'C,' including Appendix 1, dated October 7, 1997; is considered acceptable for compliance with the applicable actions required by this AD.

Repair

(c) For any airplane on which any cracking is detected during any inspection required by paragraph (a) of this AD: Prior to further flight, determine the extent of the cracking as specified in Part A of paragraph 2.B. of the Accomplishment Instructions of Canadair Regional Jet Alert Service Bulletin A601R–53–045, Revision 'D,' including Appendix 1, dated December 22, 1997, and accomplish the requirements of paragraph (c)(1) or (c)(2), as applicable.

(1) If the cracking is within the limits specified by Part A of paragraph 2.B. of the Accomplishment Instructions of the alert service bulletin, accomplish the requirements of paragraphs (c)(1)(i) and (c)(1)(ii) of this AD at the time specified in those paragraphs.

(i) Repeat the detailed visual inspection required by paragraph (a) of this AD thereafter at intervals not to exceed 100 flight hours; and

(ii) Within 6 months after the effective date of this AD, or within 3 months after the initial date the crack was detected, whichever occurs later: Repair the affected area in accordance with Canadair Regional Jet Service Bulletin 601R–53–046, Revision 'B,' dated December 22, 1997. Accomplishment of this repair terminates the requirements of this AD.

Note 5: Any repair accomplished prior to the effective date of this AD in accordance with Canadair Regional Jet Service Bulletin 601R–53–046, dated June 27, 1997, or Revision 'A,' dated July 2, 1997, is considered acceptable for compliance with the applicable actions specified by this AD.

(2) If the cracking is outside the limits specified by Part A of the Accomplishment Instructions of the alert service bulletin, prior to further flight, perform a high frequency eddy current (HFEC) inspection to detect cracks of the forward side of the web of fuselage FS409+128 bulkhead web drawing number 601R32208–123, along the upper edge of the horizontal angle part number 601R32208–73, in accordance with Part B of paragraph 2.B. of the Accomplishment Instructions of the alert service bulletin.

(i) If, during any HFEC inspection required by paragraph (c)(2) of this AD, any cracking is detected that is within the limits specified by Part B of paragraph 2.B. of the Accomplishment Instructions of the alert service bulletin, accomplish the requirements of paragraphs (c)(2)(i)(A) and (c)(2)(i)(B) of this AD at the times specified in those paragraphs.

(A) Repeat the HFEC inspection required by paragraph (c)(2) of this AD thereafter at intervals not to exceed 50 flight hours, and repeat the detailed visual inspection required by paragraph (a) of this AD thereafter at interval not to exceed 100 flight hours; and

(B) Within 6 months after the effective date of this AD, or within 3 months after the initial date the crack was detected, whichever occurs later: Repair the affected area in accordance with Canadair Regional Jet Service Bulletin 601R–53–046, Revision 'B,' dated December 22, 1997. Accomplishment of this repair terminates the requirements of this AD.

(ii) If, during any HFEC inspection required by paragraph (c)(2) of this AD, any cracking is detected that is outside the limits specified by Part B of paragraph 2.B. of the Accomplishment Instructions of the alert service bulletin, prior to further flight, determine the extent of the cracking as specified in paragraph 1.D. (''Compliance'') of Canadair Regional Jet Service Bulletin 601R–53–046, Revision 'B,' dated December 22, 1997, and accomplish the requirements of paragraph (c)(2)(ii)(A) or (c)(2)(ii)(B) of this AD, as applicable.

(A) If the cracking is within the limits specified by paragraph 1.D. (''Compliance'') of the service bulletin, prior to further flight, repair in accordance with the service bulletin. Accomplishment of this repair terminates the requirements of this AD.

(B) If the cracking is outside the limits specified by paragraph 1.D. (''Compliance'') of the service bulletin, prior to further flight, repair in accordance with a method approved by the Manager, New York Aircraft Certification Office (ACO).

Alternative Methods of Compliance

(d)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

(d)(2) Alternative methods of compliance, approved previously in accordance with AD 97–14–11, amendment 39–10082, are approved as alternative methods of compliance for this AD.

Note 6: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

Special Flight Permits

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

Note 7: The subject of this AD is addressed in Canadian airworthiness directive CF–97–11R2, dated December 22, 1997.

Issued in Renton, Washington, on November 2, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–29177 Filed 11–8–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–31–AD]

RIN 2120–AA64

Airworthiness Directives; Air Cruisers Company Emergency Evacuation Slide/Rafts

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Air Cruisers Company emergency evacuation slide/rafts. This proposal would require a one-time repacking of affected slide/rafts identified by serial numbers, and repetitive folding of all affected slide/rafts whenever the slide/rafts are removed from the airplane during scheduled aircraft maintenance. This proposal is prompted by reports of separation of the lower aspirator during a number of deployments. The actions specified by the proposed AD are intended to prevent failure of the slide to properly inflate, which could result in the inability to evacuate the passenger cabin in the event of an aircraft emergency.

DATES: Comments must be received by January 10, 2000.

ADDRESSES: Submit comments to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–31–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 Air Cruisers Company, Technical Publications Department, PO Box 180, Belmar, NJ 07719–0180; telephone (732) 681–3527, fax (732) 280–8212. 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: Ezra Sasson, Aerospace Engineer, New York Aircraft Certification Office, FAA, Engine and Propeller Directorate, 10 Fifth Street, 3rd floor, Valley Stream, NY 11581–1200; telephone (516) 256-7520, fax (516) 568–2716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications 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–31–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–31–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The Federal Aviation Administration (FAA) has received reports of separation of the lower aspirator during a number of deployments of Air Cruisers Company emergency evacuation slide/rafts, part numbers (P/Ns) 62774–401, 62774–402, 62774–403, 62774–404, 62774–405, 62774–406, 62774–407 and 62774–408. The investigation revealed that the lower aspirator is not being placed and set correctly within the pack during manufacture. No incidents have been reported from the field. However, 8 incidents occurred at Air Cruisers Company and at Boeing during quality control functionality inspections. This condition, if not corrected, could result in failure of the slide/raft to properly inflate, which could result in the inability to evacuate the passenger cabin in the event of an aircraft emergency.

Service Information

The FAA has reviewed and approved the technical contents of Air Cruisers Company Service Bulletin (SB) 777-107–25–06, dated February 19, 1999, that identifies improperly packed slide/rafts by serial number (S/N), and describes procedures for repacking of affected slide/rafts; and slide/raft folding procedure P–12054 and P–12064, Revision E, dated October 14, 1998.

Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other slide/rafts of this same design, the proposed AD would require one-time repacking of affected slide/rafts identified by S/N within 2 months (after the effective date of this AD, and for uninstalled slide/rafts, prior to installation. The compliance time is based upon risk analysis. In addition, this AD would require folding of slide/rafts that are removed for scheduled maintenance within 18 months after the effective date of this AD, and repetitive folding whenever the slide/rafts are removed from the airplane during scheduled aircraft maintenance, in accordance with the latest FAA-approved folding procedure. The actions would be required to be accomplished in accordance with the service documents described previously.

Economic Analysis

There are approximately 314 slide/rafts of the affected design in the worldwide fleet. The FAA estimates that 74 slide/rafts installed on airplanes of US registry would be affected by this proposed AD, that it would take approximately 10 work hours per slide/raft to accomplish the repacking, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on US operators is estimated to be $44,400.

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:

Air Cruisers Company: Docket No. 99–NE–31–AD.

Applicability: Air Cruisers Company emergency evacuation slide/rafts, part

numbers (P/Ns) 62774–62774–401, 62774–402, 62774–403, 62774–404, 62774–405, 62774–406, 62774–407 and 62774–408, installed on but not limited to Boeing 777–200 and –300 series airplanes.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the slide to properly inflate, which could result in the inability to evacuate the passenger cabin in the event of an aircraft emergency, accomplish the following:

Repacking

(a) For slide/rafts listed by serial number (S/N) in Air Cruisers Company Service Bulletin (SB) 777–107–25–06, dated February 19, 1999, accomplish the following:

(1) For slide/rafts currently installed on aircraft, repack within 2 months after the effective date of this AD, in accordance with the procedures described in Air Cruisers Company SB 777–107–25–06, dated February 19, 1999.

(2) For uninstalled slide/rafts, prior to installation repack in accordance with the procedures described in Air Cruisers Company SB 777–107–25–06, dated February 19, 1999.

Folding

(b) Fold slides whenever the slide/rafts are removed from the airplane during scheduled aircraft maintenance, in accordance with Air Cruisers Company folding procedure P-12054 and P–12064, Revision E, dated October 14, 1998.

Alternative Methods of Compliance

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

Ferry Flights

(d) 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.

Issued in Burlington, Massachusetts, on November 3, 1999.

Mark C. Fulmer,

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

[FR Doc. 99–29332 Filed 11–8–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–259–AD]

RIN 2120–AA64

Airworthiness Directives; Aerospatiale Model ATR–42 and ATR–72 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM); rescission.

SUMMARY: This document proposes to rescind an existing airworthiness directive (AD), applicable to all Aerospatiale Model ATR–42 and ATR–72 series airplanes, that currently requires revising the Airplane Flight Manual (AFM) to add specific flightcrew instructions to be followed in the event of failure of the first generator, which could lead to the loss of main battery power and result in the loss of all electrical power, except the emergency battery supply, during flight. Since the issuance of that AD, the FAA has received further information indicating that the incident that prompted that AD was an isolated case.

DATES: Comments must be received by December 9, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–259–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

Information pertaining to this proposed rule 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–259–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–259–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On April 20, 1998, the FAA issued AD 98–09–16, amendment 39–10497 (63 FR 20064, April 23, 1998), applicable to all Aerospatiale Model ATR–42 and ATR–72 series airplanes, to require revising the Airplane Flight Manual (AFM) to add specific flightcrew instructions to be followed in the event of failure of one or both of the direct current (DC) generators. That action was prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified in that AD are intended to prevent failure of the second of two DC generators after the failure of the first generator. Such

failures, if not corrected, could lead to the loss of main battery power and result in the loss of all electrical power, except the emergency battery supply, during flight.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, the Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, has advised the FAA that the unsafe condition identified in French airworthiness directives AD T98–148–076(B) and AD T98–149–038(B), both dated March 20, 1998, was an isolated case. The DGAC advised that further investigation, a design review of the DC electrical system, and bench testing results indicate that the reset of the first failed generator did not contribute to the loss of the second generator. The DGAC concludes that there is no reason to prohibit reset of a failed generator, and concludes that the incident that prompted need for mandatory action was an isolated case. Consequently, the DGAC has issued French airworthiness directives 98–148–076(B) R1 and 98–149–038(B) R1, both dated July 15, 1998, which provide cancellation notice of the French airworthiness directives that required the AFM revision.

FAA's Conclusions

Since receipt and review of the DGAC information, the FAA has determined that it is unnecessary to require the AFM revisions required by AD 98–09–16.

This proposed action would rescind AD 98–09–16. Rescission of AD 98–09–16 would constitute only such action, and, if this proposal is followed by a final action, it would not preclude the agency from issuing another notice in the future, nor would it commit the agency to any course of action in the future.

Cost Impact

The FAA estimates that 145 airplanes of U.S. registry are affected by AD 98–09–16. The actions that are currently required by that AD take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $8,700, or $60 per airplane. However, the adoption of this proposed rescission would eliminate those costs.

Removal of the AFM revision required by AD 98–09–16 would take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of removal of the AFM revision is estimated to be $8,700, or $60 per airplane.

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 removing amendment 39–10497.

AEROSPATIALE: Docket 98–NM–259–AD. Rescinds AD 98–09–16, Amendment 39–10497.

Applicability: All Model ATR–42 and ATR–72 series airplanes; certificated in any category.

Issued in Renton, Washington, on November 3, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–29331 Filed 11–8–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 600, 606, 607, 610, 630, 640, and 660

[Docket Nos. 98N–0581, 98N–0607, and 98N–0815]

Blood Safety Initiative: Extension of Comment Period on Proposed Rules and Announcement of Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; announcement of public meeting.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public meeting and is extending to December 22, 1999, the comment period on two proposed rules entitled ''Requirements for Testing Human Blood Donors for Evidence of Infection Due to Communicable Disease Agents,'' and ''General Requirements for Blood, Blood Components, and Blood Derivatives; Notification of Deferred Donors.'' FDA is also extending to December 22, 1999, the comment period on the advance notice of proposed rulemaking (ANPRM) entitled ''Plasma Derivatives and other Blood-Derived Products; Requirements for Tracking and Notification.'' The purpose of the meeting is to provide a public forum for gathering information and views regarding the proposed rules and the ANPRM. The comment periods are being extended to provide time for the submission of comments that may result from the issues discussed at the public meeting.

DATES: The public meeting will be held on Monday, November 22, 1999, from 8:30 a.m. to 12 noon. Submit written comments for ''Requirements for Testing Human Blood Donors for Evidence of Infection Due to Communicable Disease Agents,'' ''General Requirements for Blood, Blood Components, and Blood Derivatives; Notification of Deferred Donors,'' and ''Plasma Derivatives and other Blood-Derived Products; Requirements for Tracking and Notification'' by December 22, 1999.

ADDRESSES: The public meeting will be held at the National Institutes of Health

(NIH), NIH Clinical Center, Bldg. 10, Jack Masur Auditorium, 9000 Rockville Pike, Bethesda, MD.

Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the appropriate docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT:

For registration and meeting information: Kathy Eberhart, Center for Biologics Evaluation and Research (HFM–49), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–1317, FAX 301–827–3079, e-mail: eberhart@cber.fda.gov.

For information about this document: Nathaniel L. Geary, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of August 19, 1999 (64 FR 45340 and 45355), FDA published two proposed rules that were intended to help protect the safety and ensure the quality of the nation's blood supply and to promote consistency in the industry. The document entitled ''Requirements for Testing Human Blood Donors for Evidence of Infection Due to Communicable Disease Agents'' (64 FR 45340) [Docket No. 98N–0581] proposed to revise the general biological product standards by updating the hepatitis B virus (HBV) and human immunodeficiency virus (HIV) testing requirements, by adding testing requirements for hepatitis C virus (HCV), human T-lymphotropic virus (HTLV), and by adding requirements for licensed supplemental (i.e., additional, more specific) testing when a donation is found to be repeatedly reactive for any of the required screening tests for evidence of infection due to communicable disease agents.

The document entitled ''General Requirements for Blood, Blood Components, and Blood Derivatives; Notification of Deferred Donors'' (64 FR 45355) [Docket No. 98N–0607] proposed to require blood and plasma establishments to notify donors of their deferral due to test results for communicable disease agents or failure to satisfy suitability requirements with the intent of reducing the risk of transmission of communicable disease through the use of blood, blood components, and blood derivatives. Blood and plasma establishments would notify donors that they have been deferred and the reason for the deferral; provide information concerning appropriate medical follow up and counseling; describe the types of donations the donors should not make in the future; and discuss the possibility that the donor may be found suitable in the future, where appropriate. FDA provided until November 17, 1999, to submit comments on these proposed rules.

The ANPRM entitled ''Plasma Derivatives and other Blood-Derived Products; Requirements for Tracking and Notification'' (64 FR 45383, August 19, 1999) [Docket No. 98N–0815] announced FDA's intention to propose regulations to require certain blood-derived products, including certain plasma derivatives, be tracked from a U.S. licensed manufacturer, through the distribution network, to any patient having custody of the product. FDA also announced its intention to propose to require notification of consignees and patients having custody of a blood-derived product or an analogous recombinant product in the event the product is associated with a potential increased risk of transmitting a communicable disease, as determined by FDA or by a U.S. licensed manufacturer. FDA provided until November 17, 1999, to submit comments on the ANPRM.

II. Comments

Interested persons may submit written comments on these proposed rules and the ANPRM to the Dockets Management Branch (address above) by the date listed above. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the appropriate docket number found in brackets in the heading of this document. If time permits, comments may be taken from the floor. FDA is requesting that those persons making oral presentations at the public meeting also submit their statements in writing by December 22, 1999, as described above, to ensure their adequate consideration. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

III. Registration and Requests for Oral Presentations

Mail or fax registration information (including name, title, firm name, address, telephone, and fax number), and written material and requests to make oral presentations, to Kathy Eberhart (address above) by Monday, November 15, 1999. If you do not intend to make a presentation, registration is not required. However, all interested persons are encouraged to pre-register.

If you need special accommodations due to a disability, please contact Kathy Eberhart at least 7 days in advance.

IV. Transcripts

Transcripts of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A-16, Rockville, MD 20857, approximately 15 working days after the meeting at a cost of 10 cents per page. The transcript will also be available on CBER's website at http://www.fda.gov/cber/minutes/workshop-min.htm.

Dated: November 2, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 99–29224 Filed 11–8–99; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MI23–01–6258; FRL–6472–6]

Approval and Promulgation of State Implementation Plans; Michigan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) is proposing to disapprove revisions to the State of Michigan's New Source Review (NSR) State Implementation Plan (SIP). The Michigan Department of Environmental Quality (MDEQ) submitted these revisions on November 11, 1993; May 16, 1996; April 3, 1998; and August 20, 1998. MDEQ submitted some of these revisions to meet the requirements of the Clean Air Act (CAA) amendments of 1990. Because these revisions are required under the CAA, a final disapproval would constitute a disapproval under section 179(a)(2) of the CAA. Pursuant to section 179(a) of the CAA, the State of Michigan has up to 18 months after a final disapproval to correct the deficiencies that are the subject of the disapproval before USEPA must impose sanctions.

DATES: Comments on this proposed rule must be received before December 9, 1999.

ADDRESSES: Send written comments to: Robert Miller, Chief, Permits and Grants Section (MI/MN/WI), Air Programs Branch (AR–18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the proposed SIP revision and the USEPA's analysis are available for inspection at the following location: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Eaton Weiler at (312) 886–6041 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Eaton Weiler or Laura Hartman, Environmental Engineers, Permits and Grants Section (AR–18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6041 or (312) 353–5703.

SUPPLEMENTARY INFORMATION:

I. Background

A. Introduction

The CAA mandates that states develop NSR programs for the construction and modification of stationary sources of air pollutants. See CAA sections 110(a)(2)(C), 165, 172, and 173. NSR programs are necessary under the CAA to help attain and maintain the National Ambient Air Quality Standards as well as to prevent significant degradation of air quality. NSR programs help achieve this goal by requiring owners and operators of new and modified sources of air pollutants to apply appropriate emissions control technology to sources at the time of construction. Furthermore, these programs achieve this goal by allowing the public an opportunity to review and comment on the effects of emissions on air quality from new and modified sources of air pollution prior to construction.

The CAA mandates that states develop NSR programs and submit them to the USEPA for approval into the SIP. The requirements for an approvable NSR program are laid out in the CAA and 40 Code of Federal Regulations (CFR) sections 51.160 to 51.166.

B. Current NSR SIP Submittals

The USEPA has not approved any revisions to the State's NSR SIP since January 27, 1982 (47 FR 3764). Since 1982, Michigan has submitted six rules packages to the USEPA for approval into the SIP. Michigan submitted three packages in 1993, one in 1996, and two in 1998. Each of the rules packages is identified in the table below by the date the rules package went into effect in the State (State Effective Date), and the date the State submitted the rules package to the USEPA (Submittal Date). Bold indicates the latest revision to the particular rule that is before USEPA for review.

Rules package (RP)	State effective date	Submittal date	Rules submitted 336.1xxx
1	4/20/89	11/12/93	107, 121, 240, 241.
2	4/17/92	11/12/93	102, 106, 109, 112, 115, 118, 120, 123, 201, 283.
3	11/18/93	11/12/93	101, 103, 104, 105, 113, 114, 116, 119, 220, 278, 279, 280, 281, 282, 284, 285, 286, 287, 288, 289, 290.
4	7/26/95	5/16/96	101, 103, 113, 116, 118, 119, 123, 201, 205, 208(RES), 209, 219, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290.
5	12/12/96	4/3/98	116(g), 116(m), 118(g), 119(b), 119(q), 201a, 205.
6	6/13/97	8/20/98	118, 122, 278, 283, 284, 285, 286, 287, 290.

C. USEPA Requirements for Disapproval

Under section 110(k)(3) of the CAA, the USEPA may fully approve or disapprove a state submittal. Where portions of the state submittal are separable, the USEPA may approve portions of the submittal that meet the requirements of the CAA, and disapprove the portions of the submittal that do not meet the requirements of the CAA. See 57 FR 13566 (April 16, 1992). However, in this context, separable means that the USEPA may not partially disapprove a portion of a SIP submittal if the effect of the disapproval would make the approved portion of the SIP submittal more stringent than the state intended. In this proposed action, any partial disapproval of Michigan's NSR SIP submittal would make the State's entire NSR SIP program more stringent than the State intended. Therefore, the elements of the Michigan NSR program discussed below that do not meet the requirements of the CAA make the entire SIP submittal disapprovable.

II. Evaluation of State Submittals

Following below is a discussion of the portions of the State's NSR SIP submittals that USEPA is proposing as not meeting the requirements of the CAA. For each section, the requirements of the CAA and its implementing regulations are outlined followed by an analysis of why the State's submittal does not meet the requirements of the CAA.

A. Public Participation

The provisions of 40 CFR 51.161 require the State to implement specific public participation procedures. These procedures require the State to notify, inform, and invite comment from the public on all new and modified sources of air pollution subject to the NSR program. However, as discussed in a proposal to amend the federal operating permit program, 60 FR 45530, 45549 (August 31, 1995), USEPA believes that a state may exempt from public review certain categories of changes based upon de minimis or administrative necessity grounds, in accordance with the criteria set out in *Alabama Power Co.* v. *Costle*, 636 F.2d 323 (D.C. Cir. 1979).

Michigan rule 336.1205(3) requires public participation only for NSR sources that are major or major modifications, or limit their potential to emit to greater than 90 percent of the major or major modification thresholds. Under this provision, a source could have actual emissions of over 200 tons per year and not be subject to any public participation procedures. While this limitation may be acceptable if adequately justified, Michigan has not explained how the 90 percent threshold meets the de minimis criteria. Because Michigan has not provided an adequate explanation of why construction or modification of sources resulting in emissions of less than 90 percent of the new source review thresholds should not require public participation under the NSR program, the USEPA is proposing disapproval of Michigan Rule 336.1205(3).

Furthermore, Michigan rule 336.1205(3) incorrectly cites section 5h(3) instead of 5511(3) of the Michigan Act 451, part 55. Although the State

corrected this citation error in a State rulemaking effective July 2, 1998, it has not yet submitted the correction to USEPA for approval into the SIP.

B. Voiding of NSR Permits (Supersession)

As recently communicated in a letter from John S. Seitz to STAPPA/ALAPCO dated May 20, 1999, it is the USEPA's position that NSR permits may not be voided, superseded, or otherwise replaced by permits issued pursuant to Title V of the CAA Amendments of 1990. All terms and conditions of NSR permits must be independently enforceable under Title I of the CAA Amendments of 1990. While Title V permits must incorporate and record permit terms and conditions from NSR permits, Title V may not eliminate their independent enforceability and existence.

Michigan rule 336.1201(6) automatically voids the NSR permit when the ''appropriate'' terms and conditions are incorporated into a Title V permit. Therefore, USEPA is proposing to disapprove this rule.

C. Construction Before Permit Issuance

Pursuant to CAA sections 110(a)(2)(C), 165, 172, 173, and their implementing regulations, the State is required to develop a NSR program, under which a source shall not begin actual construction of a major source or major modification to a major source unless the source has obtained a NSR permit. Furthermore, pursuant to 40 CFR 51.165(a)(1) the State must adopt the federal definition of ''begin actual construction,'' or a definition that is demonstrably more stringent. The federal definition includes any construction of a permanent nature, such as foundations, pipework, building supports, and permanent storage structures. 40 CFR 51.165(a)(1)(xv). Michigan has not adopted and submitted for USEPA approval a definition of ''begin actual construction'' which is identical to or more stringent than the federal definition. Additionally, Michigan rule 336.1201(2) allows sources to begin phases of construction, including foundations and associated structures, before issuance of a NSR permit so long as it is not prohibited by the CAA. As stated above, the CAA prohibits construction of a major source or major modification to a major source before NSR permit issuance. Moreover, the CAA and its implementing regulations require the State to adopt provisions prohibiting construction before permit issuance. Michigan rule 336.1201(2) contradicts itself, and is contrary to the requirements of the CAA and its implementing regulations. Therefore, USEPA is proposing to disapprove Michigan rule 336.1201(2).

Michigan rule 336.1202 allows the MDEQ to waive the requirement for any source to obtain an NSR permit before beginning construction. As stated above, the CAA and its implementing regulations prohibit construction of major sources or major modifications to major sources without a preconstruction permit. Further, section 110(a)(2) of the CAA requires states to regulate the construction and modification of any stationary source as necessary to assure that the national ambient air quality standards are achieved. Similarly, 40 CFR 51.160(b) provides that a state must prevent the construction or modification of a source if it will result in a violation of applicable portions of the control strategy or interfere with the attainment or maintenance of a national ambient air quality standard. Therefore, Michigan may provide for a waiver from the preconstruction requirements of the CAA for minor sources if the waiver provisions include procedures to ensure that the source receiving the waiver is a ''true minor,'' that is, a source whose potential to emit is below the threshold for a major source or the potential to emit of the modification is below the major modification threshold without consideration of any limitations on emissions, and the state can verify that the construction or modification of the source will neither interfere with attainment or maintenance of the national ambient air quality standard nor result in a violation of applicable portions of the control strategy.

USEPA, in the past, mistakenly had approved a prior version of Michigan rules 336.1201(2) and 336.1202 into the SIP. Because the currently approved SIP rules do not comply with the requirements of the CAA, the USEPA is planning to issue a SIP call pursuant to section 110(k)(5) of the CAA. Section 110(k)(5) of the CAA allows the USEPA to require a revision to the SIP upon a finding that the currently approved SIP does not meet the requirements of the CAA. A final finding under section 110(k)(5) would allow the State up to 18 months to correct the deficiency.

D. Directors Discretion Exemption From NSR Permitting

Under Michigan rule 336.1279, a source is exempt from NSR permitting at the MDEQ's discretion where the source is not major or does not have actual emissions above the significance levels. CAA section 110(a)(2)(C) and 40 CFR 51.160(a) require the State to develop legally enforceable procedures to review new and modified sources. Furthermore, 40 CFR 51.160(e) requires the State to identify the types and sizes of sources subject to review under the State's NSR program. Exempting sources at the director's discretion does not identify the sources subject to review, and, therefore, is disapprovable. Because Michigan rule 336.1279 exempts sources from all review procedures without prior identification and approval of the exemption criteria into the SIP, USEPA is proposing to disapprove the rule.

E. Miscellaneous Exemptions From NSR Permitting

Michigan rules 336.1280 to 336.1290 significantly relax the types and sizes of sources that must obtain a NSR permit. While these exemptions may be acceptable, the State must demonstrate why these sources need not be subject to review in accordance with the *Alabama Power* de minimis or administrative necessity criteria. Such a demonstration may include: (1) An analysis of the types and quantities of emissions from exempted sources, and (2) an analysis which shows that exempting such facilities from permitting review will not interfere with maintenance of the NAAQS or applicable control strategy, and otherwise fulfills the purposes of the minor NSR regulations.

As part of the above demonstration, the State must require each exempted emissions unit with a potential for sizeable emissions to keep appropriate compliance records to verify that the emissions unit meets the specific exemption criteria, and to verify that the construction or modification of the emissions unit did not trigger major new source regulations or other exclusions from the exemptions as listed in Michigan rule 336.1278.

At a minimum, sources with sizeable potential emissions which are assuming exemptions must keep: (1) Records of the date of equipment installation and a description of the emissions unit, (2) records to show the emissions unit does not violate any of the rule 336.1278 exclusions from the exemptions, and (3) records to show that the emissions unit meets the specific exemption criteria outlined in the rule.

Michigan rule 336.1285 exempts sources from obtaining NSR permits where the quantity and nature of the emissions increases are not ''appreciable,'' or ''meaningful.'' Because these terms are undefined, this regulation does not comply adequately with 40 CFR 51.160(e), which requires the state to identify the types and sizes of sources subject to review. Therefore,

Michigan rule 336.1285 is not approvable at this time.

Additionally, because Michigan uses its NSR program to implement section 112(g) of the CAA, the exemptions in rules 336.1279 through 336.1290 would exempt a major Hazardous Air Pollutant source from complying with 112(g) of the CAA. For this reason, the State must add language that specifically excludes major HAP sources from the exemptions. Although the State has added such language in a State rulemaking effective July 2, 1998, it has not submitted these revisions to the USEPA for approval into the SIP.

Finally, Michigan should make clear in its rules that the exemptions in rules 336.1279 through 336.1290, even after approved into the Michigan SIP, do not exempt any source from complying with any other applicable federal requirements or existing NSR permit limitations. For all these reasons, USEPA is proposing to disapprove Michigan rules 336.1279 through 336.1290.

F. Relaxation of Permit Conditions

Pursuant to 40 CFR 51.165(a)(5)(ii), the State must develop regulations that would require sources to obtain a major NSR permit if the relaxation of an emission limitation that the source took to avoid NSR would make the original construction a major source or major modification. Because the Michigan NSR SIP contains no such provisions, it is deficient.

G. Emissions Reductions Required by the CAA Are Not Creditable

Pursuant to section 173(c)(2) of the CAA, the State must develop regulations to ensure that emissions reductions otherwise required by the CAA are not creditable as offsets. Because the Michigan NSR SIP contains no such restrictions, it is deficient.

H. Definition of ''Nonattainment Area''

The term ''nonattainment area,'' as defined in section 171(2) of the CAA, means ''an area which is designated 'nonattainment' with respect to that pollutant within the meaning of section 107(d)'' of the CAA.

The Michigan rule 336.114(g) defines ''nonattainment area'' as an area designated by the department as not having attained full compliance with all national ambient air quality standards. The State must make clear in its definition of ''nonattainment area'' that any major source or major modification to a stationary source located in an area promulgated as nonattainment by USEPA pursuant to section 107(d) of the CAA, must comply with the nonattainment NSR requirements. Therefore, USEPA is proposing to disapprove the State definition of ''nonattainment area.''

I. Federal Enforceability

Pursuant to section 173(a) of the CAA, the State must develop regulations under which all offsets required as a precondition to permit issuance must be federally enforceable.

The Michigan rule 336.1220(2) only requires that offsets shall be legally enforceable. Therefore, USEPA is proposing to disapprove Michigan rule 336.1220(2).

J. Exemption From Offset Requirements for Municipal Solid Waste Facilities

40 CFR 51.165 does not provide for exemptions from the offset requirements. As explained to the NRDC in a letter from the EPA Region II dated March 18, 1989, the regulations of 40 CFR 51.165 supercede the guidance of appendix S. Therefore, the EPA will not approve any offset exemptions from resource recovery facilities.

Michigan rule 336.1220(4)(b) impermissibly exempts municipal solid waste burning facilities from offset requirements laid out in the CFR. Therefore, USEPA is proposing to disapprove Michigan rule 336.1220(4)(b).

K. Modeling Requirements

40 CFR 51.160(f)(1) requires that all modeling shall be based on the applicable models, data bases, and other requirements specified in 40 CFR part 51, appendix W (Guideline on Air Quality Models).

Michigan rule 336.1240 outlines the required air quality models. Michigan rule 336.2240 requires the use of an air quality model cited in EPA's 1986, ''Guideline on Air Quality Models.'' The ''Guideline on Air Quality Models'' was updated in 1987, 1993, and 1995 and codified in part 51 appendix W.

Furthermore, Michigan rule 336.1240(2) impermissibly allows the use of an alternate model at the ''director's discretion'' without opportunity for public notice or comment, as required by 40 CFR 51.160(f)(2). Michigan rule 336.1240(2)(ii) allows the director to decide to allow use of an alternate model if the applicant demonstrates the alternate model is ''comparable'' to USEPA's outdated 1984 document, ''Interim Procedures for Evaluating Air Quality Models.'' Instead of the word ''comparable,'' the State rule should require that the alternate model produce concentration estimates equivalent to the estimates obtained using the preferred model in the current appendix W, and should reference the USEPA's updated 1992 document entitled ''Interim Procedures for Evaluating Air Quality Models.''

In addition to proposing to disapprove Michigan rule 336.1240 because it allows use of an alternate model to escape the public participation procedures of 40 CFR 51.160(f)2), USEPA also is proposing to disapprove Michigan rule 336.1240 because it references out-of-date modeling guidelines rather than the current codified modeling guidelines in 40 CFR part 51, appendix W.

L. Air Quality Modeling Demonstration Requirements

Michigan Rule 336.1241 outlines the requirements for air quality modeling demonstrations. These provisions must be updated to reflect the current modeling requirements laid out in 40 CFR part 51, appendix W.

In particular, the provisions require five years of meteorological data unless the applicant can demonstrate that a shorter meteorological record is more representative. The rule specifically should state that, if the applicant uses on site data, a minimum of one year of meteorological data is required.

M. Offset Restrictions

40 CFR 51.165(a)(3)(ii)(A) requires that where the SIP allows emissions greater than the potential to emit of the source, emissions offset credit will be allowed only for control below this potential. Michigan NSR rules contain no such restriction and, therefore, are unapprovable.

N. Failure To Rescind Michigan Rule 336.1221

Michigan rule 336.2221 impermissibly exempts sources that have significant net emissions increases of sulfur dioxide, particulate matter, and carbon monoxide from offset requirements.

MDEQ rescinded Michigan rule 336.1221 effective November 14, 1990. However, the State never submitted the rule to USEPA for recission. Because Michigan did not submit the recission to the USEPA for removal of the rule from the SIP, the Michigan NSR rules are not approvable at this time.

III. Proposed Action

To determine the approvability of a rule, USEPA must evaluate the rule for consistency with the requirements of the CAA and USEPA regulations as codified in the Code of Federal Regulations, and the EPA's interpretation of these requirements as

expressed in USEPA policy guidance documents. The USEPA has found the Michigan SIP revisions inconsistent with CAA sections 110(a)(2)(C), 165, 172, and 173. The USEPA has further found Michigan's proposed SIP revisions inconsistent with the provisions of 40 CFR part 51, and sections 160 through 165. For these reasons, USEPA is proposing to disapprove Michigan's proposed revisions to its NSR SIP.

Michigan submitted some of the proposed revisions to meet the requirements of the CAA amendments of 1990. Because Michigan failed to satisfy requirements of the CAA through these revisions, a final disapproval would constitute a disapproval under section 179(a)(2) of the CAA. As provided under section 179(a) of the CAA, the State of Michigan would have up to 18 months after a final disapproval to correct the deficiencies that are the subject of the disapproval before the CAA requires USEPA to impose sanctions.

Furthermore, pursuant to section 110(k)(5) of the CAA, the USEPA finds that the currently approved NSR SIP does not meet the requirements of the CAA. The specific provisions that USEPA finds do not meet the CAA are those that allow sources to construct before obtaining an NSR permit. The USEPA intends to issue a notice of SIP deficiency on this issue at the time of its final rulemaking on Michigan's NSR SIP submittal. This notice would allow the State up to 18 months to correct the deficiency before USEPA must impose sanctions.

IV. Administrative Requirements

A. Executive Order 12866

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

B. Executive Orders on Federalism

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation.

In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on state, local or tribal governments. Proposed disapproval of the rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this proposed rulemaking.

On August 4, 1999, President Clinton issued a new executive order on federalism, Executive Order 13132 (64 FR 43255 (August 10, 1999)), which will take effect on November 2, 1999. In the interim, the current Executive Order 12612 (52 FR 41685 (October 30, 1987)), on federalism still applies. This rule will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 12612. Proposed disapproval of the rule affects only one State, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

C. Executive Order 13045

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

This proposed disapproval is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks disproportionately on children.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation.

In addition, E.O. 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's proposed disapproval does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

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

This proposed disapproval will not have a significant impact on a substantial number of small entities. A proposed disapproval of a requested SIP revision under section 110 and subchapter I, part D of the Clean Air Act does not affect any existing Federal requirements nor does it impose new requirements. Any pre-existing Federal requirements would remain in place after this disapproval. Federal disapproval of the State submittal would not affect State-enforceability. Moreover, EPA's disapproval of the submittal would not impose any new Federal requirements. Therefore, because the proposed disapproval does not affect any existing requirements nor impose any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility

analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

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 disapproval action being proposed 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. The proposed disapproval would not change existing requirements and does not impose a Federal mandate. If EPA were to disapprove the State's SIP submittal, pre-existing requirements would remain in place and State enforceability of the submittal would be unaffected. The action would impose no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, New source review, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: October 22, 1999.

David A. Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 99–29303 Filed 11–8–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA–179–0194EC; FRL–6472–5]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision San Joaquin Valley Unified Air Pollution Control District; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of the comment period.

SUMMARY: EPA is extending the comment period for a proposed rule published September 23, 1999 (64 FR 51489). On September 23, 1999, EPA proposed a limited approval and limited disapproval of revisions to the California State Implementation Plan controlling particulate matter (PM–10) emissions from fugitive dust sources in the San Joaquin Valley Unified Air Pollution Control District. In response to requests from the Western States Petroleum Association, Citizens Advisory Group of Industries, Independent Oil Producers' Agency, Nisei Farmers League, and California Cotton Ginners and Growers Associations, EPA is extending the comment period for 30 days.

DATES: The comment period is extended until December 8, 1999.

ADDRESSES: Comments should be submitted to: Andrew Steckel, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

FOR FURTHER INFORMATION CONTACT: Karen Irwin at (415) 744–1903.

Dated: October 29, 1999.

Laura Yoshi,

Deputy, Regional Administrator, Region IX.

[FR Doc. 99–29307 Filed 11–8–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6471–3]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete Jacksonville Municipal Landfill Superfund site from the National Priorities List.

SUMMARY: The United States Environmental Protection Agency (EPA) Region 6 announces its intent to delete the Jacksonville Municipal Landfill Superfund Site (''the Site'') from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which the EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. The EPA and the State of Arkansas Department of Environmental Quality (ADEQ), have determined that the remedial action for the Site has been successfully completed and that no further action is warranted.

DATES: Comments on this proposed deletion may be submitted to the EPA on or before December 9, 1999.

ADDRESSES: Comments may be mailed to: Mr. Donn Walters, Community Involvement Coordinator, U.S. EPA (6SF–P), 1445 Ross Ave., Dallas, Texas 75202–2733, (214) 665–6483 or 1–800–533–3508 (Toll Free), walters.donn@epa.gov.

FOR FURTHER INFORMATION CONTACT: Ms. Kathleen Aisling, Remedial Project Manager, U.S. EPA (6SF–LT), 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8509 or 1–800–533–3508 (Toll Free), aisling.kathleen@epa.gov.

SUPPLEMENTARY INFORMATION:

Information Repositories

Comprehensive information on the Site has been compiled in a public docket which is available for viewing at the Jacksonville Municipal Landfill Superfund Site information repositories:

U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–6427, Mon.–Fri. 8:00 a.m.–4:30 p.m., (Please call in advance.)

City Hall (Administrative Record File), 1 Industrial Drive, Jacksonville, Arkansas, Mon.–Fri. 8 a.m.–5 p.m.

Base Library, Little Rock Air Force Base, Jacksonville, Arkansas, Mon.–Thurs. 10 a.m.–8 p.m., Fri. and Sat. 10 a.m.–5 p.m.

Arkansas Department of Environmental Quality (Administrative Record File), 8001 National Drive, Little Rock, Arkansas, Mon.–Fri. 8 a.m.–4:30 p.m.

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I. Introduction

The United States Environmental Protection Agency (EPA) Region 6 announces its intent to delete the Jacksonville Municipal Landfill Superfund Site (''the Site'') in Lonoke County, Arkansas, from the National Priorities List (NPL). The NPL constitutes appendix B of 40 CFR part 300 which is the Oil and Hazardous Substances Pollution Contingency Plan (NCP), which the EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. The EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of these sites. The EPA and the State of Arkansas Department of Environmental Quality (ADEQ), have determined that the remedial action for the Site has been successfully completed.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses the procedures the EPA is using for this action. Section IV discusses the Jacksonville Municipal Landfill Superfund Site and demonstrates how it meets the deletion criteria.

II. NPL Deletion Criteria

Section 300.425(e)(1) of the NCP provides that releases may be deleted from, or recategorized on the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, the EPA shall consider, in consultation with the state, whether any of the following criteria have been met:

i. Responsible parties or other parties have implemented all appropriate response actions required;

ii. All appropriate response under CERCLA has been implemented, and no further action by responsible parties is appropriate; or,

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the site above levels that allow for unlimited use and unrestricted exposure, a subsequent review of the site will be conducted at least every five years after the initiation of the remedial action at the site to ensure that the action remains protective of public health and the environment. If new information becomes available which indicates a need for further action, the EPA may initiate additional remedial actions. Whenever there is a significant release from a site deleted from the NPL, the site may be restored to the NPL without application of the Hazard Ranking System.

In the case of this Site, the selected remedy is protective of human health and the environment. Consistent with the Site Consent Decree, the city of Jacksonville has agreed to take over operation and maintenance of the Site and conduct annual inspections. The EPA plans to conduct the first five-year review of the final remedy in late 1999. The EPA will also perform future five-year reviews.

III. Deletion Procedures

The following procedures were used for the intended deletion of the Site:

(1) all appropriate response under CERCLA has been implemented and no further action by the EPA is appropriate;

(2) The ADEQ has concurred with the proposed deletion decision;

(3) A notice has been published in the local newspapers and has been distributed to appropriate Federal, state, and local officials and other interested parties announcing the commencement of a 30-day public comment period on the EPA's Notice of Intent to Delete; and

(4) All relevant documents have been made available in the local site information repositories.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management. As mentioned in section II of this document, § 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

The EPA's regional office will accept and evaluate public comments on the EPA's Notice of Intent to Delete for the Site before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary to address any significant public comments received.

Deletion of the Site from the NPL will occur when the Regional Administrator of the EPA Region 6 places a final notice in the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the Notice. Public notices and copies of the Responsiveness Summary will be made available to local residents by the Regional office. They will also be placed in the repository locations listed earlier in this document.

IV. Basis for Intended Site Deletion

The following information provides the Agency's rationale for the proposal for deletion of this Site from the NPL.

A. Site Background and History

The Site is encompasses about 40 acres of an 80 acre landfill in Lonoke County, outside the city limits of Jacksonville, Arkansas, approximately 12 miles northeast of Little Rock, Arkansas. An estimated 10,000 people live within three miles of the Site and draw drinking water from public and private wells. Less than one-half mile west of the Jacksonville Municipal Landfill Superfund Site is the Rogers Road Municipal Landfill Superfund Site. Because of the proximity of the sites and the similarities in their features and characteristics, the Superfund site-related activities for these sites were carried out concurrently.

The city of Jacksonville operated the landfill from the time it purchased the land in 1953 until 1974. Open burning and trenching were the primary methods of waste disposal used at the Site. The landfill was closed in July 1973 when the ADEQ (formerly the Arkansas Department of Pollution Control and Ecology) refused to grant a landfill permit because of the high water table and poor drainage in the area.

Specific waste types and quantities were not recorded by the Site owner/operators; however, in addition to municipal waste, several drums of industrial waste from a local herbicide manufacturer, Vertac Chemical Corporation (Vertac), were disposed of in the landfill. On-site soil and drums were found to be contaminated with dioxin (2,3,7,8-tetrachlorodibenzo (P) dioxin expressed as 2,3,7,8-TCDD equivalents) and the herbicides 2,4-D, 2,4,5-T, and 2,4,5-TP. These drums were located in four isolated areas, mainly near the surface of the landfill.

In early 1986, the city of Jacksonville fenced the Site to prevent public access. The Site was added to the National Priorities List on July 22, 1987.

B. Response Actions

The Remedial Investigation (RI) for the Site, which described the nature and extent of contamination, was released to the public in July 1990. The Feasibility Study (FS) was also released at this time. A 60-day public comment period began on July 9, 1990, and ended on September 7, 1990. In addition, a public meeting was held on July 18, 1990, to

present the results of the RI/FS and to accept public comment.

The EPA reviewed the results of the July 1990 RI/FS and all public comments received. On September 27, 1990, a Record of Decision (ROD) for the Site, which included a number of construction elements to implement the Remedial Action, was issued. The EPA, the ADEQ, and the city of Jacksonville participated in the clean-up in accordance with a June 20, 1994, Consent Decree (CD) between the EPA and the city of Jacksonville.

The remedial action at the Site included:

- Excavation of contaminated soil and debris containing greater than 10 parts per billion (ppb) equivalent 2,3,7,8-TCDD and backfilling the excavated area;
- Transportation of the excavated material to the Vertac Chemical Corporation Superfund Site in Jacksonville, Arkansas;
- Incineration of the excavated contaminated material and disposal of residuals at Vertac;
- Steam-cleaning and disposal of large items of refuse removed from contaminated areas at the Jacksonville Site;
- Covering soil, debris and waste meeting the criteria stated below with twelve inches of soil:

(1) 2,3,7,8-TCDD concentrations >1.0 and ≤10 ppb, or
(2) Cumulative Hazard Index >.3 for 2,4,5-T; 2,4,5 TP; and 2,4-DCP;

- Institutional controls such as fence maintenance and restricting the use of ground water; and,
- Ground water monitoring.

Construction was completed in early 1995. A site inspection occurred on September 20, 1995, which showed that the remedial objectives had been achieved. The EPA also checked the Site on September 1, 1998. At that time, the constructed remedy was still performing as designed and was controlling the risks to human health and the environment as specified in the ROD. The soil cover was in excellent shape with no evidence of subsidence, erosion, animal burrows, or standing water. The grass cover was well-established and provided thorough coverage of the soil cover. The site fences had been maintained and there was no evidence of trespassers.

C. Clean-Up Standards

The remedial action cleanup activities at the Site are consistent with the objectives of the NCP and will provide protection to human health and the environment. Specifically, confirmatory sampling conducted at the conclusion of the cleanup verified that the site has achieved the ROD cleanup standards: all contaminated soil and debris containing greater than 10 part per billion (ppb) equivalent 2,3,7,8-TCDD were excavated and all soil and debris with 2,3,7,8-TCDD concentrations >1.0 and ≤10 ppb, or with a Cumulative Hazard Index >.3 for 2,4,5-T and 2,4,5 TP were either excavated or covered with one foot of clean soil. Ground water samples taken in November 1994, June 1995, December 1995, October 1996, and November 1997, did not show dioxin contamination, nor did they show any site-related, statistically significant concentrations of organic contaminants or inorganic (metals) contaminants above acceptable health-based levels.

The confirmatory sampling at the Site and backfilling of the Site with clean soil provide assurances that the Site will no longer pose a threat to human health or the environment as long as the institutional controls are enforced and the soil cover is maintained. The source of contaminants identified in the ROD, the disintegrating drums and adjacent contaminated soil, has been addressed through excavation and covering with a clean soil cover. The cleanup also eliminated the impacts to the ground water from the chemicals of concern at the Site.

At this time, the Site has been cleaned up to residential standards. Therefore, from a health-risk standpoint, the landfill itself has no land-use restrictions, except for the areas where EPA placed a soil cover. Institutional controls, in the form of deed restrictions, state that the soil cover may not be disturbed. Additional deed restrictions state that no drinking water wells may be drilled at the Site.

D. Operations and Maintenance

The Site is designed to require very little maintenance. Site operations and maintenance (O&M) activities that have been performed by the city of Jacksonville since the 1995 site completion include routine site inspections to ensure that positive drainage (as defined in the CD Statement of Work) is occurring and that the perimeter fence is intact. These activities have maintained the protectiveness of the remedy. In addition, Site ground water monitoring, to ensure that the remedy was effective and operating properly, has been conducted jointly by the ADEQ and the city of Jacksonville.

The city of Jacksonville, as agreed upon in the CD and accompanying Statement of Work and as detailed in the Remedial Action (RA) Work Plan, has assumed all responsibility for O&M at the Site. Plans for O&M are in place and are sufficient to maintain the protectiveness of the remedy. The city is fulfilling its obligation to perform the O&M and it is expected that the city of Jacksonville will be able to provide future maintenance with a minimal amount of work.

E. Five-Year Review

CERCLA requires a five-year review of all sites with hazardous substances remaining above the health-based levels for unrestricted use of the Site. Because the cleanup of the Site utilized a soil cover in some areas as the method to reduce the risk, and because the ROD calls for institutional controls limiting ground water use on and immediately downgradient of the Site, the five-year review process will be used to ensure that the cover is still intact and blocking exposure pathways and that the institutional controls are still in place.

F. Community Involvement

The EPA published its Community Relations Plan in November 1988, after interviews with local residents and officials. Several information repositories were established in the area near the Site and all of the documents used to select a Site remedy were placed in the repositories before the final ROD was issued. In August 1994, a public open house meeting was held to inform the citizens of the initiation of site construction activities. Citizens were also invited to the site completion ceremony held in September 1995. Documents in the deletion docket which the EPA relied on to make this recommendation of deletion of the Site from the NPL are available to the public in the information repositories.

G. Applicable Deletion Criteria

One of the three criteria for site deletion specifies that the EPA may delete a site from the NPL if ''all appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate.'' (40 CFR 300.425(e)(1)(ii)). The EPA, with concurrence of the ADEQ, believes that this criterion for deletion has been met. Consequently, the EPA is proposing deletion of the Site from the NPL. Documents supporting this action are available at the information repositories listed earlier in this document.

H. State Concurrence

The Arkansas Department of Environmental Quality concurs with the proposed deletion of the Jacksonville

Municipal Landfill Superfund Site from the NPL.

Dated: August 3, 1999.

Myron O. Knudson,

Acting Regional Administrator, Region 6.

[FR Doc. 99–29073 Filed 11–8–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–325; FCC 99–327]

Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Radio Broadcast Service

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the Commission considers alternative approaches to introduce Digital Audio Broadcasting (DAB) to the American public. This document is intended to help the Commission determine whether an in-band, on-channel (IBOC) model or a model utilizing new spectrum would be the best means to promptly introduce DAB service. This document intends to foster development of both models, help DAB system proponents identify design issues, and encourage modifications to advance Commission's policy objectives. This document is in response to USA Digital Radio's (USADR) Petition for rulemaking, which requested initiation of a proceeding to implement IBOC DAB technology.

DATES: Comments are due on or before January 24, 2000, and reply comments are due on or before February 22, 2000.

ADDRESSES: Parties who choose to file comments by paper should address their comments to Magalie Roman Salas, Office of the Secretary, TW–A306, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554 and should also submit comments on 3.5 inch diskette using Microsoft Word or compatible software addressed to William J. Scher, Federal Communications Commission, 445 12th Street, SW., Room 2–A445, Washington, DC 20554. Electronic comments may also be submitted using the Commission's electronic comment filing system via the Internet to <http://www.fcc.gov/e-file/ecfs.html>.

FOR FURTHER INFORMATION CONTACT: Peter Doyle or William Scher at (202) 418–2780 or pdoyle@fcc.gov or wscher@fcc.gov.

SUPPLEMENTARY INFORMATION:

1. *IBOC DAB.* IBOC systems allow simultaneous broadcast of analog and digital radio signals in the AM and FM bands without disruption to existing analog service. IBOC DAB systems have not been conclusively proven to be technically viable, but recent advances hold real promise. In the hybrid operational mode, IBOC systems transmit lower power digital signal sidebands positioned on either side of the host analog signal. Digital signals would be interleaved (station A's upper digital sideband would be between 1st adjacent channel station B's lower and upper digital sidebands, and adjoining station B's carrier frequency). The presence of digital sidebands would reduce the separation between the host analog signal and 2nd and 3rd adjacent channel digital signals. IBOC proponents believe digital signal processing techniques will permit transmission of a digital ''pair'' of each analog signal in the AM and FM bands, without disrupting existing analog service.

2. In the IBOC all-digital mode, the system proposed by USADR would continue to divide the digital signal into sidebands, boost power by tenfold, and use the channel center for lower-power auxiliary services. The increased power of the signal sidebands likely would interfere with 1st adjacent channel analog signals. Therefore, USADR proposes to use the hybrid mode for 12 years and then sunset protection of analog signals. At that time, it proposes to implement the all digital mode. The system proposed by Lucent Technologies (''Lucent'') consolidates the digital signal in the channel center in the all-digital mode, and proposes to use the 1st adjacent for auxiliary services. No sunset of protection for analog signals would be necessary because Lucent's model conforms to the Commission's current analog technical rules.

3. *DAB Public Policy Objectives.* In this Notice, the Commission's public policy objectives to introduce DAB are (1) to provide vastly improved radio service to the public, (2) to permit broadcasters and listeners to realize fully the superior technical performance capabilities of DAB; (3) to support a vibrant and vital terrestrial radio service for the public and create DAB opportunities for existing radio broadcasters; (4) to ensure that the introduction of DAB does not weaken the vitality of our free, over-the-air radio broadcast service; (5) to provide all broadcasters with the opportunity to provide DAB service. The Commission will favor systems that are spectrum efficient, that do not require burdensome investments in new broadcast transmission equipment, and that provide broadcasters with incentives to convert to DAB.

4. *Tentative Selection Criteria.* The Commission proposes to apply the following evaluative criteria to determine which DAB model and/or system would best promote the public policy objectives: (1) enhanced audio fidelity; (2) robustness to interference and other signal impairments; (3) compatibility with existing analog service; (4) spectrum efficiency; (5) flexibility; (6) auxiliary capacity; (7) extensibility; (8) accommodation for existing broadcasters; (9) coverage; and (10) implementation costs/affordability of equipment.

5. *Enhanced Audio Fidelity/Robustness.* DAB system proponents anticipate that AM IBOC DAB systems will offer sound quality comparable to today's stereo FM systems, and that FM IBOC DAB systems will deliver near-CD quality sound. As to robustness, DAB systems may improve reception by using techniques that protect digital signals from interference that affects analog signals. The Commission seeks comment of these selection criteria, including the specific standards that should be used to compare competing systems.

6. A comparison of IBOC and new-spectrum alternatives must consider the time frame to achieve all-digital operations and short-term performance advantages of a hybrid IBOC system over analog. The Commission seeks comment on the issue. The Commission also seeks comment on appropriate ways to compare IBOC and new-spectrum DAB alternatives under this selection criteria.

7. *Compatibility.* The Commission tentatively concludes that IBOC systems should minimize interference to host and adjacent-channel analog signals in hybrid mode including interference to FM subcarriers. The opportunity to introduce new ancillary services is tied to initiation of all-digital operations. A system which permits rapid implementation to all-digital radio service (such as Lucent's) may serve the public interest better than a system which relies on a longer transition period with a fixed sunset of analog protection (such as USADR's). The Commission seeks comment on whether all-digital compatibility with analog signals should be an evaluative criteria for IBOC systems.

8. The Commission seeks comment on how a DAB system could be designed to protect a possible future LPFM service. The Commission seeks comment on the

potential for enhancing the robustness of IBOC systems to reject undesired 2nd and 3rd adjacent channel signals and the likely impact on such modifications.

9. *Spectrum Efficiency.* Spectrum efficiency considers not only whether a DAB technology would not require additional spectrum, but also the additional value that results from the transition from analog to digital transmission service. The added value of spectrum is the product of several factors, including the capacity to transmit greater data per hertz, enhanced flexibility, the lesser likelihood of digital signals to cause interference, less susceptibility to interference, and more robust with respect to multi-path fading and non-radio noise sources, and the capacity to provide a listenable service at relatively low signal strength levels. The Commission wants to examine if digital receivers could provide additional protection against interference. What would the cost be to consumers and, besides cost, are there other considerations?

10. The Commission seeks comment on possible DAB efficiency standards. Are any of the Eureka-147 and/or satellite DARS signal bandwidth and interference protection standards relevant in establishing DAB spectrum efficiency standards? What bandwidth is necessary for CD-quality signals? What are the spectrum implications of recent advances in coding and multistreaming technologies? What are the quantifiable trade-offs between bandwidth and signal robustness? What trade-offs should the Commission consider in balancing the needs of incumbents and new entrants? Should there be different data capacity criteria during and after transition? Would transition be slowed if incumbents were assigned less bandwidth for all digital operations? Is preserving (or expanding) bandwidth assignments necessary?

11. *Flexibility/auxiliary capacity.* The Commission tentatively concludes that ancillary services must not technically impair reception of DAB programming. The Commission seeks comment on whether the Digital Television (DTV) framework is appropriate for radio and what limits if any, the Commission should establish for ancillary services.

12. *Extensibility.* The Commission tentatively concludes that extensibility (ability of a DAB system to adapt to future technological advances) is crucial to preserving of free broadcast in a digital environment and ensuring that listeners fully benefit from DAB. The Commission seeks comment.

13. *Accommodation.* The Commission tentatively concludes that a DAB system should, to the maximum extent possible, accommodate all existing broadcasters wanting to initiate DAB and that placing AM and FM on equal footing is not essential. The Commission seeks comment.

14. *Coverage.* Broadcasters argue that a DAB system should be able to replicate existing coverage areas, which tend to be greater than ''interference-free'' areas protected under Commission's rules. While the Commission recognizes that preserving existing coverage areas may be important, it tentatively concludes that the public interest is best served by a digital assignment policy based on analog protected service contours. Service contours reflect a balance between providing adequate service areas and expanding the number of station assignments. The Commission requests comment.

15. *IBOC DAB Model.* The Commission believes that IBOC would be superior to a new spectrum model because it would not require new spectrum, it would permit a fast transition to DAB while preserving benefits of analog service, and may achieve certain spectrum efficiencies. To ensure a smooth initiation to DAB, the Commission tentatively concludes that if IBOC is adopted, IBOC DAB licenses will not count as distinct authorizations for purposes of local ownership rules and seeks comment on that view.

16. The Commission seeks comment on the spectrum efficiency concerns inherent in the IBOC model and whether a model proposing to switch digital audio transmission from sidebands to a center band in the all digital mode would be more spectrally efficient than one which continues to carry the main audio signal in digital sidebands. The proposed IBOC systems would double the bandwidth licensed to AM and FM stations to 20 kHz and 400 kHz respectively, spectrum which is currently included in analog ''emission masks'' and the Commission seeks comment on whether spectrum may be returned at the end of the licensees' IBOC transition to an all-digital operating environment. The Commission seeks comment on how to balance the need to provide broadcasters with sufficient incentive to transition rapidly to DAB with the need to respond to unmet demand for new entrants. The Commission seeks analyses of minimum power levels needed to preserve service within protective service areas in a digital environment, and alternatively, the levels that would result in significant disruption to current listening patterns.

17. *New Spectrum DAB Model.* As an alternative to IBOC, the Commission requests comment on whether the six MHz of spectrum at 82–88 MHz (now TV Ch. 6) could be reallocated to DAB at the end of the DTV transition. The Commission seeks comment on any possible adverse affects on DTV implementation and television service in general. The earliest the spectrum could be available is 2007; however, the availability of this spectrum is tied to the end of the DTV transition period and could be significantly later. The Commission requests comment on all aspects of the new spectrum option and asks whether there are other frequency bands to consider. IBOC and new spectrum options are not mutually exclusive and could be complementary.

18. The Commission seeks comment on whether new spectrum models, which are independent of the existing analog AM and FM radio systems, would provide greater flexibility to plan and implement DAB, and whether compared to IBOC in hybrid mode, it would operate at a higher data rate and support higher audio quality and enhanced ancillary services. At the time when an 82–88 MHz DAB system proves successful, analog stations licensed to frequencies in the existing 88–108 MHz could convert to DAB. The transition could result in significant service disruptions, unless listeners have digital receivers. The Commission seeks comment on such transition issues.

19. The Commission seeks comment on whether to maintain the same channel bandwidth assignment scheme currently used with FM service and if this approach would facilitate conversion to DAB and a common FM/DAB radio receiver design in the 82–108 MHz band. The Commission seeks comment on whether to adopt a consistent service area approach which follows the plan of existing classes of FM stations (Class A, B1, B, C3, C2, C1 and C) or should all DAB stations be provided a common service area?

20. The Commission seeks comment on whether all AM and FM broadcasters should be eligible for a DAB license, whether DAB licenses should be excluded from local ownership limits and whether new channels should be reserved for educational use and new entrants. The Commission seeks comment on whether it should limit the number of DAB licenses in each market and whether issuing DAB licenses would implicate statutory auction requirements.

21. The Commission seeks comment on whether to allot DAB channels to communities in proportion to the

number of AM and FM channels operating or based on initial expression of interest by applicants, and whether either approach is consistent with 47 U.S.C. 307(b). The Commission requests comment on whether to use minimum geographic spacing distances or other engineering criteria to assess technical acceptability of new DAB allotments and modifications.

22. The Commission seeks comment on whether Channel 6 should be used to ensure adequate new entrant DAB opportunities and whether the Commission may give preferences to LPFM licensees in assigning Channel 6 spectrum, and if so, whether it should do so.

23. *DAB Transmission Standard.* The Commission tentatively concludes that it is in the public interest for the Commission to take a role in DAB standards development with the advice and involvement of all sectors of the industry. The Commission seeks comment on how likely the broadcast industry is to establish a de facto standard without Commission action and whether there is anything the Commission can do short of mandating a standard to assist the industry? The Commission lacks sufficient information at this time to conclude that a Commission-mandated transmission standard is necessary and seeks comment on whether a single mandated standard is desirable. The Commission seeks comment on whether there is a high degree of compatibility among the several DAB systems. It also seeks comment on whether developments in digital signal processors (DSPs) and DSP chip technology make a standard unnecessary, whether an ''open architecture'' approach is feasible, and what impact such an approach would have on the development and costs of receivers.

24. *Models for IBOC DAB System Testing and Evaluation.* The Commission believes that it is necessary to rely to some degree on the expertise of the private sector for DAB system evaluations and ultimately, recommendations for a transmission standard. However, it believes it is premature to select an approach at this time. The NRSC has set a deadline of December 15, 1999 for proponents to submit system test results and the Commission requests that the parties also submit the reports to the Commission as part of this proceeding. The Commission would give great weight to a fair and thorough NRSC testing process and any industry consensus the NRSC may achieve. However, the Commission will act promptly to provide an alternative mechanism if the current process breaks down. The Commission will revisit the effectiveness of the NRSC approach once the Commission reviews the NRSC report on IBOC tests expected the first quarter of 2000. The Commission seeks comment on evaluative models.

25. *Initial Regulatory Flexibility Analysis.* The Commission has prepared an Initial Regulatory Flexibility Analysis of the possible significant economic impact on small entities by the policies and rules proposed in this Notice. Comments are requested on this IRFA and must be identified as responses to the IRFA. The proposed rules and policies potentially will apply to all AM and FM radio broadcasting licensees and potential licensees. The SBA defines a radio broadcasting station that has no more than $5 million in annual receipts as a small business. A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public, including commercial, religious, educational, and other radio stations. As of December 31, 1998, official Commission records indicate that 12,472 radio stations were operating, of which 4,793 were AM stations. Thus, the proposed rules will affect 12,472 radio stations, 11,973 of which are small businesses. These estimates may overstate the number of small entities since the revenue figures on which they are based do not include or aggregate revenues from non-radio affiliated companies. In addition, any entity that seeks or desires to obtain a DAB license may be affected by the proposals. The number of entities that seek to obtain a DAB radio broadcast license is unknown. The Commission invites comment on such number. The Notice sets forth policy objectives and proposes criteria for the selection of alternative DAB models and/or systems that will promote the interests of small entities and minimize the economic impact on such entities of a transition to DAB service.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–29270 Filed 11–8–99; 8:45 am]

BILLING CODE 6712–01–U

DEPARTMENT OF DEFENSE

48 CFR Part 211

[DFARS Case 99–D024]

Defense Federal Acquisition Regulation Supplement; OMB Circular A–119

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: The Director of Defense Procurement is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to address use of a Federal Acquisition Regulation (FAR) provision that invites offerors to propose alternatives to Government-unique standards. This DFARS rule instructs DoD contracting officers not to use the FAR provision, since DoD uses the Single Process Initiative to encourage offerors to propose alternatives to Government-unique specifications and standards.

DATES: Comments on the proposed rule should be submitted in writing to the address specified below on or before January 10, 2000 to be considered in the formation of the final rule.

ADDRESSES: Interested parties should submit written comments on the proposed rule to: Defense Acquisition Regulations Council, Attn: Ms. Melissa Rider, PDUSD (AT&L) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax (703) 602–0350. Please cite DFARS Case 99–D024.

E-mail comments submitted via the Internet should be addressed to: dfars@acq.osd.mil

Please cite DFARS Case 99–D024 in all correspondence related to this proposed rule. E-mail correspondence should cite DFARS Case 99–D024 in the subject line.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa Rider, (703) 602–4245. Please cite DFARS Case 99–D024.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed DFARS rule supplements the final FAR rule that was published at 64 FR 51834 on September 24, 1999 (Federal Acquisition Circular 97–14, Item V) to implement Office of Management and Budget Circular A–119, Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities. The FAR rule added a provision at FAR 52.211–7 to permit offerors to propose voluntary consensus standards as alternatives to

Government-unique standards included in a solicitation. In accordance with the prescription at FAR 11.107(b), use of the provision is optional for agencies that use the categorical method of reporting their use of voluntary consensus standards to the National Institute of Standards and Technology. DoD uses the categorical method of reporting. In addition, DoD uses the Single Process Initiative procedures at DFARS 211.273 and 252.211–7005 to encourage offerors to propose industry standards as alternatives to Government-unique specifications and standards. Therefore, this DFARS rule specifies that the provision at FAR 52.211–7 will not be used in DoD solicitations.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the FAR already permits optional use of the provision at FAR 52.211–7, and DoD already has implemented procedures for encouraging offerors to propose alternatives to Government-unique specifications and standards through the Single Process Initiative. Therefore, an initial regulatory flexibility analysis has not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subpart also will be considered in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 99–D024 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 211

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR part 211 is proposed to be amended as follows:

1. The authority citation for 48 CFR part 211 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 211—DESCRIBING AGENCY NEEDS

2. Subpart 211.1 is added to read as follows:

Subpart 211.1—Selecting and Developing Requirements Documents

Sec.
211.107 Solicitation provision.

211.107 Solicitation provision.

(b) DoD uses the categorical method of reporting. Do not use the provision at FAR 52.211–7, Alternatives to Government-Unique Standards, in DoD solicitations.

[FR Doc. 99–29039 Filed 11–8–99; 8:45 am]

BILLING CODE 5000–04–M

Notices

Federal Register

Vol. 64, No. 216

Tuesday, November 9, 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.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Notice of Meeting

SUMMARY: Notice is hereby given that the Advisory Council on Historic Preservation will meet on Wednesday, November 17, 1999. The meeting will be held in the Atrium Building, Calhoun's Restaurant, 1004 Parkway, Catlinburg, Tennessee, beginning at 1:00 p.m.

The Council was established by the National Historic Preservation Act of 1966 (16 U.S.C. Section 470) to advise the President and the Congress on matters relating to historic preservation and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Architect of the Capitol; the Secretaries of the Interior, Agriculture, Housing and Urban Development, and Transportation; the Administrators of the Environmental Protection Agency and General Services Administration; the Chairman of the National Trust for Historic Preservation; the President of the National Conference of State Historic Preservation Officers; a Governor; a Mayor; a Native Hawaiian; and eight non-Federal members appointed by the President.

The agenda for the meeting includes the following:

I. Chairman's Welcome
II. Chairman's Report
III. Millennium Discussion
  A. Follow up from Tuesday's Discussion at Oak Ridge—Action
  B. Follow up from Wednesday's Discussion Regarding Managing Cultural Resources in Natural Areas—Action
  C. Council Millennium Report on Federal Stewardship—Discussion
IV. Proposed Council Policy Regarding Tribal Relations—Discussion
V. Executive Director's Report
  A. Section 106 Cases—Report
  B. Legislation Update—Report
VI. New Business
  A. Meeting Schedule for 2000—Report
VII. Adjourn

Note: The meetings of the Council are open to the public. If you need special accommodations due to a disability, please contact the Advisory Council on Historic Preservation, 1100 Pennsylvania Ave., NW., Room 809, Washington, DC 202–606–8503, at least seven (7) days prior to the meeting.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1100 Pennsylvania Ave., NW., #809, Washington, DC 20004.

Dated: November 3, 1999.

John M. Fowler,

Executive Director.

[FR Doc. 99–29239 Filed 11–8–99; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 99–084–1]

Public Meeting; Veterinary Biologics

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Advance notice of public meeting and request for suggested agenda topics.

SUMMARY: We are issuing this notice to inform producers and users of veterinary biological products, and other interested individuals, that we will be holding our ninth annual public meeting to discuss regulatory and policy issues related to the manufacture, distribution, and use of veterinary biological products. We are in the process of planning the meeting agenda and are requesting suggestions for topics of general interest to producers and other interested individuals.

DATES: The public meeting will be held on Monday and Tuesday, April 3 and 4, 2000, from 8 a.m. to approximately 5 p.m. each day.

ADDRESSES: The public meeting will be held in the Scheman Building at the Iowa State Center, Iowa State University, Ames, IA.

FOR FURTHER INFORMATION CONTACT: For further information on agenda topics, contact Mr. Steven A. Karli, Director, Center for Veterinary Biologics, Veterinary Services, APHIS, 510 South 17th Street, Suite 104, Ames, IA 50010–8197; phone (515) 232–5785, fax (515) 232–7120, or e-mail Steven.A.Karli@usda.gov. For registration information, contact Ms. Kay Wessman at the same address and fax number; phone (515) 232–5785 extension 127; or e-mail Kay.Wessman@usda.gov.

SUPPLEMENTARY INFORMATION: Since 1989, the Animal and Plant Health Inspection Service (APHIS) has held eight public meetings in Ames, IA, on veterinary biologics. The meetings provide an opportunity for the exchange of information between APHIS representatives, producers and users of veterinary biological products, and other interested individuals. APHIS is in the process of planning the agenda for the ninth annual meeting, which will be held on April 3 and 4, 2000.

The agenda for the meeting is not yet complete. Topics that have been suggested include: (1) Followup of customer service feedback; (2) oil adjuvants; (3) electronic submission of regulatory information; (4) antibody products; (5) progress on international harmonization; and (6) update on compliance with *in vitro* references. Before finalizing the agenda, APHIS is seeking suggestions for additional meeting topics from the interested public.

We would also like to invite interested individuals to use this meeting to present their ideas and suggestions concerning the licensing, manufacturing, testing, and distribution of veterinary biologics.

Please submit suggested meeting topics (for both breakout and general sessions) and proposed presentation titles to the person listed under **FOR FURTHER INFORMATION CONTACT** on or before December 17, 1999. For proposed presentations, please include the name(s) of the presenter(s) and the approximate amount of time that will be needed for each presentation.

After the agenda is finalized, APHIS will announce the schedule in the **Federal Register**.

Done in Washington, DC, this 3rd day of November 1999.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–29320 Filed 11–8–99; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Farm Service Agency

National Drought Policy Commission

AGENCY: Farm Service Agency, USDA.

ACTION: Notice of Commission meeting, public hearing and request for comments.

SUMMARY: The National Drought Policy Act of 1998 established the National Drought Policy Commission (Commission). The Farm Service Agency (FSA) was identified as the lead USDA agency to provide support to the Commission. The Commission shall conduct a thorough study and submit a report to the President and Congress on national drought policy. Prior meetings of the Commission were held on July 22, 1999, and September 22, 1999, and public hearings on July 23, 1999, September 22, 1999, and October 13, 1999. Minutes of these meetings and a list of Commission members can be found on the Commission's web site at http:www.fsa.usda.gov/drought. This notice announces the third meeting, and fourth public hearing and seeks comments on issues that the Commission should address and recommendations that the Commission should consider as part of its report.

DATES: The Commission will conduct a public hearing on December 1, 1999, from 9 a.m. to 5 p.m. in the First Floor Board Room of the Metropolitan Water District of Southern California Office Building, 700 North Alameda Street, Los Angeles, California.

The Commission will meet on December 2, 1999, from 8 a.m. to 5 p.m. in the same location. All times noted are Pacific Standard Time.

All meetings and public hearings are open to the public; however, seating is limited and available on a first-come basis.

Anyone wishing to make an oral presentation to the Commission at the public hearing, must contact the Executive Director, Leona Dittus, in writing (by letter, fax or internet) no later than 12 noon, November 24, 1999, in order to be included on the agenda. Presenters will be approved on a first-come, first-served basis. The request should identify the name and affiliation of the individual who will make the presentation and an outline of the issues to be addressed. Thirty-five copies of any written presentation material shall be given to the Executive Director by all presenters no later than the time of the presentation for distribution to the Commission and the interested public. Those wishing to testify, but who are unable to notify the Commission office by November 24, 1999, will be able to sign up as a presenter the day of the hearing (December 1) between 8 a.m. and 10 a.m. These presenters will testify on a first-come, first-served basis and comments will be limited based on the time available and the number of presenters. Written statements will be accepted at the meeting, or may be mailed or faxed to the Commission office.

Persons with disabilities who require accommodations to attend or participate in this meeting should contact Leona Dittus by telephone at 202–720–3168 on Internet: leona.dittus@usda.gov, or through Federal Relay Service at 1–800–877–8339, by COB November 24, 1999.

COMMENTS: The public is invited to respond and/or to submit additional comments, concerns, and issues for consideration by the Commission.

ADDRESSES: Comments and statements should be sent to Leona Dittus, Executive Director, National Drought Policy Commission, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 6701–S, STOP 0501, Washington, DC 20250–0501.

FOR FURTHER INFORMATION CONTACT: Leona Dittus (202) 720–3168; FAX (202) 720–9688; Internet: leona.dittus@usda.gov.

SUPPLEMENTARY INFORMATION: The Commission will review the first draft of the Commission findings. They will also discuss the status of Commission activities and other committee business. Below is a draft vision statement and set of principles to guide the Commission. Draft Vision Statement: Our vision is of a U. S. citizenry and its governments well prepared for and capable of mitigating in a consistent and timely manner the impacts of drought in the new millennium.

This vision is based on the following principles:

A well-informed, involved public;
Self-reliance and self-determination;
Consideration of all affected entities and related issues, including legal, economic, geographic, climate, religious, and cultural differences, and environmental concerns;
Lessons from past drought experiences;
Comprehensive, long-term strategic planning, emphasizing preparedness and mitigation;
Federal role focused on appropriate coordination, technical assistance, education, and incentives while at all times respecting the rights and sovereignty of States, local governments, and tribes.

In addition to your own views and thoughts regarding a national drought policy, as you review the draft vision and guiding principles, the Commission would be interested in your thoughts regarding the following questions:

1. What is the best means for informing the public of Federal assistance for drought planning and mitigation?

2. What type of information do you need for responding to the drought?

3. What needs do you or your organization presently have with respect to addressing drought conditions?

4. What do you see as the Federal role with respect to drought preparedness? Drought response? Should Federal emergency assistance be contingent on advance preparedness?

5. Are there any ways you feel that the Federal Government could better coordinate with State, regional, tribal, and local governments in mitigating or responding to droughts?

6. What lessons have you or your organization learned from past drought experiences that would be beneficial in the creation of a national drought policy?

The purpose of the Commission is to provide advice and recommendations to the President and Congress on the creation of an integrated, coordinated Federal policy, designed to prepare for and respond to serious drought emergencies. Tasks for the Commission include developing recommendations that will: (a) Better integrate Federal laws and programs with ongoing State, local, and tribal programs, (b) improve public' awareness of the need for drought mitigation, prevention, and response, and (c) determine whether all Federal drought preparation and response programs should be consolidated under one existing Federal agency, and, if so, identify the agency. The Commission will be chaired by the Secretary of Agriculture or his designee. In the absence of the Chair, the Vice Chair will act in his stead. Administrative staff support essential to the execution of the Commission's responsibilities shall be provided by USDA.

Commission members specifically cited in Pub. L. 105–199, include the Secretaries of Agriculture, Interior, Army, and Commerce, the Director of the Federal Emergency Management Agency, and the Administrator of the Small Business Administration; two persons nominated by the National

Governors' Association, a person nominated by the National Association of Counties, and a person nominated by the Conference of Mayors. Those four members are appointed by the President. Six additional Commission members have been appointed by the Secretary of Agriculture, in coordination with the Secretary of the Interior and the Secretary of the Army. The six at-large members represent groups acutely affected by drought emergencies, such as the agricultural production community, the credit community, rural and urban water associations, Native Americans, and fishing and environmental interests.

Signed at Washington, DC, November 3, 1999.

Keith Kelly,

Administrator, Farm Service Agency.

[FR Doc. 99–29397 Filed 11–5–99; 9:39 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Newspapers To Be Used for Publication of Legal Notice of Appealable Decisions and Corrections for the Southern Region; Alabama, Kentucky, Georgia, Tennessee, Florida, Louisiana, Mississippi, Virginia, West Virginia, Arkansas, Oklahoma, North Carolina, South Carolina, Texas, Puerto Rico

AGENCY: Forest Service, USDA.

ACTION: Notice and correction.

SUMMARY: Deciding Officers in the Southern Region will publish notice of decisions subject to administrative appeal under 36 CFR part 217 in the legal notice section of the newspapers listed in the Supplementary Information section of this notice. As provided in 36 CFR part 217.5(d), the public shall be advised through **Federal Register** notice, of the principal newspaper to be utilized for publishing legal notices of decisions. Newspaper publication of notices of decisions is in addition to direct notice of decisions to those known to be interested in or affected by a specific decision. The Responsible Official under 36 CFR part 215 gave annual notice in the **Federal Register** published on May 17, 1999, of principal newspapers to be utilized for publishing notices of proposed actions and of decisions subject to appeal under 36 CFR part 215. The list of newspapers to be used for 215 notice and decision is corrected.

DATES: Use of these newspapers for purposes of publishing legal notices of decisions subject to appeal under 36 CFR parts 217 and the use of the corrected newspaper listed under 36 CFR part 215 shall begin on or after November 9, 1999.

FOR FURTHER INFORMATION CONTACT: Jean Paul Kruglewicz, Regional Appeals Coordinator, Southern Region, Planning, 1720 Peachtree Road, NW, Atlanta, Georgia 30367–9102, Phone: 404–347–4867.

SUPPLEMENTARY INFORMATION: Deciding Officers in the Southern Region will give legal notice of decisions subject to appeal under 36 CFR par 217 in the following newspaper which are listed by Forest Service Administrative unit. Where more than one newspaper is listed for any unit, the first newspaper listed is the principal newspaper that will be utilized for publishing the legal notices of decisions. Additional newspapers listed for a particular unit are those newspapers the Deciding Officer expects to use for purposes of providing additional notice. The timeframe for appeal shall be based on the date of publication of the legal notice of the decision in the principal newspaper. The following newspapers will be used to provide notice.

Southern Region

Regional Forester Decisions

Affecting National Forest System lands in only one state of the 3 states of the Southern Region and the Commonwealth of Puerto Rico or only one Ranger District will appear in the principal newspaper elected by the National Forest of that state or Ranger District.

National Forests in Alabama, Alabama

Forest Supervisor Decisions

Montgomery Advertiser, published daily in Montgomery, AL

District Ranger Decisions

Bankhead Ranger District: *Northwest Alabamian,* published weekly (Monday & Thursday) in Haleyville, AL
Conecuh Ranger District: *The Andalusia Star News,* published daily (Tuesday through Saturday) in Andalusia, AL
Oakmulgee Ranger District: *The Tuscaloosa News,* published daily in Tuscaloosa, AL
Shoal Creek Ranger District: *The Anniston Star,* published daily in Anniston, AL
Talladega Ranger District: *The Daily Home,* published daily in Talladega, AL
Tuskegee Ranger District: *Tuskegee News,* published weekly (Thursday) in Tuskegee, AL

Caribbean National Forest, Puerto Rico

Forest Supervisor Decisions

El Nuevo Dia, published daily in Spanish in San Juan, PR
San Juan Star, published daily in English in San Juan, PR
Chattahoochee-Oconee National Forest, Georgia

Forest Supervisor Decisions

The Times, published daily in Gainesville, GA

District Ranger Decisions

Armuchee Ranger District: *Walker County Messenger,* published bi-weekly (Wednesday & Friday) in LaFayette, GA
Toccoa Ranger District: *The News Observer,* published weekly (Wednesday) in Blue Ridge, GA
Brasstown Ranger District: *North Georgia News,* published weekly (Wednesday) in Blairsville, GA
Tallulah Ranger District: *Clayton Tribune,* published weekly (Thursday) in Clayton, GA
Chattooga Ranger District: *Northeast Georgian,* published twice weekly (Tuesday & Friday) in Cornelia, GA
Chieftain & Toccoa Record, published twice weekly (Tuesday & Friday) in Toccoa, GA
White County News Telegraph, published weekly (Thursday) in Cleveland, GA
The Dahlonega Nuggett, published weekly (Thursday) in Dahlonega, GA
Cohutta Ranger District: *Chatsworth Times,* published weekly (Wednesday) in Chatsworth, GA
Oconee Ranger District: *Monticello News,* published weekly (Thursday) in Monticello, GA

Cherokee National Forest, Tennessee

Forest Supervisor Decisions

Knoxville News Sentinel, published daily in Knoxville, TN (covering McMinn, Monroe, and Polk Counties)
Johnson City Press, published daily in Johnson City, TN (covering Carter, Cocke, Greene, Johnson, Sullivan, Unicoi and Washington Counties)

District Ranger Decisions

Ocoee-Hiwassee Ranger District: *Polk County News,* published weekly (Wednesday) in Benton, TN
Tellico-Hiwassee Ranger District: *Monroe County Advocate,* published weekly (Thursday) in Sweetwater, TN
Nolichucky-Unaka Ranger District: *Johnson City Press,* published daily in Johnson City, TN
Watauga Ranger District: *Johnson City Press,* published daily in Johnson City, TN

Daniel Boone National Forest, Kentucky

Forest Supervisor Decisions

Lexington Herald-Leader, published daily in Lexington, KY

District Ranger Decisions

Morehead Ranger District: *Morehead News,* published bi-weekly (Tuesday and Friday) in Morehead, KY
Stanton Ranger District: *The Clay City Times,* published weekly (Thursday) in Stanton, KY
London Ranger District: *The Sentinel-Echo,* published tri-weekly (Monday, Wednesday, and Friday) in London, KY
Somerset Ranger District: *Commonwealth-Journal,* published daily (Sunday through Friday) in Somerset, KY
Stearns Ranger District: *McCreary County Record,* published weekly (Tuesday) in Whitley City, KY
Redbird Ranger District: *Manchester Enterprise,* published weekly (Thursday) in Manchester, KY

National Forests in Florida, Florida

Forest Supervisor Decisions

The Tallahassee Democrat, published daily in Tallahassee, FL

District Ranger Decisions

Apalachicola Ranger District: *The Liberty Journal,* published weekly (Wednesday) in Bristol, FL
Lake George Ranger District: *The Ocala Star Banner,* published daily in Ocala, FL
Osceola Ranger District: The Lake City Reporter, published daily (Monday–Saturday) in Lake City, FL
Seminole Ranger District: *The Daily Commercial,* published daily in Leesburg, FL
Wakulla Ranger District: *The Tallahassee Democrat,* published daily in Tallahassee, FL

Francis Marion & Sumter National Forest, South Carolina

Forest Supervisor Decisions

The State, published daily in Columbia, SC

District Ranger Decisions

Enoree Ranger District: *Newberry Observer,* published tri-weekly (Monday, Wednesday, and Friday) Newberry, SC
Andrew Pickens Ranger District: *Seneca Journal and Tribune,* published bi-weekly (Wednesday and Friday) in Seneca, SC
Long Cane Ranger District: *The Augusta Chronicle,* published daily in Augusta, GA
Wambaw Ranger District: *Post and Courier,* published daily in Charleston, SC
Witherbee Ranger District: *Post and Courier,* published daily in Charleston, SC

George Washington and Jefferson National Forests, Virginia

Forest Supervisor Decisions

Roanoke Times, published daily in Roanoke, VA

District Ranger Decisions

Lee Ranger District: *Shenandoah Valley Herald,* published weekly (Wednesday) in Woodstock, VA
Warm Springs Ranger District: *The Recorder,* published weekly (Thursday) in Monterey, VA
Pedlar Ranger District: *Roanoke Times,* published daily in Roanoke, VA
James River Ranger District: *Virginian Review,* published daily (except Sunday) in Covington, VA
Deerfield Ranger District: *Daily News Leader,* published daily in Stuanton, VA
Dry River Ranger District: *Daily News Record,* published daily (except Sunday) in Harrisonburg, VA
Blacksburg Ranger District: *Roanoke Times,* published daily in Roanoke, VA, *Monroe Watchman,* published weekly (Thursday) in Union, WV (only for those decisions in West VA—notice will be published in the *Roanoke Times* and *Monroe Watchman.*)
Glenwood Ranger District: *Roanoke Times,* published daily in Roanoke, VA
New Castle Ranger District: *Roanoke Times,* published daily in Roanoke, VA
Mount Rogers National Recreation Area: *Bristol Herald Courier,* published daily in Bristol, VA
Clinch Ranger District: *Kingsport-Times News,* published daily in Kingsport, TN
Wythe Ranger District: *Southwest Virginia Enterprise,* published bi-weekly (Wednesday and Saturday) in Wytheville, VA

Kisatchie National Forest, Louisiana

Forest Supervisor Decisions

The Town Talk, published daily in Alexandria, LA

District Ranger Decisions

Caney Ranger District: *Minden Press Herald,* published daily in Minden, LA, *Homer Guardian Journal,* published weekly (Wednesday) in Homer, LA
Catahoula Ranger District: *The Town Talk,* published daily in Alexandria, LA
Calcasieu Ranger District: *The Town Talk,* published daily in Alexandria, LA
Kisatchie Ranger District: *Natchitoches Times,* published daily (Tuesday–Friday and on Sunday) in Natchitoches, LA
Winn Ranger District: *Winn Parish Enterprise,* published weekly (Wednesday) in Winnfield, LA

National Forests in Mississippi, Mississippi

Forest Supervisor Decisions

Clarion-Ledger, published daily in Jackson, MS

District Ranger Decisions

Bienville Ranger District: *Clarion-Ledger,* published daily in Jackson, MS
Chickasawhay Ranger District: *Clarion-Ledger,* published daily in Jackson, MS
Delta Ranger District: *Clarion-Ledger,* published daily in Jackson, MS
De Soto Ranger District: *Clarion-Ledger,* published daily in Jackson, MS
Holly Springs Ranger District: *Clarion-Ledger,* published daily in Jackson, MS
Homochitto Ranger District: *Clarion-Ledger,* published daily in Jackson, MS
Tombigbee Ranger District: *Clarion-Ledger,* published daily in Jackson, MS
Ashe-Erambert Project: *Clarion-Ledger,* published daily in Jackson, MS

National Forests in North Carolina, North Carolina

Forest Supervisor Decisions

The Asheville Citizen-Times, published daily in Asheville, NC

District Ranger Decisions

Appalachian Ranger District: *The Asheville Citizen-Times,* published daily in Asheville, NC
Cheoah Ranger District: *Graham Star,* published weekly (Thursday) in Robbinsville, NC
Croatan Ranger District: *The Sun Journal,* published weekly (Sunday through Friday) in New Bern, NC
Grandfather Ranger District: *McDowell News,* published daily in Marion, NC
Highlands Ranger District: *The Highlander,* published weekly (mid May–mid Nov Tues & Fri; mid Nov–mid May Tues only) in Highlands, NC
Pisgah Ranger District: *The Asheville Citizen-Times,* published daily in Asheville, NC

Tusquitee Ranger District: *Cherokee Scout*, published weekly (Wednesday) in Murphy, NC
Uwharrie Ranger District: *Montgomery Herald*, published weekly (Wednesday) in Troy, NC
Wayah Ranger District: *The Franklin Press*, published bi-weekly (Wednesday and Friday) in Franklin, NC

Ouachita National Forest, Arkansas, Oklahoma

Forest Supervisor Decisions

Arkansas Democrat-Gazette, published daily in Little Rock, AR

District Ranger Decisions

Caddo Ranger District: *Arkansas Democrat-Gazette*, published daily in Little Rock, AR
Cold Springs Ranger District: *Arkansas Democrat-Gazette*, published daily in Little Rock, AR
Fourche Ranger District: *Arkansas Democrat-Gazette*, published daily in Little Rock, AR
Jessieville Ranger District: *Arkansas Democrat-Gazette*, published daily in Little Rock, AR
Mena Ranger District: *Arkansas Democrat-Gazette*, published daily in Little Rock, AR
Oden Ranger District: *Arkansas Democrat-Gazette*, published daily in Little Rock, AR
Poteau Ranger District: *Arkansas Democrat-Gazette*, published daily in Little Rock, AR
Winona Ranger District: *Arkansas Democrat-Gazette*, published daily in Little Rock, AR
Womble Ranger District: *Arkansas Democrat-Gazette*, published daily in Little Rock, AR
Choctaw Ranger District: *Tulsa World*, published daily in Tulsa, OK
Kiamichi Ranger District: *Tulsa World*, published daily in Tulsa, OK
Tiak Ranger District: *Tulsa World*, published daily in Tulsa, OK

Ozark-St. Francis National Forest: Arkansas

Forest Supervisor Decisions

The Courier, published daily (Sunday through Friday) in Russellville, AR

District Ranger Decisions

Sylamore Ranger District: *Stone County Leader*, published weekly (Tuesday) in Mountain View, AR
Buffalo Ranger District: *Newton County Times*, published weekly in Jasper, AR
Bayou Ranger District: *The Courier*, published daily (Sunday through Friday) in Russellville, AR
Pleasant Hill Ranger District: *Johnson County Graphic*, published weekly (Wednesday) in Clarksville, AR
Boston Mountain Ranger District: *Southwest Times Record*, published daily in Fort Smith, AR
Magazine Ranger District: *Southwest Times Record*, published daily in Fort Smith, AR
St. Francis Ranger District: *The Daily World*, published daily (Sunday through Friday) in Helena, AR

National Forests and Grasslands in Texas, Texas

Forest Supervisor Decisions

The Lufkin Daily News, published daily in Lufkin, TX

District Ranger Decisions

Angelina National Forest: *The Lufkin Daily News*, published daily in Lufkin, TX
Davy Crockett National Forest: *The Lufkin Daily News*, published daily in Lufkin, TX
Sabine National Forest: *The Lufkin Daily News*, published daily in Lufkin, TX
Sam Houston National Forest: *The Courier*, published daily in Conroe, TX
Caddo & LBJ National Grasslands: *Denton Record-Chronicle*, published daily in Denton, TX

The Responsible Official under 36 CFR part 215 gave annual notice in the **Federal Register** published on May 17, 1999, of principal newspapers to be utilized for published notices of proposed actions and of decisions subject to appeal under 36 CFR 215. The list of newspapers to be used for 215 notice and decision is corrected as follows:

Cherokee National Forest, Tennessee

District Ranger Decisions

Ocoee-Hiwassee Ranger District:
Delete:
Daily Post-Athenian, published daily (Monday–Friday) in Athens, TN
Tellico-Hiwassee Ranger District:
Delete:
Daily Post-Athenian, published daily (Monday–Friday) in Athens, TN

Kisatchie National Forest, Louisiana

Forest Supervisor Decisions

Change:
Alexandria Daily Town Talk to *The Town Talk*, published daily in Alexandria, LA

District Ranger Decisions

Catahoula Ranger District:
Change:
Alexandria Daily Town Talk to *The Town Talk*, published daily in Alexandria, LA
Calcasieu Ranger District:
Change:
Alexandria Daily Town Talk to *The Town Talk*, published daily in Alexandria, LA

Dated: November 3, 1999.

Eurial E. Turner,

Deputy Regional Forester for Operations.

[FR Doc. 99–29255 Filed 11–8–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Utah Northern Goshawk Project

AGENCY: Forest Service, USDA.

ACTION: Notice of availability.

SUMMARY: The Intermountain Region of the Forest Service is announcing the availability of the predecisional Environmental Assessment for the Utah Northern Goshawk project. Pursuant to the National Forest Management Act (36 CFR 219.19), the Intermountain Region of the Forest Service is proposing to modify or delete current programmatic direction and add new direction in response to new information concerning management of habitat for the northern goshawk and its prey. This action will amend the management direction established in the current land and resource management plans for the Ashley, Dixie, Fishlake, Manti-LaSal, Uinta, and Wasatch-Cache National Forests. The direction will be in the form of goals, objectives, standards, guidelines, and monitoring requirements.

FOR FURTHER INFORMATION CONTACT: Kathryn Hauser, 801/625–5897; e-mail: goshawks3/r4__uinta@fs.fed.us.

RESPONSIBLE OFFICIAL: Jack Blackwell, Intermountain Regional Forester, 324 25th Street, Ogden, UT 84401.

SUPPLEMENTARY INFORMATION: The Intermountain Region of the Forest Service filed a notice in the **Federal Register** (Vol. 63, No. 172, pages 47224–47225) on September 4, 1998 stating that the Forest Service, in cooperation with the Bureau of Land Management and the USDI, Fish and Wildlife Service (FWS), was reviewing the latest Utah state-wide information relating to the sustainability of habitat for the northern goshawk (Northern Goshawk in Utah: Habitat Assessment and Recommendations (Graham et al. 1999) and the USDI, FWS 12-month finding on a petition to list the northern

goshawk (FR, June 29, 1998, Vol. 63, No. 124, pages 35183–35184). This notice stated that the Intermountain Region was proposing to amend regional direction, Regional Guide, and/or Forest Plans to incorporate interim direction in the form of goals and objectives, desired habitat conditions, standards and guidelines, and monitoring requirements developed in response to new scientific information concerning the management of forested habitat for the northern goshawk and its prey in Utah. A notice was filed in the **Federal Register** (Vol. 64, No. 24, pages 5758–5764) on February 5, 1999 stating that the scoping phase of public involvement for the Utah Northern Goshawk Habitat Management Project was beginning. That notice described the proposed management direction (in the form of goals, standards and guidelines, and monitoring requirements) and a desired habitat condition statement giving a portrayal of land conditions expected to result from the implementation of the proposed management direction over time.

This is a programmatic environmental assessment that examines six alternatives which address issues identified through the scoping and public involvement phases of the project. The Environmental Assessment is available electronically on the Project's website at www.fs.fed.us/r4/goshawk.

DATES: Written comments should be sent to the Utah Northern Goshawk project by January 10, 2000.

ADDRESSES: Send written comments to: USDA Forest Service, Utah Northern Goshawk Project Team, c/o Uinta NF, P.O. Box 1428, Provo, UT 84601, *or* online at: www.fs.fed.us/r4/goshawk, *or* e-mail to: goshawk3/r4__uinta@fs.fed.us.

Dated: November 9, 1999.

Christopher L. Pyron,

Deputy Regional Forester, Intermountain Region.

[FR Doc. 99–29256 Filed 11–8–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Analysis of Beaver Park Project Area; Black Hills National Forest; Spearfish/Nemo Ranger District; Lawrence and Meade Counties, SD

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare environmental impact statement.

SUMMARY: Pursuant to 36 CFR 219.10(g), the District Ranger of the Spearfish/Nemo Ranger District, Black Hills National Forest, gives notice of the agency's intent to prepare an environmental impact statement for the analysis of the Beaver Park Project Area. The responsible official for this project is John C. Twiss, Forest Supervisor, Black Hills National Forest.

ADDRESSES: Send written comments to the District Ranger, Spearfish/Nemo Ranger District, Black Hills National Forest, 2014 N. Main, Spearfish, SD 57783.

DATES: This project schedule is as follows: File Draft EIS—December 1999. File Final EIS and Record of Decision signature—February 2000.

FOR FURTHER INFORMATION CONTACT: John Natvig, Project Interdisciplinary Team Leader, 605–642–4622. Additional information, such as maps, scoping summary and list of issues identified through the scoping process can be obtained by written request to the Spearfish/Nemo Ranger District office, or by phone at the above address and phone number.

SUPPLEMENTARY INFORMATION: Timber harvest and associated activities within the Beaver Park Project Area (24,415 acres) is proposed by the Spearfish/Nemo Ranger District to address a growing mountain pine beetle epidemic. The 1997 Revised Land and Resource Management Plan (Forest Plan), which guides management of the Black Hills National Forest, identifies management goals and objectives relating to insect outbreaks and epidemics. The planning team has identified that there is a need for activities in the Beaver Park Project Area in order to meet these Forest Plan goals and objectives. The purpose and need for the project is to: (1) Reduce mountain pine beetle populations in pine stands; (2) cooperate with other agencies and private entities in efforts to decrease risk of a mountain pine beetle outbreak in the adjacent Sturgis Community Watershed and other private lands; and (3) reduce the susceptibility of vegetation to catastrophic fire and outbreaks of mountain pine beetles.

Proposed activities include commercial timber harvest (both sanitation harvest of beetle infested trees, and commercial thinning harvest), road construction and reconstruction associated with commercial timber harvest, non-commercial treatment of beetle infested trees, pheromone baiting, prescribed burning, and mechanical fuel treatment.

This project area includes Beaver Park, a 5,109 acre inventoried (RARE II) roadless area. The Record of Decision (ROD) for the 1997 Forest Plan did not recommend wilderness designation for Beaver Park, and placed this area into 4 management emphasis areas. The majority of the area (2,637 acres) is to be managed for Backcountry Non-motorized Recreation (Management Area (MA) 3.32), and is not part of the land base considered suitable for timber harvest. Another 106 acres was placed into the Sturgis Experimental Watershed (MA 5.3B), an area set aside for watershed research, and not part of the suitable land base. The remaining area was placed into the land base considered suitable for timber harvest; 1,795 acres are to be managed for Limited Motorized Use and Forest Production Emphasis (MA 4.1), and 571 acres are to be managed for Big Game Winter Range Emphasis. This proposed action includes timber harvest and new road construction within the roadless area.

Preliminary issues include effects from management activities on the roadless and natural characteristics of the Beaver Park roadless area (especially in MA 3.32), and the result this would have on future wilderness or Research Natural Area status. Issues also include effects of the mountain pine beetle epidemic on the City of Sturgis Community Watershed and Fort Meade Veteran's Administration Watershed, on wildfire risk, visual resources, and the Centennial Trail.

The EIS will analyze a range of alternatives including, (A) No Action; (B) Maximum Beetle Suppression, including timber harvest and road construction within the roadless area; (C) Beetle Suppression with No Roads in MA 3.32; (D) Beetle Suppression Outside the Beaver Park Roadless Area; and (E) Beetle Suppression with only Sanitation/Salvage Harvest in the Beaver Park Roadless Area. Alternatives B through D include road construction and the use of conventional and cable logging systems. Alternative E is similar to D outside the roadless area, but includes helicopter logging within the roadless area. All action alternatives include removal of currently infested trees and thinning of healthy stands to reduce the risk of beetle infestation.

The decision to be made in the Beaver Park Project Area is whether or not to control the existing mountain pine beetle epidemic, and by what strategy, as displayed in the various alternatives. This decision will include whether or not to control the epidemic within the roadless area boundary, and whether or not to allow new road construction within the roadless area. The decision on this project will abide by the terms of any decision issued on appeals of the Revised Forest Plan. The Black Hills

National Forest is exempt from the existing 18 month interim roads rule in roadless areas, due to the recently completed Revised Forest Plan.

The comment period on the draft environmental impact statement will be a minimum of 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft 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. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1033 (9th Cir., 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E. D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period 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: October 29, 1999.

Pamela E. Brown,

District Ranger.

[FR Doc. 99–29324 Filed 11–8–99; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the West Virginia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the West Virginia Advisory Committee to the Commission will convene at 12:30 p.m. and adjourn at 5:00 p.m. on November 30, 1999, at the State Capitol Building, Governor's Conference Room, (Office of the Secretary of State, Room 157), 1900 Kanawha Boulevard East, Charleston, West Virginia 23505. The Committee will review developments since its two community forums and discuss its future report to the Commission. In preparation for its next forum in Charleston, the Committee will hear from invited guests on civil rights topics, including police-community relations and State and local assistance to persons with disabilities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Gregory T. Hinton, 304–367–4244, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, November 3, 1999.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 99–29221 Filed 11–8–99; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–820]

Certain Compact Ductile Iron Waterworks Fittings and Glands From the People's Republic of China: Rescission of Antidumping Duty Administration Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of recession of antidumping duty administrative review.

SUMMARY: On November 16, 1995, the Department of Commerce (the Department) published in the **Federal Register** (60 FR 57573) the notice of initiation of the administrative review of the antidumping duty order on certain compact ductile iron waterworks fittings and glands (CDIW) from the People's Republic of China (PRC). We are terminating this review as a result of the timely withdrawal by Star Pipe Products, Inc. (Star Pipe) of its request for the review. Star Pipe was the only interested party that requested this review. This notice replaces one signed on February 15, 1996, but inadvertently not published in the **Federal Register**. at that time

EFFECTIVE DATE: November 9, 1999.

FOR FURTHER INFORMATION CONTACT: Paul Stolz or James Terpstra, Office of Antidumping/Countervailing Duty Enforcement, Group II, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW. Washington, DC 20230; telephone: (202) 482–4474 or (202) 482–3965, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 29, 1995, Star Pipe, an interested party, requested an adminstrative review of the antidumping duty order on CDIW from the PRC for the period September 1, 1994, through August 31, 1995, pursuant to 751(a)(1)(B) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act. On November 16, 1995, the Department published in the **Federal Register** (60 FR 57573) the notice initation of that administrative review. Star Pipe timely withdrew its request for review on January 24, 1996, pursuant to the applicable regulation in effect at the time. *See* 19 CFR 353.22(a)(5). There were no other requests for this review. As as result, the Department is terminating this review. A determination to terminate the review was issued on February 15, 1996, but the original notice was lost and never published. This notice is being published to correct this error.

This notice is published in accordance with section 353.213(d)(4) for the Department's regulations.

Dated: November 2, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–29343 Filed 11–8–99; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–401–040]

Stainless Steel Plate From Sweden: Notice of Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On July 7, 1999, the Department of Commerce (the Department) published the preliminary results of review in the antidumping duty administrative review of stainless steel plate from Sweden (64 FR 36667). The review covers two manufacturers/exporters, Avesta Sheffield AB (Avesta) and Uddeholm Tooling AB, Bohler-Uddeholm Corporation and Uddeholm Limited (collectively, Uddeholm), of the subject merchandise to the United States and the period June 1, 1997 through May 31, 1998.

EFFECTIVE DATE: November 9, 1999.

FOR FURTHER INFORMATION CONTACT: Jonathan Lyons, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–0374.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act'') are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR part 351 (1998).

Background

The Department of the Treasury published an antidumping finding on stainless steel plate from Sweden on June 8, 1973 (38 FR 15079). On July 7, 1999, the Department published in the **Federal Register** the preliminary results of antidumping duty administrative review of this antidumping finding (64 FR 36667) for the period June 1, 1997 through May 31, 1998. We invited interested parties to comment and received one comment regarding Avesta. The Department has now completed this review in accordance with section 751(a) of the Act.

Scope of the Review

Imports covered by this review are shipments of stainless steel plate which is commonly used in scientific and industrial equipment because of its resistance to staining, rusting and pitting. Stainless steel plate is classified under Harmonized Tariff Schedule of the United States (HTSUS) item numbers 7219.11.00.00, 7219.12.00.05, 7219.12.00.15, 7219.12.00.45, 7219.12.00.65, 7219.12.00.70, 7219.12.00.80, 7219.21.00.05, 7219.21.00.50, 7219.22.00.05, 7219.22.00.10, 7219.22.00.30, 7219.22.00.60, 7219.31.00.10, 7219.31.00.50, 7220.11.00.00, 7222.30.00.00, and 7228.40.00.00. Although the subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Period of Review

The period of review is June 1, 1997 through May 31, 1998.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results of this administrative review. We received a timely filed case brief from Avesta. Uddeholm informed the Department that it had no comments on the preliminary determination. Petitioners did not submit any comments.

Comment 1: Proper Facts Available Rate for Avesta

On September 2, 1998, Avesta notified the Department that it was unable to participate in the 1997–1998 administrative review and that it was not responding to the questionnaire sent by the Department on August 12, 1998. Because Avesta declined to respond to the Department's questionnaire, we assigned Avesta an adverse facts available rate of 29.36 percent in our preliminary determination.

Avesta argues that the Department, in determining the facts available rate for this review, used a final margin from a previous review that was subsequently amended. Avesta asserts that the margin used, which was published on January 12, 1998 (63 FR 1824) for the 1995–1996 administrative review, was amended on February 19, 1998 (63 FR 8434). Avesta further asserts that the corrected, lower rate of 24.67 percent should be the used as the basis of the Department's facts available determination, as it is the accurate highest previous margin in this case. Avesta argues that the Department should rely on the revised rate that reflects the correction of an error made by the Department in its 1995–1996 final determination. With the publication of the amended final results for the 1995–1996 period of review, Avesta asserts that the Department acknowledged that the initial final rate was, in fact, an intermediary rate that was neither reliable nor relevant.

Department's Position

The Department agrees with Avesta that the most appropriate facts available rate should be the highest final, amended rate from previous segments conducted by the Department, which for the instant review is Avesta's amended final rate for the 1995–1996 administrative review period. As noted in the preliminary determination, the Department selects a facts available rate that can be deemed both reliable and relevant (64 FR at 36668–69). Preliminary results, and final results that are later amended, are by their nature intermediary. In selecting the proper basis for a facts available rate, section 351.308(c)(1)(iii) of the Department's regulations specifies that results from previous administrative reviews can be considered an appropriate basis for secondary information used to make an adverse inference. In the instant review, the facts available margin selected is a rate calculated in a prior segment of the proceeding. Since the Department amended the rate in the final results for the 1995–1996 period of review, the amended final rate for the 1995–1996 review supersedes previous rates published for that segment in terms of accuracy and appropriateness. The amended final rate is the most reliable and relevant, thus meeting the requirements of section 776(c) of the Act.

Final Results of Review

As a result of this review, we determine that the following margins exist for the period June 1, 1997 through May 31, 1998:

Avesta—24.67 percent
Uddeholm—7.30 percent

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. The Department shall issue appraisement instructions directly to the Customs Service. For assessment purposes, we have calculated importer-specific duty assessment rates for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of sales examined.

Furthermore, the following deposit requirements will be effective, upon publication of this notice of final results of review, for all shipments of stainless

steel plate from Sweden entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rates for Avesta and Uddeholm will be the rates stated above; (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and, (4) the cash deposit rate for all other manufacturers or exporters will continue to be 4.46 percent, the all others rate established in the less-than-fair-value (LTFV) investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 351.306 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act, section 771(i) of the Act, and 19 CFR 351.213.

Dated: November 2, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–29344 Filed 11–8–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–201–810]

Certain Cut-to-Length Carbon Steel Plate From Mexico: Extension of Time Limit for Final Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for final results of countervailing duty administrative review.

EFFECTIVE DATE: November 9, 1999.

FOR FURTHER INFORMATION CONTACT: Norbert Gannon at (202) 482–1487 and Eric B. Greynolds at (202) 482–6071, Office of AD/CVD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Time Limits

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order/finding for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary results to a maximum of 365 days and for the final results to 180 days (or 300 days if the Department does not extend the time limit for the preliminary results) from the date of the publication of the preliminary results.

Background

On September 29,1998, the Department published a notice of initiation of administrative review of the countervailing duty order on certain cut-to-length plate from Mexico, covering the period January 1, 1997, through December 31, 1997 (63 FR 51893). On September 8, 1999, (64 FR 48796), we published the preliminary results of review. In our notice of preliminary results, we stated our intention to issue the final results of this review no later than January 6, 2000.

Extension of Final Results of Review

We determine that it is not practicable to complete the final results of this review within the original time limit. Therefore the Department is extending the time limits for completion of the final results until no later than March 6, 2000. *See* Decision Memorandum from Bernard Carreau to Robert S. LaRussa, dated October 28, 1999, which is on file in the Central Records Unit.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: November 3, 1999.

Bernard Carreau,

Deputy Assistant Secretary for Import Administration, Group II.

[FR Doc. 99–29342 Filed 11–8–99; 8:45 am]

BILLING CODE 3510–DS–P

COMMODITY FUTURES TRADING COMMISSION

Notice of Cancellation of the Twenty-Seventh Meeting of the Agricultural Advisory Committee

This is to give notice, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, 10(a), that the public meeting of the Commodity Futures Trading Commission's Agricultural Advisory Committee that was scheduled to be held on November 9, 1999, in the first floor hearing room (Room 1000) of the Commission's Washington, DC headquarters, Three Lafayette Center, 1155 21st Street, NW, Washington, DC 20581, from a 1 p.m. to 4:30 p.m., has been cancelled and will be rescheduled at a later date.

Any member of the public who desires additional information may contact Jennifer A. Roe, Administrative Assistant to Commissioner David D. Spears, Chairman of the Advisory Committee, at 202–418–5043, or Marcia K. Blase, Committee Management Officer, at 202–418–5138.

Issued by the Commission in Washington, DC on November 4, 1999.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–29348 Filed 11–5–99; 9:39 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting; Notice

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10 a.m., Wednesday, November 17, 1999.

PLACE: 1155 21st St., NW, Washington, DC, Lobby Level Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

—Proposed Amendments to Regulation 1.41; Contract Market Rules
—Contract Market Rule Review Procedures; Final Rules
—Withdrawal of the Over-the-Counter Derivatives Concept Release

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–29443 Filed 11–5–99; 1:51 pm]

BILLING CODE 6351–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

TIME AND DATE: 10 a.m. Monday, November 15, 1999.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

FY 2000 Operating Plan

The staff will brief the Commission and the Commission will consider issues related to the Commission's Operating Plan for Fiscal Year 2000.

For a recorded message containing the latest agenda information, call (301) 504–0809.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: November 5, 1999.

Todd A. Stevenson,

Deputy Secretary.

[FR Doc. 99–29489 Filed 11–5–99; 3:49 pm]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 00–01]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 00–01 with attached transmittal and policy justification.

BILLING CODE 5001–10–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

26 OCT 1999
In reply refer to:
I-99/012658

Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 00-01 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Norway for defense articles and services estimated to cost $2.6 billion. Soon after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

MICHAEL S. DAVISON, JR.
LIEUTENANT GENERAL, USA
DIRECTOR

Attachments

Separate Cover:
Classified Annex

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 00-01

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) Prospective Purchaser: Norway

(ii) Total Estimated Value:

Major Defense Equipment*	$1.3 billion
Other	$1.3.billion
TOTAL	$2.6 billion

(iii) Description of Articles or Services Offered: Thirty F-16 Block 60 or F-16 Block 50+ aircraft (configured with either the F100-PW-229A or F110-GE-129 EFE engine; the APG-68(V)XN, APG-68(V)XM; or Agile Beam Radar with Electronically scanned antenna; three F100-PW-229A or F110-GE-129 EFE spare engines, and the Joint Helmet Mounted Cueing System, associated support equipment, software development/integration, spares and repair parts, flight test instrumentation, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor technical and logistics personnel services, and other related requirements to ensure full program supportability will also be provided.

(iv) Military Department: Air Force (SAE)

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vi) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex under separate cover

(vii) Date Report Delivered to Congress: 26 OCT 1999

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Norway - F-16 Block 60 or F-16 Block 50+ Aircraft

The Government of Norway has requested a possible purchase of 30 F-16 Block 60 or F-16 Block 50+ aircraft. All aircraft will be configured with either the F100-PW-229A or F110-GE-129 EFE engine; the APG-68(V)XN, APG-68(V)XM; or Agile Beam Radar with Electronically scanned antenna; three F100-PW-229A or F110-GE-129 EFE spare engines, and the Joint Helmet Mounted Cueing System. Associated support equipment, software development/integration, spare and repair parts, flight test instrumentation, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor technical and logistics personnel services, and other related requirements to ensure full program supportability will also be provided. The estimated cost is $2.6 billion.

This proposed sale will contribute to the foreign policy and national security of the United States by improving the military capabilities of Norway and enhancing weapon system standardization and interoperability of this important NATO ally.

These aircraft are required to replace aircraft lost to attrition or that have passed their useful service life. Since they are not increasing the overall size of their Air Force and are buying a system that is 85-90% compatible with their current F-16 fleet, Norway should have no problem absorbing these articles into their inventory. These aircraft will provide Norway with a more advanced capability than the aircraft that are being replaced.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Lockheed Martin Tactical Aircraft Systems, Fort Worth, Texas. One or more proposed offset agreements may be related to this proposed sale.

Implementation of this sale will require the assignment of several U.S. Government representatives to perform temporary duty. There will be four contractor representatives in-country for a period of three years after delivery of the first aircraft.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

USDP STAFF SUMMARY SHEET

1. DATE	2.
11Oct99	I- 99/012267

3. SUBJECT
Section 36(b)(1) of the Arms Export Control Act
FORMAL NOTIFICATION TO CONGRESS

4. CURRENT SUSPENSE DATE

5. SUMMARY *(Describe briefly the origin, purpose, action recommended and coordination. (Attach original tasking–SD Forms 14, etc.))*

Transmittal No.: 00-08

Country: Israel

Item: 518 M984A1/M985 HEMTT

Value: $117 million

This sale is not on the Javits Report.

State clearance includes all required NSC and OMB clearances.

STATE DEPARTMENT _____

6. ROUTING

	DIR/OFC	COORD	DATE		DIR/OFC	COORD	DATE		DIR/OFC	COORD	DATE
1	DSCA DIR	SIG		9	ISA/NESA	COORD		17			
2	DSCA DEP DIR	COORD		10	PUBLIC AFFAIRS	COORD		18			
3	DSCA/COMPT	COORD		11	LEGISLATIVE AFFAIRS	COORD		19			
4	DSCA/COMPT-RM	COORD		12				20			
5	DSCA/COUNSEL	COORD JM	8/10/99	13				21			
6	DSCA/LPA	COORD		14				22			
7	DSCA/MEAN-ME	COORD		15				23			
8				16				24			

7. NAME OF ORIGINATOR	8. DIRECTORATE/OFFICE	9. TELEPHONE NUMBER	10. SIGNATURE
JANET M. HURD	DSCA/COMPT-RM	604-6575	Janet M Hurd

Dated: November 3, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–29232 Filed 11–8–99; 8:45 am]

BILLING CODE 5001–10–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 00–07]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 00–07 with attached transmittal, policy justification, and Sensitivity of Technology.

BILLING CODE 5001–10–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

26 OCT 1999
In reply refer to:
I-99/011840

Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 00-07, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to the Republic of Korea for defense articles and services estimated to cost $498 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

MICHAEL S. DAVISON, JR.
LIEUTENANT GENERAL, USA
DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 00-07

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) Prospective Purchaser: Republic of Korea

(ii) Total Estimated Value:

Major Defense Equipment*	$ 348 million
Other	$ 150 million
TOTAL	$ 498 million

(iii) Description of Articles or Services Offered: Twenty-nine Multiple Launch Rocket Systems (MLRS) with fire control panels, 281 MLRS extended range rocket pods (six rockets per pod), 120 reduced range practice rocket pods (six rockets per pod), one MLRS fire control proficiency trainer, 111 M39 Army Tactical Missile Systems (ATACMS) Block 1 guided missile and launching assemblies, training and test devices, trucks, missile systems software, U.S. Government and contractor engineering and logistics services, U.S. Government Quality Assurance Team(s) (QATs), spare and repair parts, personnel training and training equipment, publications and technical data, Cooperative Logistics Supply Support Arrangement (CLSSA), support equipment, maintenance support of repairable material and other related elements of program support.

(iv) Military Department: Army (YUJ; YUI; BOL, Amd 2; OFN, Amd 1; and KWU)

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vi) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex attached

(vii) Date Report Delivered to Congress: 29 OCT 1999

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Republic of Korea - Multiple Launch Rocket Systems

The Republic of Korea has requested the purchase of 29 Multiple Launch Rocket Systems (MLRS) with fire control panels, 281 MLRS extended range rocket pods (six rockets per pod), 120 reduced range practice rocket pods (six rockets per pod), one MLRS fire control proficiency trainer, 111 M39 Army Tactical Missile Systems (ATACMS) Block 1 guided missile and launching assemblies, training and test devices, trucks, missile systems software, U.S. Government and contractor engineering and logistics services, U.S. Government Quality Assurance Team(s) (QATs), spare and repair parts, personnel training and training equipment, publications and technical data, Cooperative Logistics Supply Support Arrangement (CLSSA), support equipment, maintenance support of repairable material and other related elements of program support. The estimated cost is $498 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in Northeast Asia.

The proposed sale will enable the Korean Army to continue developing a defensive area fire capability to counter hostile long range artillery and rocket systems as well as enhance its interoperability with U.S. forces. The ROK will have no difficulty absorbing these surface-to-surface missiles in its armed forces.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Lockheed Martin Vought Systems (LMVS), Dallas, Texas. One or more proposed offset agreements may be related to this proposed sale.

Implementation of this sale will require the assignment of several U.S. Government Quality Assurance Teams to Korea for periods ranging from 30 to 45 days to assist in the delivery and deployment of the MLRS and ATACMS missile systems. Three contractor technical representatives will be assigned in-country for a minimum period of up to two years following initial deployment of the missile systems.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 00-07

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex
Item No. vi

(vi) Sensitivity of Technology:

1. The Multiple Launch Rocket System (MLRS) is a free flight artillery rocket system designed to deliver counter-battery fire and suppress enemy air defense systems. The basic warhead carries a load of improved conventional sub-munitions (grenades) that are scattered over a wide area of the battlefield. The MLRS consists of several unclassified sub-systems; the self-propelled launcher the preloaded launcher pods and the fire control system. A major part of the fire control element is the Lightweight Computer Unit which receives digital firing data from a forward observer, computes range and deflection information and transmits this information to the rocket launcher crew.

2. The Army Tactical Missile System (ATACMS) Block 1 is a ground-launched missile system consisting of a surface-to-surface missile with an anti-personnel/anti-materiel Warhead. The ATACMS missiles are fired from the MLRS M270 launcher and are deployed within the ammunition loads of corps MLRS battalions and/or division artillery MLRS batteries. The ATACMS is air transportable and provides a deep fire missile system that operates in near all-weather conditions, day or night. The range of these missiles (168 km) does not exceed the Missile Technology Control Regime threshold.

3. The highest level of classified information required to be released for training, operation and maintenance of the Multiple Launch Rocket System extended range (MLRS-ER) rocket pods is Confidential. The highest level of information which could be revealed through reverse engineering or testing of the end item is Secret. MLRS-ER technical data and information includes Confidential and Secret reports and data, as well as performance and capability data, classified Confidential/Secret.

4. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures or equivalent systems which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities. If a technologically advanced adversary were to obtain knowledge of the specific hardware in this proposed sale, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

5. A determination has been made that Korea can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

Dated: November 3, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–29233 Filed 11–8–99; 8:45 am]

BILLING CODE 5001–10–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 00–08]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 00–08 with attached transmittal and policy justification.

BILLING CODE 5001–10–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

26 OCT 1999
In reply refer to:
I-99/012267

Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 00-08, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Israel for defense articles and services estimated to cost $117 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

MICHAEL S. DAVISON, JR.
LIEUTENANT GENERAL, USA
DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 00-08

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) Prospective Purchaser: Israel

(ii) Total Estimated Value:

Major Defense Equipment*	$ 0 million
Other	$ 117 million
TOTAL	$ 117 million

(iii) Description of Articles or Services Offered: Five hundred eighteen M984A1/M985 Heavy Expanded Mobility Tactical Trucks with ancillary equipment, special tools, spare and repair parts, support equipment, publications, contractor technical services and other related elements of logistics support.

(iv) Military Department: Army (YUL)

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vi) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: none

(vii) Date Report Delivered to Congress: 26 OCT 1999

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Israel - M984A1/M985 Heavy Expanded Mobility Tactical Trucks

The Government of Israel has requested a possible sale of 518 M984A1/M985 Heavy Expanded Mobility Tactical Trucks (HEMTTT) with ancillary equipment, special tools, spare and repair parts, support equipment, publications, contractor technical services and other related elements of logistics support. The estimated cost is $117 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in the Middle East.

These 10-ton HEMMTs will be used for carrying artillery ammunition. The Israel Defense Forces (IDF) mission profile requires trucks with a load handling system to load and unload commercial trucks. These commercial trucks are fitted with an interface that enables them to carry palletized load system flatracks. Israel, which already has this truck in its inventory, will have no difficulty absorbing these additional trucks.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Oshkosh Truck Corporation, Oshkosh, Wisconsin. There are no offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Israel.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Dated: November 3, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–29234 Filed 11–8–99; 8:45 am]

BILLING CODE 5001–10–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 00–09]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 00–09 with attached transmittal and policy justification.

BILLING CODE 5001–10–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

26 OCT 1999
In reply refer to:
I-99/012285

Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 00-09, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Egypt for defense articles and services estimated to cost $180 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

MICHAEL S. DAVISON, JR.
LIEUTENANT GENERAL, USA
DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 00-09

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) Prospective Purchaser: Egypt

(ii) Total Estimated Value:

Major Defense Equipment*	$ 60 million
Other	$ 120 million
TOTAL	$ 180 million

(iii) Description of Articles or Services Offered: Two Gulfstream IV-SP aircraft including four Rolls Royce engines (two engines per aircraft), support equipment, spare and repair parts, personnel training and training equipment, publications and technical data, maintenance of repairable material, U.S. Government and contractor engineering and logistics services, aircraft ferry services, and other related elements of program support.

(iv) Military Department: Air Force (STS)

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vi) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: none

(vii) Date Report Delivered to Congress: 26 OCT 1999

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Egypt - Gulfstream IV-SP Aircraft

The Government of Egypt has requested a possible sale of two Gulfstream IV-SP aircraft including four Rolls Royce engines (two engines per aircraft), support equipment, spare and repair parts, personnel training and training equipment, publications and technical data, maintenance of repairable material, U.S. Government and contractor engineering and logistics services, aircraft ferry services, and other related elements of program support. The estimated cost is $180 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in the Middle East.

Egypt will use these aircraft to augment and enhance its existing airlift capability, including the movement of its National Command Authority. Egypt, which already has Gulfstream aircraft in its inventory, will have no difficulty absorbing these additional aircraft.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the Gulfstream Aerospace Corporation of Savannah, Georgia. There are no offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government representatives to Egypt. It is estimated that approximately two years of contractor representatives in-country will be required for technical support.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Dated: November 3, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–29235 Filed 11–8–99; 8:45 am]

BILLING CODE 5001–10–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 00–10]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 00–10 with attached transmittal and policy justification.

BILLING CODE 5001–10–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

26 OCT 1999
In reply refer to:
I-99/012813

Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 00-10, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Egypt for defense articles and services estimated to cost $30 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

MICHAEL S. DAVISON, JR.
LIEUTENANT GENERAL, USA
DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 00-10

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) Prospective Purchaser: Egypt

(ii) Total Estimated Value:

Major Defense Equipment*	$ 21 million
Other	$ 9 million
TOTAL	$ 30 million

(iii) Description of Articles or Services Offered: Two hundred thirty-nine High Mobility Multi-purpose Wheeled Vehicles (HMMWV), electronic test set, spare and repair parts, personnel training and equipment, publications, U.S. Government and contractor engineering and logistics personnel services, a Quality Assurance Team, and other related elements of logistics support

(iv) Military Department: Army (UTA)

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vi) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: none

(vii) Date Report Delivered to Congress: 26 OCT 1999

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Egypt - High Mobility Multi-purpose Wheeled Vehicles

The Government of Egypt has requested a possible sale of 239 High Mobility Multi-purpose Wheeled Vehicles (HMMWV), electronic test set, spare and repair parts, personnel training and equipment, publications, U.S. Government and contractor engineering and logistics personnel services, a Quality Assurance Team, and other related elements of logistics support. The estimated cost is $30 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in the Middle East.

The proposed sale of the HMMWVs will be fielded with Egypt's TOW weapon system in their Field Artillery and to replace existing jeeps as support vehicles. Egypt, which already has trucks in its inventory, will have no difficulty absorbing these trucks.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be AM General of South Bend, Indiana. There are no offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the assignment of a U.S. Government Quality Assurance Team for one week and a contractor Field Services Representative for a year to Egypt.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Dated: November 3, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer Department of Defense.

[FR Doc. 99–29236 Filed 11–8–99; 8:45 am]

BILLING CODE 5001–10–C

DEPARTMENT OF DEFENSE

Office of the Secretary

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Fiscal Year 2000 DRG Updates

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of DRG revised rates.

SUMMARY: This notice describes the changes made to the TRICARE/CHAMPUS DRG-based payment system in order to conform to changes made to the Medicare Prospective Payment System (PPS).

It also provides the updated fixed loss cost outlier threshold, cost-to-charge ratios and the Internet address for accessing the updated adjusted standardized amounts, DRG relative weights, and beneficiary cost-share per diem rates to be used for FY 2000 under the TRICARE/CHAMPUS DRG-based payment system.

EFFECTIVE DATES: The rates, weights and Medicare PPS changes which affect the TRICARE/CHAMPUS DRG-based payment system contained in this notice are effective for admissions occurring on or after October 1, 1999.

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

For copies of the **Federal Register** containing this notice, contact the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238. The charge for the **Federal Register** is $1.50 for each issue payable by check or money order to the Superintendent of Documents.

FOR FURTHER INFORMATION CONTACT: Marty Maxey, Medical Benefits and Reimbursement Systems, TMA, telephone (303) 676–3627.

To obtain copies of this document, see the **ADDRESSES** section above. Questions regarding payment of specific claims under the TRICARE/CHAMPUS DRG-based payment system should be addressed to the appropriate contractor.

SUPPLEMENTARY INFORMATION: The final rule published on September 1, 1987 (52 FR 32992) set forth the basic procedures used under the CHAMPUS DRG-based payment system. This was subsequently amended by final rules published August 31, 1988 (53 FR 33461), October 21, 1988 (53 FR 41331), December 16, 1988 (53 FR 50515), May 30, 1990 (55 FR 21863), October 22, 1990 (55 FR 42560), and September 10, 1998 (63 FR 48439).

An explicit tenet of these final rules, and one based on the statute authorizing the use of DRGs by TRICARE/CHAMPUS, is that the TRICARE/CHAMPUS DRG-based payment system is modeled on the Medicare PPS, and that, whenever practicable, the TRICARE/CHAMPUS system will follow the same rules that apply to the Medicare PPS. HCFA publishes these changes annually in the **Federal Register** and discusses in detail the impact of the changes.

In addition, this notice updates the rates and weights in accordance with our previous final rules. The actual changes we are making, along with a description of their relationship to the Medicare PPS, are detailed below.

I. Medicare PPS Changes Which Affect the TRICARE/CHAMPUS DRG-Based Payment System

Following is a discussion of the changes the Health Care Financing Administration (HCFA) has made to the Medicare PPS that affect the TRICARE/CHAMPUS DRG-based payment system.

A. DRG Classifications

Under both the Medicare PPS and the TRICARE/CHAMPUS DRG-based payment system, cases are classified into the appropriate DRG by a Grouper program. The Grouper classifies each case into a DRG on the basis of the diagnosis and procedure codes and demographic information (that is, sex, age, and discharge status). The Grouper used for the TRICARE/CHAMPUS DRG-based payment system is the same as the current Medicare Grouper with two modifications. The TRICARE/CHAMPUS system has replaced Medicare DRG 435 with two age-based DRGs (900 and 901), and we have implemented thirty-four (34) neonatal DRGs in place of Medicare DRGs 385 through 390. For admissions occurring on or after October 1, 1995, the CHAMPUS grouper hierarchy logic was changed so the age split (age <29 days) and assignments to MDC 15 occur before assignment of the PreMDC DRGs. This resulted in all neonate tracheostomies and organ transplants to be grouped to MDC 15 and not to DRGs 480–483 or 495. For admissions occurring on or after October 1, 1998, the CHAMPUS grouper hierarchy logic was changed to move DRG 103 to the PreMDC DRGs and to assign patients to PreMDC DRGs 480, 103 and 495 before assignment to MDC 15 DRGs and the neonatal DRGs. Grouping for all other DRGs under the TRICARE/CHAMPUS system is identical to the Medicare PPS.

For FY 2000, HCFA will implement classification changes, including surgical hierarchy changes. The CHAMPUS Grouper will incorporate all changes made to the Medicare Grouper.

B. Wage Index and Medicare Geographic Classification Review Board Guidelines

TRICARE/CHAMPUS will continue to use the same wage index amounts used for the Medicare PPS. In addition, TRICARE/CHAMPUS will duplicate all changes with regard to the wage index for specific hospitals that are redesignated by the Medicare Geographic Classification Review Board.

C. Hospital Market Basket

TRICARE/CHAMPUS will update the adjusted standardized amounts according to the final updated hospital market basket used for the Medicare PPS according to HCFA's July 30, 1999, final rule.

D. Outlier Payments

Since TRICARE/CHAMPUS does not include capital payments in our DRG-based payments, we will use the fixed loss cost outlier threshold calculated by HCFA for paying cost outliers in the absence of capital prospective payments. For FY 2000, the fixed loss cost outlier threshold is based on the sum of the applicable DRG-based payment rate plus any amounts payable for IDME plus a fixed dollar amount. Thus, for FY 2000, in order for a case to qualify for cost outlier payments, the costs must exceed the TRICARE/CHAMPUS DRG base payment rate (wage adjusted) for the DRG plus the IDME payment plus $12,827 (wage adjusted). The marginal cost factor for cost outliers continues to be 80 percent.

E. Blood Clotting Factor

TRICARE/CHAMPUS will add HCPCS code J7191 (clotting factor, porcine) to the list of covered blood clotting factors for hemophilia patients and adopt changes to the payment rates as outlined in HCFA's July 30, 1999, final rule, effective for admissions on or after October 1, 1999.

F. Hospitals Excluded From the Prospective Payment System

TRICARE/CHAMPUS will adopt the changes outlined in HCFA's July 30, 1999, final rule as they apply to hospitals and units excluded from the Medicare PPS.

II. Cost to Charge Ratio

For FY 2000, the cost-to-charge ratio used for the TRICARE/CHAMPUS DRG-based payment system will be 0.5429, which is increased to 0.5489 to account for bad debts. This shall be used to

calculate the adjusted standardized amounts and to calculate cost outlier payments, except for children's hospitals. For children's hospital cost outliers, the cost-to-charge ratio used is 0.6004.

III. Updated Rates and Weights

The updated rates and weights are accessible through the Internet at www.tricare.osd.mil under the heading TRICARE Provider Information. Table 1 provides the ASA rates and Table 2 provides the DRG weights to be used under the TRICARE/CHAMPUS DRG-based payment system during FY 2000 and which is a result of the changes described above. The implementing regulations for the TRICARE/CHAMPUS DRG-based payment system are in 32 CFR Part 199.

Dated: November 3, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–29237 Filed 11–8–99; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Wage Committee; Notice of Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given that closed meetings of the Department of Defense Wage Committee will be held on December 7, 1999, December 14, 1999, December 21, 1999, and December 28, 1999, at 10:00 a.m. in Room A105, The Nash Building, 1400 Key Boulevard, Rosslyn, Virginia.

Under the provisions of section 10(d) of Public Law 92–463, the Department of Defense has determined that the meetings meet the criteria to close meetings to the public because the matters to be considered are related to internal rules and practices of the Department of Defense and the detailed wage data to be considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence.

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning the meetings may be obtained by writing to the Chairman, Department of Defense Wage Committee, 4000 Defense Pentagon, Washington, DC 20301–4000.

Dated: November 3, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–29231 Filed 11–8–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Local Redevelopment Authority and Available Surplus Building and Land at the Former Lowry Air Force Base (AFB), Located in Denver, CO

AGENCY: Department of the Air Force; DoD.

ACTION: Notice.

SUMMARY: This notice provides information regarding surplus Federal real property, Building 1432, at the former Lowry AFB and the redevelopment authority responsible for planning the reuse of the base and addressing the balance between economic redevelopment and homeless assistance. Lowry is located in the cities of Denver and Aurora, Colorado.

FOR FURTHER INFORMATION: Mr. John P. Carr, Program Manager, Air Force Base Conversion Agency (AFBCA), 703–696–5547. For more detailed information regarding the property, contact Mr. Mark Ashton, AFBCA, Lowry AFB, 303–361–0406.

SUPPLEMENTARY INFORMATION: This surplus property is available under the provisions of the Federal Property and Administrative Services Act of 1949 and the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

Notice of Surplus Property

Pursuant to paragraph (7)(B) of § 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment Homeless Assistance Act of 1994 (Public Law 103–421), the following information regarding the redevelopment authority and surplus property at the former Lowry AFB, Denver, CO is published in the **Federal Register**.

Redevelopment Authority

The redevelopment authority for the former Lowry AFB, Denver, CO, for the purposes of implementing the provisions of the Defense Base Closure and Redevelopment Act of 1990, as amended, is the Lowry Redevelopment Authority. The Executive Director is Mr. Thomas Markham in Denver, CO, 303–343–0276.

Surplus Property Description

Building 1432 (60,420 sq. ft.) with approximately 4.9 acres of land. This two-story building was originally constructed as a missile assembly facility and was remodeled as an administrative facility in the late 1960's.

Expressions of Interest

Pursuant to paragraph 7(C) of § 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, state and local governments, representatives of the homeless and other interested parties located in the vicinity of the former Lowry AFB shall submit notices of interest in acquiring the property to the Lowry Redevelopment Authority. Pursuant to the Act, the Lowry Redevelopment Authority will publish in a paper of general circulation the availability of the property, the period during which it will receive notices of interest in acquiring the property, and the required content for notices of interest.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 99–29323 Filed 11–8–99; 8:45 am]

BILLING CODE 5001–05–P

DENALI COMMISSION

Denali Commission Work Plan for Federal Fiscal Year 2001

ACTION: Notice and opportunity for public comment.

SUMMARY: The Denali Commission was established by The Denali Commission Act of 1998 to deliver the services of Federal Government in the most cost-effective manner practicable to communities throughout rural Alaska, many of which suffer from unemployment rates in excess of 50%. Its purposes include, but are not limited to, providing necessary rural utilities and other infrastructure that promote health, safety and economic self-sufficiency.

The Denali Commission Act requires that the Commission develop proposed work plans for future spending. In accordance with the Act, the Commission solicited project proposals from local governments and other entities. The Act further requires that the Commission publish annual work plans in the **Federal Register** for a 30-day period, providing an opportunity for public review and comment.

This **Federal Register** Notice serves to announce the 30-day opportunity for

public comment on the Denali Commission Work Plan for Federal Fiscal Year 2001.

FOR FURTHER INFORMATION CONTACT: Jeffrey Staser, Federal Co-Chairman, Denali Commission, 510 'L' Street, Suite 410, Anchorage, Alaska 99501, Phone: (907) 271–1414, Fax: (907) 271–1415, Email: *JStaser@denali.gov, http://www.denali.gov.*

SUPPLEMETARY INFORMATION: Copies of the Denali Commission Work Plan can be obtained by contacting the Denali Commission as provided in the **FOR FURTHER INFORMATION CONTACT** section above.

Jeffrey Staser,

Federal Co-Chairman.

Denali Commission 2000–2001 Work Plan

November 15, 1999.

Work Plan—Contents

Part One—Denali Commission Purposes and Approach
- Purposes of Commission
- Challenges to Development and Economic Self-Sufficiency
- Commission Relationship with Other Organization
- Commission Schedule
- Staffing
- Funding Criteria
- Additional Criteria for Infrastructure Projects
- Additional Criteria for Economic Development Projects

Part Two—Fiscal Year 2000 Work Plan
- Project Selection Process for FY 2000 Bulk Fuel Program and Utility Upgrades
- Other Power Related Projects Under Review
- Other Projects Under Review
- FY 2000 Work plan

Part Three—Work Plan for FY 2001 and beyond
- FY 2001 Work Plan
- FY 2002 and Beyond—Defined Funding Needs

Part One: Denali Commission Purposes and Approach

Purposes of Commission

The Denali Commission Act of 1998 (Division C, Title III, PL 105–277) states that the purposes of the Denali Commission are:

To deliver the services of the Federal Government in the most cost-effective manner practicable by reducing administrative and overhead costs.

To provide job training and other economic development services in rural communities, particularly distressed communities (many of which have a rate of unemployment that exceeds 50 percent).

To promote rural development, provide power generation and transmission facilities, modern communications systems, bulk fuel storage tanks, water and sewer systems and other infrastructure needs.

Challenges to Development and Economic Self-Sufficiency

Geography—The State of Alaska encompass twenty percent of the landmass of the United States, encompassing five (5) climatic zones from the arctic to moderate rain forests in the south.

Isolation—Approximately 220 Alaskan communities are accessible only by air or small boat. Some regional hub communities are separated by over a thousand miles from their State Capital.

Unemployment—The economy of rural Alaska is a mix of natural resource extraction and traditional native subsistence activities. Many Alaskans are absolutely dependent on subsistence hunting and gathering. Cash paying employment opportunities in rural Alaska are scarce; unemployment rates exceed 50% in 147 communities.

High cost and low standard of living—Over 180 communities suffer from inadequate sanitation and a lack of safe drinking water. Residents pay up to 61 cents per kilowatt-hour for electricity even with State subsidies for rural power.

Commission Relationship With Other Organizations

The Commission intends to act as a catalyst to encourage local, regional, and statewide comprehensive assessment, planning and ranking of needed infrastructure improvements and economic development opportunities and training needs.

The Commission working with existing agencies or other organizations whenever feasible, intends to improve coordination and to streamline and expedite the development of needed infrastructure, economic development, and training.

The Commission may build on the work of both Federal and State of Alaska agencies to identify statewide needs, to establish priorities, and to develop comprehensive work plans.

The Commission will seek the support and involvement of affected local communities, governing bodies, businesses and other organizations.

The Commission will encourage partnerships between government, non-profit organizations, and businesses to expedite sustainable economic and infrastructure development.

Commission Schedule

The Commission will hold quarterly public Commission meetings and make every reasonable effort to maximize public participation in plan development and update.

In order to integrate the Commission work plan with the federal FY 2001 budget cycle, the Commission intends to have the FY 2001 work plan completed by December 1999. This will complete a multi-year work plan, which will be updated at least annually.

Staffing

The Federal Co-Chairman is solely responsible for Commission staffing and administrative matters. Staffing will be kept to a minimum, and the Commission will utilize staff detailed from federal, state, or other organizations to the maximum extent possible. Contract support will also be utilized where appropriate.

Funding Criteria

The following criteria are intended to foster careful and systematic planning and coordination on a local, regional and statewide basis for infrastructure and economic development, and to strongly support local involvement in project planning and implementation.

- Projects should be compatible with local cultures and values.
- Projects that provide substantial health and safety benefit, and/or enhance traditional community values, will generally receive priority over those that provide more narrow benefits.
- Projects should be sustainable.
- Projects should have broad public involvement and support. Evidence of support might include endorsement by affected local government councils (municipal, Tribal, IRA, etc.), participation by local governments in planning and overseeing work, and local cost sharing on an 'ability to pay' basis.
- Priority will generally be given to projects with substantial cost sharing.
- Priority will generally be given to projects with a demonstrated commitment to local hire.
- Commission funds may supplement existing funding, but will not replace existing federal, state, local government, or private funding.
- The Commission will give priority to funding needs that are most clearly a federal responsibility.

Additional Criteria for Infrastructure Projects

- A project should be consistent with a comprehensive plan.
- Any organization seeking funding assistance must have a demonstrated commitment to operation and maintenance of the facility for its design life. This would normally include an institutional structure to levy and

collect user fees if necessary, to account for and manage financial resources, and having trained and certified personnel necessary to operate and maintain the facility.

- Proposals should include a cost breakdown by phase including breakout for design, construction and annual O & M.

Additional Criteria for Economic Development Projects

- Priority will be given to projects that enhance employment in high unemployment areas of the State, with emphasis on sustainable, long-term local jobs or career opportunities.
- Projects should be consistent with statewide or regional plans.
- The Commission may fund demonstration projects that are not a part of a regional or statewide economic development plan if such projects have significant potential to contribute to economic development.

Part Two: Fiscal Year 2000 Work Plan

In order to provide focus for the Commission's second season of work, the theme of ''Rural Energy'' was selected by the Commission to provide consistency and build on work completed in FY 1999. Bulk Fuel Storage and Utility Upgrades continue to be an important part of the Commission work.

The following paragraphs describe in detail, the project selection process used by the Alaska Energy Authority. Throughout FY 2000, Commission and staff will be working on development of additional focus areas or ''themes''. The goal of the Commission is to build on the success of the energy program and increase the number of focus areas or ''themes'' along with associated funding. The themes will consist of specific programs or project areas that show a great need and limited funding to address that need.

Bulk Fuel Storage

Background—The U.S. Coast Guard (USCG) documented major deficiencies associated with rural bulk fuel tank farms in 1991 and began the process of notifying communities that failure to correct deficiencies would result in substantial fines and suspension of fuel deliveries. Deteriorated tanks dating back to WW–II vintage were leaking petrochemical contamination into local water supplies causing sickness in children and elderly people. Lack of building code compliance further exposed residents to a high risk of catastrophic fire. Large numbers of tanks lacked adequate spill control features.

Arctic and sub-arctic communities are totally dependent on these leaking fuel storage tanks for heat, power and light. In most instances, fuel is delivered annually by barge. Suspension of even one delivery would have catastrophic impact on local residents, many of whom live in a subsistence economy without cash to bring fuel tanks into compliance with federal standards or to pay fines. Overwhelmed by the cost and urgency of this crisis, residents appealed their plight to State and Federal Government representatives.

In 1994 the Governor and Congressional Delegation responded by requesting a moratorium on enforcement actions until an effective solution could be found. With funds provided by Congress specifically for this purpose, the U.S. Environmental Protection Agency (EPA), working through the Alaska Department of Environmental Conservation (DEC) and the Alaska Energy Authority (AEA, formerly the Alaska Division of Energy), identified a work backlog, not including cleanup, estimated at approximately $450,000,000. Principle responsible parties were often traced to pre-statehood federal agencies or to a hodgepodge of now defunct entities. No one accepted responsibility.

Electric power

Background—Rural communities of Alaska, much like the rest of the nation, are dependent on electric power for basic life support. Unlike most other areas of the country, Alaska's rural communities are remote (not connected to a power grid) and subject to extreme weather conditions. When a system fails, there are no backups and the life and safety of people are in jeopardy. Funding for upgrade and maintenance of systems has been grossly inadequate, resulting in many systems being unsafe, undependable, and very expensive to operate. A comprehensive assessment of needs has not yet been completed, but the AEA has identified a number of systems needing immediate assistance. The AEA has also identified some opportunities to replace or supplement high cost diesel power with alternative energy sources.

Project Selection Process for FY 2000 Bulk Fuel Program and Electric Power Utility Upgrades

The Commission focused on the most severe problems first by drawing on an extensive database compiled by the Sate of Alaska in coordination with EPA and the U.S. Coast Guard (USCG). This data was used to develop a preliminary ranking of communities based on the current condition of their facilities as reported by both State and Federal field inspectors. To these preliminary rankings the Commission then applied additional selection criteria, including:

- Citations or warning letter from EPA, USCG, or other regulatory agencies.
- Imminent threat to health and safety, or threat of winter system failure.
- Alternative or supplemental community/region specific funding opportunities, *i.e.*, Federal through the U.S. Department of Housing and Urban Development (HUD) or Sate through the Department of Education.
- Financial need based on existing costs, rates, and income levels.
- Community commitment and support of tribal elders.

Factors reviewed by the Commission staff, working with Alaska Energy Authority, in formulating recommendations to the Commissioners included:

- Opportunity for consideration of small tanks and economies of scale.
- Community size.
- Cost sharing.
- Demonstrated administrative, operation and maintenance capability.
- Any federal tax delinquency of tank farm owner(s).
- Community contribution and commitment.
- Past experience working in the community.
- Unusual conditions or costs.

Beginning in FY 01, two additional criteria will be key to selection for Denali Commission funding:

1. Consistent with statewide energy strategy now under development; and
2. Consistent with an adopted community based comprehensive plan

Ultimately, project selection reflected the active involvement, cooperation and support of federal and state regulators, tank farm and electric utility owners, and community leaders.

Project Management Procedures

The Commission determined that the most cost-effective manner to reduce overhead and adminsitrtive costs involved with managing its Bulk Fuel Storage Tank Program in FY 2000 was to take full advantage of the Alaska Energy Authority contracts and structure, while maintaining appropriate oversight.

Key elements of project development used by the AEA are:

1. *Consult with Facility Owners and Community Representatives.* Staff traveled to the community to meet with tank farm owners, utility owners, and community representatives to obtain information, to develop an initial project concept, and to determine

project participants. Community representatives include municipal government, tribal government, and the Village Corporation. The Commission made approval by village elders a prerequisite for funding. In this way, traditional cultural values are sustained and potentially harmful community impacts are minimized.

Any tank farms that would not be included in the program for FY 2000 are also identified and the reasons for such exclusion are determined. If deficient facilities will not be upgraded as part of the Commission's program, efforts are made to develop a plan with the facility owner on how those facilities will be brought up to code in the future.

2. *Consult with State and Federal agencies.* The Commission asked the AEA to coordinate with other agencies and to determine potential sources for supplemental funding of the project wherever possible. Federal agencies include the USCG, EPA, HUD, Bureau of Indian Affairs, and Public Health Service. State agencies include the Departments of Education, Environmental Conservation, and Transportation and Public Facilities.

3. *Develop Grant Agreement.* When agreement is reached on a project concept, and funding has been identified, the AEA prepares a grant agreement and a ''consolidation agreement.'' Grant agreements not only formalize the funding commitment project but also commits grantees—the future owners of new or reconstructed facilities—to assist in project development and to properly maintain the projects in the future.

a. Most labor is hired locally on' 'force account'' by the local grantee or government entity. The only ''outside'' hires are typically foremen, who must have extensive experience, and specialized skilled labor (i.e., welders) not usually locally available. In the future, through focused training, we hope to be able to fill all positions locally or at least within a region.

b. A private sector firm is retained to perform the project accounting, local payroll, and invoice payment, a significant advantage in cost and time compared with government administration, particularly in the context of tight construction schedules.

c. Competitive bids are solicited for equipment and materials. The AEA has chosen to use State regulations for competitive awards among vendors.

4. *Develop Consolidation Agreement.* The consolidation agreement binds all of the tank farm participants and records agreement on specific ownership and management structure for the new facility upon its completion.

5. *Place Project Funds and Set up Accounts with Trustee Accounting Firm.* The AEA uses a standing contract with a private sector accounting firm to provide all accounting and payment services required. The Commission releases funding for projects involving Denali Commission funds to the trustee firm as oversight criteria are met.

Disbursements to vendors for project materials, to engineering and construction management firms for services rendered, and to force account labor are made by the trustee firm only as directed by the AEA and/or Commission. The trustee firm, in order to ensure clear, up-to-date budget and expenditure information for each project, provides monthly expenditure and activity reports.

6. *Projects Design and Site Selection.* In consultation with the project participants and community representatives, the AEA then proceeds into site selection and project design. The participants must agree to the site and design before funds are committed to project construction.

The AEA maintains standing contracts with local engineering firms for a broad scope of services. At the present time, the AEA has four such contracts in place that will remain in effect through December 2000, at which time a new set of contracts will be issued. At any time, the AEA can issue one or more work orders to any of these four firms to immediately begin work on a project related task. These firms are primarily for project design, both for bulk fuel storage and for electric utility upgrades.

7. *Site Control.* Similar contracts are in place with a right-of-way firm to immediately begin work on site control services, including all takes related to land ownership determination, ownership transfers, leases, and easements. The site control task begins in conjunction with preliminary designs specifically on the determination of land ownership. When the project design has been adopted, the contractor proceeds with all steps needed to acquire site control. The present contract runs through February 2000, at which time one or more new contracts will be issued.

8. *Permitting and Environmental Compliance.* Commission oversight ensures that all applicable permits and regulations pertaining to project construction and operation are obtained or satisfied. Among these permit sand approvals are the following:

The U.S. Army Corps of Engineers developed a ''general permit'' that will expedite approval under Section 404 of the Clean Water Act for the placement of fill material in wetlands for rural bulk fuel storage facilities. This approval process, which is necessary for virtually all tank farm projects in rural Alaska, normally requires 3–4 months to complete but is expected to require only 15–30 days under the general permit.

The State of Alaska has adopted the Uniform Fire Code (UFC) as part of its Alaska Administrative Code requirements for building permits. The UFC was not written for rural Alaska conditions and, in some cases, is difficult or impossible to apply to rural Alaska tank farms. Therefore, the AEA and the State Fire Marshal signed a memorandum of agreement that provides practical solutions to problems posed by UFC requirements. The agreement reflects consideration for dispensing tank placement, tank setback, flood protection, fire-resistive supports or pilings, dike wall materials, equipment placement inside the secondary containment area, overfill prevention equipment, and bulk transfer to small tank vehicles.

9. *Construction Management and Local Hire.* Local hire is a basic principle of the Commission. The Commission seeks to stimulate the creation of not only jobs, but also careers. Local labor helps hold down project costs. Local hire means that people who are knowledgeable about the project will remain in the community after construction.

As mentioned above, four project management firms supplement the AEA's in-house ability to provide overall project management. These flexible contracts are set up on a work order basis—whenever the AEA needs to assign a project manager to a project, it will be able to issue a work order that specifies the particular individual or skill set to be assigned. This provides access to as many project managers as needed, whatever the workload demands.

This is essential to maintaining the force account construction approach that has been successful in the past and has been well received by local communities. A project manager is needed to communicate directly with the community grantee, the design engineer, the site control contractor, and the on-site construction foreman; to handle material procurement, scheduling and transportation; and to provide financial management and control.

10. *Operations and Maintenance.* The Commission oversees the preparation and proposal process, including details on operations and maintenance (O&M) responsibility. Local sponsors must participate in addressing their estimated

O&M budget and revenue requirements. The Commission also supports training for tank farm operators.

11. *Insurance.* The AEA purchases liability insurance to cover damages that may be claimed during the construction phase of our projects, and arranges pollution and liability insurance coverage for consolidated tank farms after the project is complete and placed in operation. To date, insurance applying to the operational phase has been purchased by the AEA on behalf of the new tank farm owner for the first year of operation—no commitments have yet been made for succeeding years.

12. *Regulatory Plans.* A part of the AEA scope of work for every tank farm project is the preparation of all required regulatory plans, including the Operations Manual and Facility Response Plan required by the USCG and the Spill Prevention Control and Countermeasure Plan required by EPA.

13. *As-Built Drawings and Project Completion Report.* Closeout tasks include as-built drawings and a project completion report, along with a final project accounting.

Long-Term Follow-up. The AEA developed and maintains a rural tank farm database. They plan to continue re-visiting rural tank farms on a three-year rotating schedule to update information on tank farm conditions, and to provide limited circuit rider services. In the future, the Commission may expand and integrate these programs into other initiatives. For example, every three years, staff or contractors could examine both the tank farms and electric utility systems in each community, update the data base on current conditions, and provide preventive maintenance services as needed for both fuel storage and electrical systems. This may expand to include all utilities in the future.

Other Power Related Projects

Statewide energy needs assessment and planning is being undertaken in a cooperative arrangement between the State and federal government in order to guide capital funding decisions. The Commission is a partner in this effort with the State and U.S. Department of Agriculture Rural Development. A comprehensive assessment of issues and their inter-relationships will be completed by December 1999. Development of a comprehensive energy strategy is expected to begin in January 2000.

Other Projects

The Commission received numerous local or community specific recommendations. To date, these include economic development, infrastructure, and capacity building projects. Consistent with its published criteria, the Commission will evaluate each of these projects and determine eligibility and priority for funding.

Due to the massive needs of rural areas, and the need to improve the coordination of federal and state programs, the Commission has initiated several cooperative efforts to enhance coordination among federal and state agencies, and encourage comprehensive community-based local and regional planning. As the results of these efforts materialize, the Commission will develop strategies, or ''funding themes'', to most effectively accomplish its statutorily mandated goals. In the meantime it is the intent of the Commission in funding ''Other Projects'' to advance the development of funding themes. When a new funding theme is developed by the Commission, the purpose, process, and deadlines for seeking assistance will be announced to all rural communities and/or regional organizations in Alaska.

FY 2000 PROJECT/FUNDING SUMMARY

Funding category and category class	
Infrastructure: Subtotal	$15,000,000
Economic Development: Subtotal	2,000,000
Job Training, Education, Capacity Building: Subtotal	2,000,000
Administration: Subtotal	1,000,000
Total	20,000,000

Part Three: Work Plan for FY 2001 and Beyond

The Commission determined that the scope and scale of infrastructure issues facing rural Alaska are staggering. The following table summarizes identified needs for infrastructure categories such as drinking water and wastewater utilities, power utilities, and fuel storage.

The backlog of work in the Bulk Fuel Storage Program alone has been estimated by the Alaska Energy Authority to be approximately $450,000,000. No estimate is currently available for some fundamental needs, including health care facilities and telecommunications.

Assessment of needs and refinement of estimates will be an ongoing process. The total of known infrastructure needs is estimated to be over $10 billion. Allocation of funds to various funding categories and classes within those categories (see following table) will be based on a formula agreed to by the Commission at the beginning of each fiscal year. For FY 2000 the formula allocates 75% of available funds to infrastructure, 10% to economic development and 10% to job training and capacity building. The Commission has a statutory limit of 5% for administrative expenses.

On-going feasibility work will guide specific project selection and approval at quarterly Commission meetings.

Of necessity, the Commission's work must be phased over a number of years based on the urgency of competing needs and availability of funding. The theme of rural energy, as one important prerequisite to all other utilities and economic development, guided the decisions for FY 1999 and will continue to be a primary area of focus in FY 2000. For planning purposes, the Commission budgeted $45,000,000 using the Commission approved formula. This funding increment is based on the addition of one or possibly two themes for FY 2001. The theme(s)* will build on the success of the existing program and provide funding for programs and/or projects that demonstrate a great need, federal responsibility, and limited amount of funding to meet the need. A graphic representing the ''theme'' concept is shown below. For illustration, the graphic shows a basic program amount of $5 million (Economic Development, Training, Administration, etc.), $15 million to be applied annually to the first theme, and incremental amounts of $10 million for subsequent themes.

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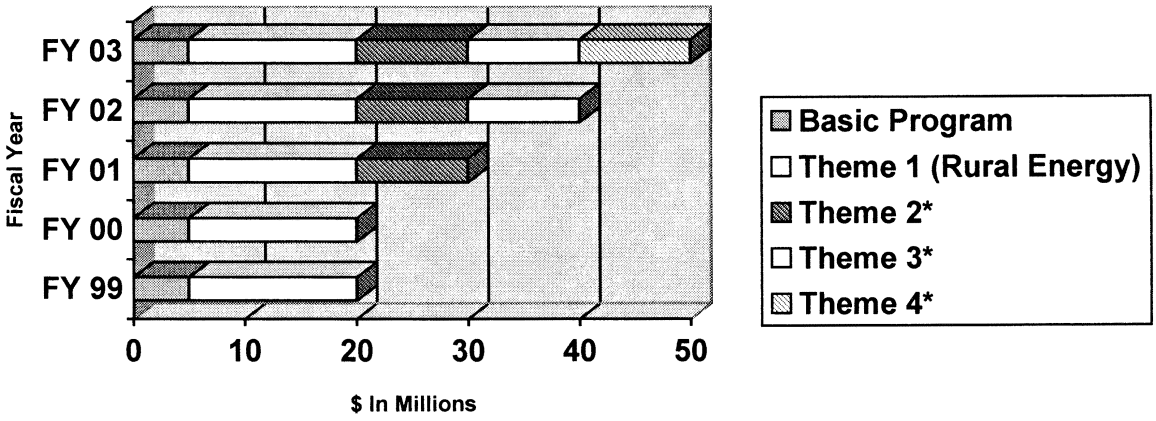
DENALI COMMISSION FUNDING AND THEMES



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The Commission seeks to be informed by the public year to year as to how best to allocate its efforts and thus reserves the option of chaning its allocation formula after hearing from the public. Likewise, there may be variations in specific areas of focus from year-to-year to reflect the public sense of priority and judgement of the Commission. Once the Commission approves specific projects, they are assigned to a category class.

The incremental budget plan for FY 2001 is as follows:

Funding category and category class	
Infrastructure: Subtotal	$33,750,000
Economic Development: Subtotal	4,500,000
Job Training, Education, Capacity Building: Subtotal	4,500,000
Administration: Subtotal	2,250,000
Total	45,000,000

Note: In FY 2001 in addition to other applicable criteria, any project selected for funding should be a part of a community based local or regional comprehensive plan. Additionally, any energy related projects should be consistent with the comprehensive statewide energy strategy.

The following table summarizes current estimates of needs:

Funding category and category class	
Infrastructure:	
Housing Construction/Development	$1,800,000,000
School Construction and Major Maintenance	530,000,000
Power Utilities	168,000,000
Fuel Storage	450,000,000
Drinking Water Facilities.	
Waste Water Utilities	1,058,000,000
Waste Management Facilities.	
Health Care Facilities	(1)
Airport Facilities	926,000,000
Road Construction	5,600,000,000
Port Facilities	214,000,000
Telecommunications	(1)
Community Facilities	(1)
Other	(1)
Subtotal	10,546,000,000
Economic Development:	
Comprehensive Planning	(1)
Other	(1)
Job Training, Education, Capacity Building:	
Comprehensive Planning	(1)
Other	(1)
Total	10,546,000,000

See Appendix A for background Information on this table.
[1]Unknown.

Appendix A

Housing Construction/Development

Need: $1.8 Billion.

Annual Funding: $58–87 million.

Source: Housing and Urban Development FY 1999 Report.

Background: According to the FY 1999 report published by HUD, Alaska has a need for 12,519 new units. At an average cost of $145,000 per unit, the total need for new housing is approximately $1.8 billion. This estimate does not include repairs and renovation projects. The number of units needed has increased from the 1990 census, which showed over 11,000 units needed.

At the current rate, 400 to 600 units are constructed in Alaska each year (approximately $58–87 million).

Projects are prioritized and funded in a variety of ways including grants to local housing authorities, regional housing authorities, low interest loans, and transfers to other agencies.

Entities providing funding for housing includes, but may not be limited to, HUD, AHFC, and USDA.

School Construction and Major Maintenance

Need: $530,183,470.

Annual Funding: No recurring funding source.

Source: Final Agency Decision: 4/5/99; Project Priority List Published by the State of Alaska Department of Education.

Background: Based on requests from individual school districts, the State of Alaska Department of Education (DOE) has compiled a listing of school construction and major maintenance projects. DOE has reviewed the project requests and distilled the eligible projects to list that totals $530,183,470.

The state school construction program is not currently funded. This program is the primary responsibility of the state and will remain such. However, there may be opportunities for the Denali Commission to assist the state in areas that are federal responsibility such as bulk fuel storage upgrades.

The Denali Commission will continue to work with the State Department of Education, and at the point when a school construction program is funded, will work to determine if there is an opportunity for the Denali Commission to assist with some federally mandated component of the program.

Power Utilities

Need: $168,000,000.

Annual Funding: No program of annual funding.

Source: Percy Frisby, Director, Alaska Energy Authority.

Background: According to the Alaska Energy Authority (formerly the State of Alaska Division of Energy), they have needs in the following categories for the following amounts.

$68,000,000 Power Plant Construction and Rehabilitation

$100,000,000 Power distribution system construction, expansion and rehabilitation

The Alaska Energy Authority (AEA) is a state agency commissioned with oversight of energy related infrastructure in rural Alaska. The agency functions predominantly in areas that are typically not covered by a utility cooperative. These power plants and distribution systems are typically in areas where the economic base is insufficient to bond or self-fund construction of the power facilities and other sources of funding are required. At the current time, the AEA is the only source of funding for these projects, and there is no defined funding stream to take care of the above stated needs.

Another interest of the Denali Commission is to work towards conserving energy usage in rural communities. Efficiencies such as generator efficiencies, structure insulation, waste heat recovery, transmission efficiencies, and alternative power generation are all possible topics of consideration for the Commission.

Fuel Storage

Need: $450,000,000.

Annual Funding: $15–18 million ($8–10 million Denali Commission).

Source: Division of Energy (Alaska Energy Authority) Briefing Report dated September 24, 1999.

Background: The Alaska Energy Authority initiated an assessment of all bulk fuel tank farms in rural Alaska communities in 1996. The three-year project assessed the condition of the tank farms, including the total fuel capacity of each in terms of gallons.

Approximately 180 communities were surveyed during the three-year assessment period. Total storage capacity of the surveyed communities is 75,221,754 gallons. Assuming an average cost to upgrade as $6/gal, the total cost to construct new code compliant tank farms in each community is approximately $450,000,000.

Water, Wastewater, Solid Waste

Need: $1,057,512,641.

Annual Funding: $78.1 Million; $18 Million ANTHC, $21.6 million FC&O (Incl. AHFC, EPA, USDA–RD and state).

Source: Sanitation Deficiencies System Update, May 1999, Published by the Alaska Native Tribal Health Consortium, Department of Environmental Health and Engineering, Division of Sanitation Facilities Construction.

Background: The Alaska Native Tribal Health Consortium (ANTHC) is the responsible organization for administering the Public Health Service (PHS) construction program here in Alaska. The currently defined needs, according to the ANTHC/PHS Sanitation Deficiency System that estimates the overall need in the areas of Water/Wastewater/Solid Waste, to be $873,670,525. Currently the ANTHC receives approximately $18,000,000 annually to perform this work. ANTHC has responsibility for the tribal communities and the mission is to provide facilities for Native Alaskans. There is some overlap with the VSW program.

Source: SFY 2000 Capital Budget Priority Lists, 12/16/98; Published by the State of Alaska Department of Environmental Conservation, Division of Facility Construction and Operations.

Background: Village Safe Water (VSW); The State of Alaska Village Safe Water Program is a division of the State of Alaska Department of Environmental Conservation's Facility Construction and Operations (FC&O) Division. The division provides grants for planning, design, and construction of water, sewer, and solid waste projects in small, rural communities throughout Alaska. The currently defined needs as submitted by VSW only reflect the requests from communities interested in projects. This amount does not reflect the overall need. The current list of requested projects totals $105,690,744. The current funding level for VSW is $41,890,574.

Municipal Matching Grant and Loan Program provides grants and loans to medium sized communities for planning, design, and construction of water, sewer, and solid waste projects. The program is a division of the State of Alaska Department of Environmental Conservation's Facility Construction and Operations (FC&O) Division. The currently defined needs as submitted only reflect the requests from communities interested in projects. This amount does not reflect the overall need. The current list of requested projects totals $78,151,372. The current funding level of this 50% matching grant program is $18,164,200.

It should also be noted that the information provided by FC&O is not broken out by project type, nor does the division have the resources to provide such a breakout.

Health Care Facilities

Need: Unknown.

Annual Funding: Unknown.

Source: None.

Background: There is no comprehensive source of information relating to the needs for local healthcare facilities. Typically, a community or village will build a clinic and lease the facility back to the organization responsible for healthcare in their community. The Commission has allocated funding to complete an assessment of healthcare facility needs during the next year.

Airport Facilities

Need: $926 Million.

Annual Funding: $58–87 Million.

Source: 995 Transportation Needs and Priorities in Alaska; Published by State of Alaska Department of Transportation and Public Facilities. And the current FAA Aviation Improvement Program (AIP).

Background: The Federal Aviation Administration currently provides most of the funding for airport projects throughout the state. The state or local sponsor will contribute roughly 10% in the form of match. There are 1,112 designated airports, seaplane bases, and aircraft landing areas in the state of Alaska. The *Alaska Department of Transportation & Public Facilities* (ADOT& PF) owns and operates 261 *public airports,* the majority of Alaska's public airports. Additionally, 23 public airports are owned and operated by local governments.

Backlog of airport projects in the state amounts to approximately $926 million ($1.3 billion in an informal, 1997 tally completed by statewide aviation).

Historically, funding that the state receives for airports from the FAA AIP program has ranged from $58 million in 1990, to $81 million in 1998.

Road Construction and Major Maintenance

Need: $5.6 Billion.

Annual Funding: $320,000,000.

Source: 1995 Transportation Needs and Priorities in Alaska; Published by State of Alaska Department of Transportation and Public Facilities.

Background: The State of Alaska administers all of the Federal Highway funding allocated to Alaska with the exception of money specifically designated

for the Bureau of Indian Affairs, which amounts to approximately $14 million per year. Although overall funding levels are up for roads, the BIA share has slipped from $16 million under ISTEA. The BIA funding does not go far considering it must provide for approximately 200 tribes.

Overally needs for highway and road projects were estimated at $5.6 billion in 1995. Average funding levels are estimated at approximately $320 million, up from approximately $220 million under ISTEA.

Most of the FHWA funding stays in the rail-belt, with some funding going to rural communities for sanitation roads and trail markings. Funding for projects off of the road system goes primarily to the larger hub communities.

Port Facilities

Need: $214 Million plus.

Annual Funding: Varies by year, typically between $0–5 Million.

Source: 1995 Transportation Needs and Priorities in Alaska; Published by State of Alaska Department of Transportation and Public Facilities.

Background: The State owns 78 of 95 public harbor facilities, operates those harbors through agreements with local governments, and provides financial and technical assistance to communities expanding or developing new harbors to meet demand and economic development objectives. The state of Alaska DOT&PF estimates that there are approximately $214 million in deferred maintenance, port, and harbor projects. The department's goal is to eventually be out of the harbor and port business with the possible exceptions of Alaska Marine Highway System facilities, and several refuge floats in remote areas.

In recent history, there has been little to no funding for ports and harbors in the state of Alaska. Most of the funding that is received provides match to Corps of Engineers funding. Some funding appropriated in recent years has gone to repair and transfer of selected harbors in the state. In rural Alaska, there is an as yet undefined need for harbor facilities for small communities located in the coastal areas and along the river systems. Many communities currently pull small boats up on to the beach and in some locations, this can be hazardous and environmentally detrimental. The Denali Commission may consider undertaking an assessment to determine the needs in this area.

Telecommunications

Need: Unknown.

Annual funding: Unknown.

Background: Telecommunications and Internet technologies, which are revolutionizing daily life in the United States, are not reaching most Alaskan communities. The positive impact Internet connections will have on education, training, healthcare and economic development in rural communities can not be overemphasized. The negative impact of leaving the rural communities behind in technological advances will only further compound the challenges of self-sustainability for rural Alaska.

The remoteness and sparse populations that so uniquely identify rural Alaska also are the primary limitations for private telecommunications to justify connections in most communities.

Typically, small communities have access only through the local public school or library, and tribes may have access through a program being implemented by the Department of Interior. Private users are prohibited from accessing these federally subsidized services. So, an individual who wishes to access vital information, obtain distance education or training, open a web-site for commerce, or have an e-mail account from home, must use ''1800 dial-up access''. Such service in rural Alaska costs between $200–$400 per month for basic e-mail and minimal Web browsing.

The Denali Commission will evaluate the availability of basic telecommunications, Internet technologies, and other advanced telecommunications in relation to the future of economic development, education, training and healthcare in rural Alaska.

Community Facilities

Need: Unknown.

Annual Funding: Unknown.

Background: Communities have a need for community assembly facilities for various purposes, including planning, meetings, traditional functions, and recreation for youth. These facilities, when available, are heavily used in rural communities. No assessment mechanism is in place for determining statewide needs for community facilities.

[FR Doc. 99–29251 Filed 11–8–99; 8:45 am]

BILLING CODE 3300–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–42–000]

Algonquin Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

November 3, 1999.

Take notice that on October 29, 1999, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Tenth Revised Sheet No. 40, to become effective on December 1, 1999.

Algonquin states that, pursuant to Section 32 of the General Terms and Conditions of its FERC Gas Tariff, it is filing to revise the Fuel Reimbursement Percentages (FRPs) for the four calendar periods beginning December 1, 1999. Algonquin states that the use of actual data for the latest available 12-month period yields increased FRPs which, compared to the last FRQ annual filing, consist of a 0.01% increase in the FRP for the Winter season and seasonal increases for the Spring, Summer and Fall seasons ranging from 0.02% to 0.28%. Algonquin proposes to levelize the three non-winter periods in response to requests from customers for rate stability.

Algonquin requests any waivers necessary to permit the percentages calculated from the actuals for the entire 8-month period, combining Spring, Summer and Fall, to be applied during each of the three seasonal periods so that for the entire 8-month period the FRP will not change from one season to the next.

Algonquin also states that it is submitting the calculation of the fuel reimbursement quantity (''FRQ'') deferral allocation, pursuant to Section 32.5(c) which provides that Algonquin will calculate surcharges or refunds designed to amortize the net monetary value of the balance in the FRQ Deferred Account at the end of the previous accumulation period. Algonquin states that for the period August 1, 1998 through July 31, 1999, the FRQ Deferred Account resulted in a net credit balance that will be refunded to Algonquin's customers, based on the allocation of the account balance over the actual throughput during the accumulation period, exclusive of backhauls.

Algonquin states that copies of this filing were mailed to all affected customers of Algonquin and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Pubic Reference Room. This filing may be viewed on the web at http://ww.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–29283 Filed 11–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–44–000]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

November 3, 1999.

Take notice that on October 29, 1999, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to become effective December 1, 1999:

Thirty-ninth Revised Sheet No. 8
Thirty-ninth Revised Sheet No. 9
Thirty-eighth Revised Sheet No. 13
Forty-seventh Revised Sheet No. 18

ANR states that the above-referenced tariff sheets are being filed to eliminate the currently effective gas supply realignment surcharges and base rate adjustments, due to the expiration of the recovery period for such transition costs.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–29285 Filed 11–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–45–000]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

November 3, 1999.

Take notice that on October 29, 1999, ANR Pipeline Company (ANR) tendered for filing, as part of its FERC Gas Tariff, Second revised Volume No. 1, the following revised tariff sheet to be effective December 1, 1999:

First Revised Sheet No. 4E.1

ANR states that the purpose of this filing is to designate in its tariff two new points eligible for service under its existing Rate Schedule IPLS.

ANR states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–29286 Filed 11–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–13–000]

Columbia Gas Transmission Corporation; Notice of Application

November 3, 1999.

Take notice that on October 27, 1999, Columbia Gas Transmission Corporation (Columbia Gas), 12801 Fair Lakes Parkway, Fairfax, Virginia 22030–0146, filed in Docket No. CP00–13–000 an application pursuant to Section 7(c) of the Natural Gas Act (NGA) for authority to uprate an existing compressor unit at Columbia Gas' Flat Top Compressor Station, located in Summers County, West Virginia, to provide new firm transportation service to Equitable Production Company (Equitable). Columbia Gas identifies this filing as a companion to the Joint Stipulation and Agreement (settlement) filed on October 8, 1999, in Docket No. CP99–137–000, and Columbia Gas specifically request that the Commission act upon this application in conjunction with action on the settlement, 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.us/online/rims.htm (call 202–208–2222 for assistance).

Communications concerning this filing should be addressed to: Fredric J. George, Attorney, Columbia Gas Transmission Corporation, Post Office Box 1273, Charleston, West Virginia 25325–1273, Telephone: 304–357–2359, Fax: 304–357–3206.

Columbia Gas proposes to uprate the Flat Top Compressor Station horsepower(hp) from 4,700 hp to 6,960 hp, in order to provide 65,000 Dekatherms of new firm transportation service to Equitable each day, for a three-year primary term beginning December 1, 1999. The proposed uprate is estimated to cost approximately $25,000.00, and Columbia Gas requests that such estimated cost be rolled into Columbia Gas' rate base, in Columbia Gas' next general Section 4(e) rate proceeding, so that no existing customers will be burdened with a rate increase resulting from the cost of this project.

The Joint Stipulation and Agreement that Columbia Gas filed on October 8, 1999, is with the Equitable Gas Company, Equitable Production Company and Kentucky-West Virginia Gas Company, L.L.C. (the Equitable Companies), and provides for the uprating of Columbia Gas' Flat Top Compressor Station, among other things. Columbia Gas accordingly requests, Commission approval without modification, of the October 8, 1999 settlement filed in Docket No. CP99–137–000.

Columbia Gas states that its Flat Top Compressor Station is situated near the intersection of Lines KA–8 and KA in Summers County, WV. It is averred that the Flat Top units pump mainline transmission gas on Line KA, as well as

locally produced gas from line on Line KA–8.

Columbia Gas states that this proposal will provide additional operating and design flexibility, enable additional supplies to be delivered to markets on the eastern portion of Columbia Gas' pipeline system, and provide the basis for a three year transportation arrangement with Equitable. Columbia Gas states that it has been striving for years, to find a way to take the Beaver Creek Compressor Station out of operation without adversely affecting firm service to the Equitable companies. By order issued on September 15, 1999, the Commission granted Columbia Gas' request to abandon its Beaver Creek Compressor Station, in 88 FERC ¶ 62,238 (1999).

Any person desiring to be heard or to make any protest with reference to said application should on our before November 24, 1999, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. 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 Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Columbia Gas to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 99–29272 Filed 11–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–31–000]

Columbia Gas Transmission Corporation, Columbia Gulf Transmission Company; Notice of Petition for Waiver

November 3, 1999.

Take notice that on October 22, 1999, Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company (Columbia Pipelines) tendered for filing a petition for limited waiver of the Commission's Regulations and the nomination procedures set forth in their respective FERC Gas Tariffs in order to suspend certain nomination cycles during the Y2K rollover period. The Columbia Pipelines request waiver of such provisions to allow them adequate time to perform certain tasks that are part of their Y2K business continuation plans, in order to minimize business disruptions and promote stability of their regular business transactions on and after January 1, 2000.

The Columbia Pipelines state that copies of the filing have been mailed to all of their shippers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before November 10, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–29277 Filed 11–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–51–000]

Destin Pipeline Company, L.L.C.; Notice of Proposed Changes to FERC Gas Tariff

November 3, 1999.

Take notice that on October 29, 1999, Destin Pipeline Company, L.L.C. (Destin) tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheets, to be effective December 1, 1999:

Third Revised Sheet No. 5
Third Revised Sheet No. 6
Third Revised Sheet No. 7
First Revised Sheet No. 126
First Revised Sheet No. 127

Destin states that this instant filing is submitted pursuant to Section 24.2 of the General Terms and Conditions of its Tariff to adjust its fuel retention percentage (FRP) for transportation services on its system effective December 1, 1999. Destin proposes to modify Section 24.2 of the Tariff to change the basis for calculating the FRP by eliminating the Deferred Gas Required for Operations component since these amounts are resolved on a monthly basis through Section 14 of Destin's Tariff. Destin requests a one-time waiver to allow the FRP, effective December 1, 1999, to be calculated based on projected receipts and deliveries due to the fact that operations on the pipeline system during the first year of service do not reflect likely fuel requirements in the upcoming year.

As a result of this change Destin proposes to base the FRP on a projection of the monthly receipts and fuel for the 12 months ended August, 2000. Based on this calculation, the revised FRP is .3% which is a decrease from the currently effective FRP of 1.0%.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance

with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–29291 Filed 11–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–53–000]

Destin Pipeline Company, L.L.C.; Notice of Revenue Crediting Report

November 3, 1999.

Take notice that on October 29, 1999, Destin Pipeline Company, L.L.C. (Destin) submitted its Annual Revenue Crediting Provision Filing. This filing was made pursuant to Section 14.2 of the General Terms and Conditions of Destin's FERC Gas Tariff which requires the crediting of certain amounts received as a result of resolving monthly imbalances of its shippers, for incidental gas purchases and sales required for operations under Section 14.1(h) of Destin's tariff, and under its operational balancing agreements with interconnecting pipelines during the 12-month period ended August 31, 1999. Destin reports that it received $1,496,200.72 in excess of amounts paid under the provisions of Section 14.2. Accordingly, Destin has credited said amount to its shippers.

Destin states that copies of Destin's filing will be served upon all of Destin's shippers, interested commissions and interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before November 10, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–29293 Filed 11–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–34–000]

East Tennessee Natural Gas Company; Notice of Tariff Filing

November 3, 1999.

Take notice that on October 29, 1999, East Tennessee Natural Gas Company (East Tennessee) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume 1, First Revised Sheet No. 170, with an effective date of November 29, 1999.

East Tennessee states that Sheet No. 170 is being filed to comply with the Commission's September 29, 1999 ''Order Approving Disposition of Jurisdictional Facilities'' in Docket No. EC99–73. El Paso Energy Corporation and Sonat Inc., 888 FERC (¶ 61,302 (1999) (hereinafter, ''the September 29th Order''). In the September 29th Order, the Commission approved the application of El Paso Energy Corporation and Sonat Inc. requesting Commission approval of the proposed merger between the two companies.

East Tennessee further states that Sheet No. 107 effectuates that commitment of the respective companies to file tariff sheets, for each of their jurisdictional pipeline companies that serve the Southeast, committing that future pipeline expansion capacity will be offered to all shippers on a non-discriminatory basis.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 first Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–29280 Filed 11–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Iroquois Gas Transmission System, L.P.; Notice of Request for Waiver of FERC Gas Tariff

November 3, 1999.

Take notice that on October 29, 1999, Iroquois Gas Transmission System, L.P., (Iroquois) filed a request for limited waiver of certain provisions of its tariff and the Commission's regulations and orders for the period commencing on December 30, 1999 and ending on January 7, 2000.

Iroquois states that the purpose of limited waiver would be to provide alternate procedures for nominations, scheduling, confirmation and capacity release during the first week of the year 2000.

Iroquois states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/

rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–29288 Filed 11–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–49–000]

Koch Gateway Pipeline Company; Notice of Application

November 3, 1999.

Take notice that on October 29, 1999, Koch Gateway Pipeline Company (Koch), filed a Request for Limited Waiver of Tariff, Orders, and Regulations in Docket No. RP00–49–000. Koch states that it is seeking a limited waiver of the Commission's regulations and orders, as well as a limited waiver of certain provisions of its FERC Gas Tariff related to Koch's nomination and scheduling requirements, to the extent necessary to assist in the orderly provision of transportation services on Koch's system between December 29, 1999 and January 3, 2000, all as more fully described therein.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before November 10, 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 wishin to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are avaiable for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–29289 Filed 11–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–404–006]

Mississippi River Transmission Corporation; Notice of Compliance Filing

November 3, 1999

Take notice that on October 22, 1999, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its Gas Tariff, Third Revised Volume No. 1, the following tariff sheets to become effective March 17, 1999:

4th Sub Original Sheet No. 99A
4th Sub Original Sheet No. 99C
4th Sub Original Sheet No. 99D
4th Sub Original Sheet No. 99E

The purpose of this filing is to comply with the Commission's Order On Rehearing And Compliance Filing issued on October 18, 1999 (Order). These tariff sheets, in accordance with Order, modify the method MRT will use to allocate firm capacity that becomes available for subscription on MRT's system.

MRT states that a copy of this filing is being mailed to each of MRT's customers and to state commissions of Arkansas, Illinois and Missouri.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–29275 Filed 11–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–38–000]

Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

November 3, 1999.

Take notice that on October 29, 1999, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Thirteenth Revised Sheet No. 22, to be effective December 1, 1999.

Natural states that the filing is submitted pursuant to Section 21 of the General Terms and Conditions (GT&C) of its Tariff as the thirteenth semiannual limited rate filing under Section 4 of the Natural Gas Act and the Rules and Regulations of the Federal Energy Regulatory Commission (Commission) promulgated thereunder. The rate adjustments filed for are designed to recover Account No. 858 stranded costs incurred by Natural under contracts for transportation capacity on other pipelines. Costs for any Account No. 858 contracts specifically excluded under Section 21 are not reflected in this filing.

Natural requested waivers of Section 21 of the GT&C of this Tariff and the Commission's Regulations to the extent necessary to permit Thirteenth Revised Sheet No. 22 to become effective December 1, 1999.

Natural states that copies of the filing are being mailed to its customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/

rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–29282 Filed 11–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–272–012]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

November 3, 1999.

Take notice that on October 29, 1999, Northern Natural Gas Company (Northern) tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet, proposed to become effective on November 1, 1999:

Fifth Revised Sheet No. 66
Original Sheet No. 66A
Original Sheet No. 66B
Original Sheet No. 66C

Northern states that the above sheet is being filed to implement a specific negotiated rate transaction in accordance with the Commission's Policy Statement on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202-208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–29274 Filed 11–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–54–000]

South Georgia Natural Gas Company; Notice of Proposed Changes to FERC Gas Tariff

November 3, 1999.

Take notice that on October 29, 1999 South Georgia Natural Gas Company (South Georgia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to become effective November 29, 1999:

First Revised Sheet No. 10
First Revised Sheet No. 29

South Georgia states that the purpose of this filing is to comply with the Commission's September 29, 1999 order in Docket No. EC99–73 that directed certain pipelines of El Paso Energy Corporation and Sonat Inc., including South Georgia, to file tariff sheets committing that future pipeline expansion capacity will be offered to all shippers on a non-discriminatory basis.

South Georgia states that copies of the filing will be served upon its shippers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–29294 Filed 11–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–52–000]

Southern Natural Gas Company; Notice of Proposed Changes to FERC Gas Tariff

November 3, 1999.

Take notice that on October 29, 1999, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets to become effective November 29, 1999:

Second Revised Sheet No. 35
First Revised Sheet No. 46
Second Revised Sheet No. 59
First Revised Sheet No. 67
First Revised Sheet No. 82

Southern states that the purpose of this filing is to comply with the Commission's September 29, 1999 order in Docket No. EC99–73 that directed certain pipelines of El Paso Energy Corporation and Sonat Inc., including Southern, to file tariff sheets committing that future pipeline expansion capacity will be offered to all shippers on a non-discriminatory basis.

Southern states that copies of the filing will be served upon its shippers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protest must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–29292 Filed 11–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–37–000]

Stingray Pipeline Company; Notice of Tariff Filing

November 3, 1999.

Take notice that on October 29, 1999, Stingray Pipeline Company (Stingray), tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the revised tariff sheets listed in Appendix A to the filing. Stingray proposes that the foregoing tariff sheets be made effective on November 1, 1999.

Stingray states this filing is made to reflect ministerial tariff changes resulting from the assumption of operating duties by Leviathan Operating Company (Leviathan). Stingray further states that the instant filing specifically modifies the company's address, telephone numbers and personnel titles and designations from its currently effective tariff to conform with the changes due to the assumption of operating duties by Leviathan. Stingray further states that the changes effected by this filing are purely ministerial.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–29281 Filed 11–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–55–000]

Tennessee Gas Pipeline Company; Notice of Request for Waiver

November 3, 1999.

Take notice that on November 1, 1999, Tennessee Gas Pipeline Company (Tennessee), tendered for filing a Request for Waiver. Tennessee requests that the Commission approve its request by November 15, 1999.

Tennessee states that it is requesting a waiver of two provisions of Article X of the General Terms and Conditions of its FERC Gas Tariff to permit it to conduct routine, non-emergency maintenance during a period other than May 1 through November 1, without the obligation to post a tentative schedule of the planned maintenance on Tennessee's Electronic Bulletin Board no later than fifteen days prior to the scheduled activity.

Tennessee states that it is seeking a waiver from the Commission of the first of the two provisions because Tennessee believes that the maintenance work is necessary to avoid any unplanned outages resulting from the failure of any of the related facilities. Tennessee states that it is seeking a waiver from the Commission of the second of the two provisions because Tennessee believes the requirement is unnecessary since Tennessee has already consulted with each of the parties affected by the maintenance and because Tennessee believes that the EBB posting requirement could result in Tennessee missing the opportune time to complete the maintenance work for each project while waiting for the fifteen days to elapse.

Tennessee indicates that the filing does not include revised tariff sheets.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before November 10, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–29295 Filed 11–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–34–000]

Texas Eastern Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

November 3, 1999.

Take notice that on October 26, 1999, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1 and Original Volume No. 2, the tariff sheets listed on Appendix A to the filing to become effective December 1, 1999.

Texas Eastern asserts that the purpose of this filing is to comply with the Stipulation and Agreement filed by Texas Eastern on December 7, 1991 in Docket Nos. RP88–67, *et al.* (Phase II/PCBs) and approved by the Commission on March 18, 1992 (Settlement), and with Section 26 of Texas Eastern's FERC Gas Tariff, Sixth Revised Volume No. 1.

Texas Eastern states that such tariff sheets reflect a decrease in the PCB-Related Cost component of Texas Eastern's currently effective rates. For example, the decrease in the 100% load factor average cost of long-haul service under Rate Schedule FT–1 to Market Zone 3 is $0.0074 per dekatherm.

Texas Eastern states that copies of the filing were mailed to all affected customers of Texas Eastern and interested state commissions. Copies of this filing have also been mailed to all parties on the service list in Docket Nos. RP88–67, et al. (Phase II/PCBs).

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 first Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party

must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–29278 Filed 11–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–50–000]

Texas Eastern Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

November 3, 1999.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on October 29, 1999 tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1 and Original Volume No. 2, revised tariff sheets listed on Appendix A to the filing to become effective December 1, 1999.

Texas Eastern states that the revised tariff sheets are being filed (i) pursuant to Section 15.6, Applicable Shrinkage Adjustment (ASA), contained in the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Sixth Revised Volume No. 1, and (ii) pursuant to Texas Eastern's Docket No. RP85–177–119, et al. Stipulation and Agreement (Settlement) filed January 31, 1994 and approved by Commission order issued May 12, 1994.

Texas Eastern states that it has recently filed its Annual PCB-Related Cost Filing to reflect the PCB-Related Cost rate components to be effective for the twelve month period December 1, 1999 through November 30, 2000 (PCB Year 10).

Texas Eastern states that the combined impact on Texas Eastern's rates at December 1, 1999 of this filing in combination with the PCB Year 10 Filing for typical long haul service under Rate Schedule FT–1 from Access Area Zone East Louisiana to Market Zone 3 (ELA–M3) equates to an overall decrease of 1.41 cents as follows:

	100% LF Impact ($/dth)
Rate Impact:	
PCB Year 10 Filing	(0.0074)
ASA Surcharge	0.0017
Total	(0.0057)
Fuel Retention Impact:	
Annual Avg. ASA Percentage Decrease—(0.28%)	
Rate Equivalent at P.I.R.A. projected price of $3.0167/dth	($0.0084)
Net Impact	$(0.0141)

Texas Eastern states that the changes proposed to become effective beginning December 1, 1999 consist of: (1) ASA Percentages designed to retain in-kind the projected quantities of gas required for the operation of Texas Eastern's system in providing service to its customers; (2) the ASA Surcharge designed to recover the net monetary value recorded in the Applicable Shrinkage Deferred Account as of August 31, 1999, as reduced by the transfer of the final net credit of the balances in the Spot Fuel Deferred Account and the Account No. 858 Costs Deferred Account; and (3) a Fuel Reservation Charge Adjustment designed to recover the excess (limited to a maximum rate specified by the Settlement) of the August 31, 1999 balance in the Non-Spot Fuel Deferred Account over the threshold amount of $10 million specified in Appendix E of the Settlement.

Texas Eastern states that this filing also constitutes Texas Eastern's report of the annual reconciliation of the interruptible revenues under Rate Schedules IT–1, PTI and ISS–1, as well as for Rate Schedule LLIT and for Rate Schedule VKIT.

Texas Eastern states that copies of its filing have been mailed to all affected customers of Texas Eastern and interested state commissions, as well as all parties to the Settlement in Docket No. RP85–177–119, et al.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–29290 Filed 11–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–501–001]

Transcontinental Gas Pipe Line Corporation; Notice of Compliance Filing

November 3, 1999.

Take notice that on October 15, 1999, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing a supplement to its September 2, 1999 request for waiver of Transco's Tariff, and orders and regulations of the Federal Energy Regulatory Commission, for the limited time period of December 28, 1999 through January 7, 2000. Transco states that this filing is to comply with the Commission's September 30, 1999 order. Transco states that the purpose of this filing relates to Transco's nomination, scheduling and capacity release deadline requirements, in order to provide transportation services during the first week of the Year 2000 (Y2K), should any Y2K issues arise which prevent Transco from being able to communicate with its customers.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before November 12, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rim.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–29276 Filed 11–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–43–000]

Tuscarora Gas Transmission Company; Notice of Tariff Filing

November 3, 1999.

Take notice that on October 29, 1999, Tuscarora Gas Transmission Company (Tuscarora) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets to become effective December 1, 1999.

Second Revised Sheet No. 12
Second Revised Sheet No. 13
Second Revised Sheet No. 22

Tuscarora asserts that the purpose of this filing is to revise its imbalance and billing procedures. Tuscarora proposes to utilize scheduled rather than delivered volumes in the computation of the shipper's bill. In addition, rather than allocating shipper imbalance by contract and delivery point, Tuscarora proposes to calculate a total system imbalance for each shipper based on the difference between total scheduled and delivered volumes. The current procedure for correcting imbalances and implementing penalties, as provided in Tuscarora's General Terms and Conditions, will not change.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–29284 Filed 11–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–35–000]

Viking Gas Transmission Company; Notice of Tariff Filing

November 3, 1999.

Take notice that on October 28, 1999, Viking Gas Transmission Company (Viking) tendered for filing to be part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to be effective November 27, 1999.

Viking states that the purpose of this filing is to clarify that the incremental rates for firm transportation service under Rate Schedule FT–D shall govern the pricing of capacity as it becomes available on Viking's system. Viking finds it necessary to make this filing because Viking's tariff currently does not address this issue expressly, and because new Commission policies provide for the pricing of pipeline capacity as it becomes available at the rates for incrementally-priced expansion projects.

Viking states that it believes that adoption of this pricing mechanism will provide better price signals to the market. Shippers will contract for capacity as it becomes available at rates capped at the incremental rates so that rates found just and reasonable for the incremental shippers will apply to all subsequent shippers receiving the same service. Viking believes this will have the effect of ''rolling-up'' the rates over time and will encourage longer term contracts. To implement this policy, Viking proposes to sell capacity that is rolled over, extended or auctioned at rates up to the Rate Schedule FT–D rate. Viking proposes to return to shippers who are paying incremental rates (i.e., any rate higher than the pre-expansion rate) ninety percent of any incremental revenues that result from making capacity available under Rate Schedule FT–D.

In addition, to create a level playing field for sale of all capacity as it becomes available, Viking proposes the same incremental pricing for temporary release and Rate Schedule IT and AOT services. Specifically, Viking proposes that temporary capacity release be made available at up to the Rate Schedule FT–D maximum rate and that releasing shippers be allowed to retain any excess revenues resulting from releasing capacity at up to the Rate Schedule FT–D maximum rate. Viking further proposes to set the Rate Schedules IT and AOT maximum rates at a 100 percent load factor derivative of the Rate Schedule FT–D maximum rate on an interim basis until Viking files its next general rate case proceeding. Viking proposes to return to shippers ninety percent of all incremental revenues that result from the interim rate change. Because the charge for Rate Schedule LMS is set at the maximum rate for Rate Schedule IT service, Viking is also making an interim adjustment to the charge for Rate Schedule LMS so that the charge for Rate Schedule LMS remains correlated with the maximum rate for Rate Schedule IT service.

Viling states that copies of this filing have been mailed to all of its jurisdictional customers and to affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with section 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://wwe.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–29279 Filed 11–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–46–000]

Young Gas Storage Company, Ltd.; Notice of Tariff Filing

November 3, 1999.

Take notice that on October 29, 1999, Young Gas Storage Company, Ltd. (Young), tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, First Revised Sheet No. 47A, First Revised Sheet No. 47B, First Revised Sheet No. 47C to be effective December 1, 1999.

Young states that it has now been determined that another minor

modification is required to the Available Daily Withdrawal Quantity definition of its general terms and conditions for the 1999–2000 heating season. Young remains capable of providing 200 MMcf per day of peak deliverability; however the end-of-season decline is steeper than in the entitlement stated in its currently effective tariff. Young is, therefore, proposing to modify its Available Daily Withdrawal Quantity Formula, Daily Withdrawal Quantity Curve and Available Daily withdrawal Quantity Table to reflect this minor change.

Young further states that copies of this compliance filing have been served on Young's jurisdictional customers and public bodies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–29287 Filed 11–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL00–10–000, et al.]

PECO Energy Company, et al. Electric Rate and Corporate Regulation Filings

November 2, 1999.

Take notice that the following filings have been made with the Commission:

1. PECO Energy Company

[Docket No. EL00–10–000]

Take notice that PECO Energy Company (PECO) filed a Motion for a Cease and Desist Order (the Motion). The Motion requests the Federal Energy Regulatory Commission (the Commission) to direct the North American Electric Reliability Council and all transmission providers with open access transmission tariffs (OATTs) on file with the Commission (i) to cease and desist from denying transmission based on E-tag submissions, (ii) to suspend the implementation of the E-tag until NERC's Policy 3—Interchange, has been filed with the Commission as an amendment to the OATTs, and (iii) to require amendments to Policy 3, as set forth in the Motion.

Comment date: November 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. White River Electric Association Incorporated

[Docket No. ES00–3–000]

Take notice that on October 25, 1999, White River Electric Association Incorporated (White River) filed an application under Section 204 of the Federal Power Act. The application seeks authorization to issue approximately $1 million of long-term debt in the form of one or more secured promissory notes. White River alternatively requests blanket approval to issue securities or assume additional debt provided that such issuance is for a lawful object within the corporate purposes, compatible with the public interest, and reasonably necessary or appropriate for such purposes. White River also requests a waiver from any requirement to use competitive bidding or negotiated placement in relation to the debt.

Comment date: November 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Illinois Power Company

[Docket No. ER00–210–000]

Take notice that on October 25, 1999, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which Duke Power, a division of Duke Energy Corporation, will take transmission service pursuant to its open access transmission tariff. The agreements are based on the form of service agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of October 15, 1999.

Comment date: November 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Sierra Pacific Power Company

[Docket No. ER00–239–000]

Take notice that on October 27, 1999, Sierra Pacific Power Company (Sierra), tendered for filing Service Agreements (Service Agreements) with Merrill Lynch Capital Services, Inc., for both Short-Term Firm and Non-Firm Point-to-Point Transmission Service and with Reliant Energy Services, Inc., for Short-Term Firm Point-to-Point Transmission Service. These Service Agreements are being filed under Sierra Pacific Resources Operating Companies FERC Electric Tariff Original Volume No. 1, Open Access Transmission Tariff (Tariff).

Sierra filed the executed Service Agreements with the Commission in compliance with Sections 13.4 and 14.4 of the Tariff and applicable Commission Regulations. Sierra also submitted revised Sheet No. 173 (Attachment E) to the Tariff, which is an updated list of all current subscribers.

Sierra requests waiver of the Commission's notice requirements to permit an effective date of October 27, 1999 for Attachment E, and to allow the Service Agreements to become effective according to their terms.

Copies of this filing were served upon the Public Utilities Commission on Nevada the Public Utilities Commission of California and all interested parties.

Comment date: November 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Southern Indiana Gas and Electric Company

[Docket No. ER00–283–000]

Take notice that on October 28, 1999, Southern Indiana Gas and Electric Company (SIGECO), tendered for filing service agreements for firm point to point transmission service under Part II of its Transmission Services Tariff with Louisville Gas and Electric Company/Kentucky Utilities Company.

Copies of the filing were served upon each of the parties to the service agreement.

SIGECO requests waiver of the 60-day prior notice requirement to allow the service agreements to become effective as of October 14 1999.

Comment date: November 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Ameren Services Company

[Docket No. ER00–284–000]

Take notice that on October 28, 1999, Ameren Services Company (ASC), tendered for filing a Service Agreement for Market Based Rate Power Sales between ASC and Utilicorp United, Inc., (UUI). ASC asserts that the purpose of the Agreement is to permit ASC to make sales of capacity and energy at market based rates to UUI pursuant to ASC's

Market Based Rate Power Sales Tariff filed in Docket No. ER98–3285–000.

ASC requests that the Service Agreement be allowed to become effective October 19, 1999 the date for said agreement.

Comment date: November 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. PECO Energy Company

[Docket No. ER00–287–000]

Take notice that on October 28, 1999, PECO Energy Company (PECO), tendered for filing under Section 205 of the Federal Power Act, 16 U.S.C. S 792 *et seq.*, a Transaction Agreement dated October 26, 1999 between PECO and Horizon Energy Company d/b/a Exelon Energy (EXELON) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff).

PECO requests an effective date of November 1, 1999, for the Transaction Letter.

PECO states that copies of this filing have been supplied to EXELON and to the Pennsylvania Public Utility Commission.

Comment date: November 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. MidAmerican Energy Company

[Docket No. ER00–289–000]

Take notice that on October 28, 1999, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Des Moines, Iowa 50309, tendered for filing with the Commission a Firm Transmission Service Agreement with Illinova Power Marketing, Inc. (Illinova), dated October 5, 1999, and a Non-Firm Transmission Service Agreement with (Illinova), dated October 5, 1999, entered into pursuant to MidAmerican's Open Access Transmission Tariff.

MidAmerican requests an effective date of October 5, 1999, for the Agreements with Illinova, and accordingly seeks a waiver of the Commission's notice requirement.

MidAmerican has served a copy of the filing on Illinova, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: November 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. American Electric Power Service Corporation

[Docket No. ER00–290–000]

Take notice that on October 28, 1999, the American Electric Power Service Corporation (AEPSC), tendered for filing executed Firm and Non-Firm Point-to-Point Transmission Service Agreements for Dynegy Power Marketing, Inc., Edison Mission Marketing & Trading, Inc., and Illinova Power Marketing, Inc. These agreements are pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT). The OATT has been designated as FERC Electric Tariff Original Volume No. 4, effective July 9, 1996.

AEPSC requests waiver of notice to permit the Service Agreements to be made effective for service billed on and after October 1, 1999. AEPSC also requests termination of one service agreement filed under a prior open access tariff, AEP Companies' FERC Electric Tariff Original Volume No. 1. The customer holding that agreement, Electric Clearinghouse, Inc., has executed new agreements under the name Dynegy Power Marketing, Inc.

A copy of the filing was served upon the Parties and the state utility regulatory commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: November 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–29271 Filed 11–8–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 201]

Petersburg Municipal Power and Light; Notice of Scoping Meetings and Project Facilities Tour Pursuant to the National Environmental Policy Act of 1969 for an Applicant Prepared Environmental Assessment

November 3, 1999.

The Commission's regulations allow applicants the option of preparing their own Environmental Assessment (EA) for hydropower projects, and filing the EA with their application as part of an alternative licensing procedure.[1] On September 8, 1999, the Commission approved the use of an alternative licensing procedure in the preparation of a new license application for Petersburg Municipal Power and Light's (Petersburg), Blind Slough Project, No. 201.

The alternative procedures include provisions for the distribution of an initial information package, and for the cooperative scoping of environmental issues and needed studies. During the week of November 1, 1999, Petersburg will distribute a Scoping Document (SD1) and initial information package.[2] Two public meetings will be held to discuss these documents.

Combined Scoping and Initial Information Meetings

Petersburg will hold public scoping meetings on December 13, 1999, pursuant to the National Environmental Policy Act (NEPA) of 1969. At the scoping meetings, Petersburg will: (1) Summarize the material presented in the initial information package and the environmental issues tentatively identified in the scoping document for analysis in the EA; (2) outline any resources they believe would not require a detailed analysis; (3) identify reasonable alternatives to be addressed in the EA; (4) solicit from the meeting participants all available information, especially quantitative data, on the resources at issue; and (5) encourage statements from experts and the public on issues that should be analyzed in the EA.

Although Petersburg's intent is to prepare an EA, there is the possibility that an Environmental Impact Statement (EIS) will be required. Nevertheless, this

[1] 81 FERC ¶ 61,103 (1997)

[2] Copies of these documents can be obtained by calling Nan Nalder at 206–281–7079 or e-mail acresnan@serv.net

meeting will satisfy the NEPA scoping requirements, irrespective of whether an EA or EIS is issued by the Commission.

The times and locations of the scoping meetings are:

Agency Scoping Meeting
December 13, 1999, 9:00 am to 11:30 pm, Alaska division of Governmental Coordination, 240 Main Street, 3rd Floor conference Room, Juneau, AK 99811

Public Scoping Meeting
December 13, 1999, 7:00 pm to 8:30 pm, City Council Chambers, 12 South Nordic, Petersburg, AK 00883

All interested individuals, organizations, and agencies are invited and encouraged to attend any or all of the meetings to assist in identifying and clarifying the scope of environmental issues that should be analyzed in the EA.

Project Tour

A visit to the project facilities (powerhouse, tailrace area, lower penstock) is tentatively scheduled for December 14, 1999, weather permitting. Access to the project dam requires air transport which will very likely be unavailable due to low visibility, but can be arranged for a later date. Those interested in visiting the project on December 14, should contact Dennis Lewis of Petersburg at 907–772–4203.

Scoping Meeting Procedures

The meetings will be conducted according to the procedures used at Commission scoping meetings. Because this meeting will be a NEPA scoping meeting under the APEA process, the Commission does not intend to conduct a NEPA scoping meeting after Petersburg's application and EA are filed with the Commission. Instead, Commission staff will attend the meetings on December 13, 1999.

Both scoping meetings will be recorded by a court reporter, and the transcripts will become part of the formal record for this project. Those who choose not to speak during the scoping meetings may instead submit written comments on the project. Written comments should be mailed or e-mailed to: Nan A. Nalder, Relicensing Manager, Acres International, 3254–11th Avenue West, Seattle, WA 98119, acresnan@serv.net.

Commenting Deadline

All correspondence should be postmarked no later than February 15, 2000. Comments should show the following caption on the first page: Scoping Comments, Blind Slough Hydroelectric Project, Project No. 201.

For further information please contact Vince Yearick of the Commission at (202) 219–3073.

David P. Boergers,

Secretary.

[FR Doc. 99–29273 Filed 11–8–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6472–3]

Notice of Availability: Draft Guidance Manual and Example NPDES Permit for Concentrated Animal Feeding Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of draft guidance; extension of comment period.

SUMMARY: On August 25, 1999, EPA released the draft Guidance Manual and Example NPDES Permit for Concentrated Animal Feeding Operations for review and written comments. The manual is intended to provide clear and concise guidance for EPA and State National Pollutant Discharge Elimination System (NPDES) permit writers on permitting Concentrated Animal Feeding Operations. The draft guidance is intended to assist permit writers in issuing permits in a manner consistent with the permitting practices identified in the USDA-EPA Unified National Strategy for Animal Feeding Operations. The manual supersedes the Guide Manual on NPDES Regulations for Concentrated Animal Feeding Operations issued in December 1995. Additionally, it is intended to clarify the circumstances under which producers should submit a Notice of Intent to be covered under an NPDES general permit or apply for an individual NPDES permit.

EPA initially requested comments on this draft guidance manual to be submitted by October 25, 1999. It is EPA's intent to provide the public and all stakeholders an adequate period of time to fully analyze the issues and prepare comprehensive comments. Therefore, we are extending the comment period until November 24, 1999.

DATES: Written comments should be submitted by November 24, 1999, to the address below.

ADDRESSES: Address all comments to Gregory Beatty, US EPA, 401 M Street, SW, Mail Code 4203, Washington, DC 20460. Submit electronic comments to *beatty.gregory@epa.gov*.

FOR FURTHER INFORMATION CONTACT: Gregory Beatty, (202) 260–6929 or Will Hall, (202) 260–1458.

SUPPLEMENTARY INFORMATION: Copies of the draft Guidance Manual and Example NPDES Permit for Concentrated Animal Feeding Operations may be obtained on the Internet at: *http://www.epa.gov/owm*. If you do not have Internet access, you may obtain a paper copy of the draft guidance by calling the Water Resources Center at (202) 260–7786. The draft guidance is also available in electronic format.

Dated: November 2, 1999.

Dana D. Minerva,

Acting Assistant Administrator for Water.

[FR Doc. 99–29304 Filed 11–8–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6472–4]

Public Water System Supervision Program Revision and Definition of Indian Country for the State of South Dakota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice and request for public comments and announcement of public hearing.

SUMMARY: The Environmental Protection Agency (EPA) will hold a public hearing for the proposed primacy revision of the State of South Dakota's Public Water System Supervision (PWSS) Program as well as for the proposed definition of Indian country as it extends to PWSS primacy delegation and other environmental program authorizations and delegations within the State of South Dakota. For further information on the proposed primacy delegation, as well as on the proposed definition of Indian country, please refer to 64 FR 44521–44522, August 16, 1999.

DATES: Any interested parties may submit oral or written statements at the public hearing scheduled for Thursday, December, 2, 1999. There will be two sessions: an afternoon session at 3 p.m. and an evening session at 6:30 p.m. The hearing will be held at the Badlands National Park Service Headquarters located nine miles south off of I–90 Exit 131, 72 miles from Rapid City or two miles north of the Town of Interior. The telephone number for the Badlands National Park Service Headquarters is 605–433–5281 or 605–433–5361. Persons wishing to make oral statements must register at the Badlands National Park Service Headquarters on December

2, 1999, between 2:30 p.m. and 3 p.m. or between 6 p.m. and 6:30 p.m.

FOR FURTHER INFORMATION CONTACT: Linda Himmelbauer, Municipal Systems Unit, EPA Region 8 (8P–W–MS), 999 18th Street, Suite 500, Denver, Colorado 80202–2466, telephone 303–312–6263.

SUPPLEMENTARY INFORMATION: Public notice is hereby given in accordance with the provisions of section 1413 of the Safe Drinking Water Act as amended, 42 U.S.C. 300g–2, and 40 CFR part 142, subpart B-Primary Enforcement Responsibility, that the State of South Dakota has revised its PWSS program. South Dakota's PWSS program, administered by the Drinking Water Program of the South Dakota Department of Environment and Natural Resources (DENR), has adopted regulations for lead and copper in drinking water that correspond to the National Primary Drinking Water Regulations (NPDWR) in 40 CFR part 141, subpart I (56 FR 26460–26564, June 7, 1991). The EPA proposes to approve South Dakota's primacy revisions for the Lead and Copper regulation. The proposed approval does not extend to public water systems in Indian country as defined in 64 FR 44521–44522, August 16, 1999.

All documents relating to this determination are available for inspection at the following locations: (1) U.S. EPA Region 8, Municipal Systems Unit, 999 18th Street (4th floor), Denver, CO 80202–2466; (2) South Dakota Department of Environment and Natural Resources, Drinking Water Program, 523 East Capital Avenue, Pierre, SD 57501.

Dated: October 27, 1999.

Jack W. McGraw,

Acting Regional Administrator, Region 8.

[FR Doc. 99–29306 Filed 11–8–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

November 2, 1999.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before January 10, 2000. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, 445 12th Street, SW, Room 1–A804, Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0647.

Title: Annual Survey of Cable Industry Prices.

Form Number: Not Applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents: 767.

Estimated Time Per Response: 8 hours.

Frequency of Response: Annually.

Total Annual Burden: 6,136 hours.

Total Annual Costs: $500.

Needs and Uses: Section 623(k) of the Cable Television Consumer Protection and Competition Act of 1992 requires the Commission to publish an annual statistical report on average rates for basic cable service, cable programming and equipment. The report must compare the prices charged by cable systems subject to effective competition and those not subject to effective competition. The annual Price Survey is intended to collect data needed to prepare this report.

OMB Control Number: 3060–0208.

Title: Section 73.1870 Chief Operators.

Form Number: None.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions.

Number of Respondents: 14500 AM/FM/TV stations.

Estimated Time per Response: 26.166 hours.

Frequency of Response: Recordkeeping, third party disclosure.

Total Annual Burden: 379,407 hours.

Total Annual Costs: $0.

Needs and Uses: Section 73.1870 requires that the licensee of an AM, FM, or TV broadcast station designate a chief operator of the station. Section 73.1870(b)(3) requires that this designation must be in writing and posted at the transmitter site. Agreements with chief operators serving on a contract basis must be in writing with a copy kept in the station files. Section 73.1870(c)(3) requires that the chief operator, or personnel delegated and supervised by the chief operator, review the station records at least once each week to determine if required entries are being made correctly, and verify that the station has been operated in accordance with FCC rules and the station authorization. Upon completion of the review, the chief operator must date and sign the log, initiate any corrective action which may be necessary and advise the station licensee of any condition which is repetitive. The posting of the designation of the chief operator is used by interested persons to readily identify the chief operator. The review of the station records is used by the chief operator, and FCC staff in investigations, to assure that the station is operating in accordance with its station authorization and the FCC rules and regulations.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–29230 Filed 11–8–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 98–171, DA 99–2334]

Common Carrier Bureau Seeks Comment on Joint Submission of Program Administrators Regarding Consolidated Data Collection Procedures and Cost Allocation Methodology

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On October 27, 1999, the Commission released a document seeking comment on a proposal filed jointly by the administrators of the local number portability, number administration, telecommunications relay services, and universal service support mechanisms (collectively, ''the administrators''). The document seeks comment on the administrators'' proposed procedures for handling the new Telecommunications Reporting Worksheet and proposed methodology for allocating related costs. The intended effect of this action is to make the public aware of, and to seek public comment on, this proposal.

DATES: Comments are due on or before November 29, 1999, and reply comments are due on or before December 9, 1999.

FOR FURTHER INFORMATION CONTACT: Scott K. Bergmann, Industry Analysis Division, Common Carrier Bureau, at (202) 418–7102; or Jim Lande, Industry Analysis Division, Common Carrier Bureau at (202) 418–0948. The TTY number is (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of a Public Notice released October 27, 1999 (DA 99–2334). The full text of the Public Notice and the administrators' joint submission are available for inspection and copying during normal business hours in the FCC Reference Center, Room CY-A257, 445 12th Street, S.W., Washington, D.C. 20554. The complete text also may be purchased from the Commission's copy contractor, International Transcription Service, Inc. (202) 857–3800, 1231 20th St., NW, Washington, D.C. 20036.

Background

On July 14, 1999, the Commission amended its rules so that telecommunications carriers and other service providers need only file one form—the Telecommunications Reporting Worksheet—for the purpose of determining their contributions to the universal service support mechanisms, the TRS Fund, and the cost recovery mechanisms for numbering administration and local number portability.[1] In that order, the Commission concluded that carriers and other filers of the new worksheet need only file one copy of the new worksheet. Accordingly, the Commission directed the administrators to file with the Bureau a summary of their proposed procedures for distributing the data obtained on the consolidated worksheet and to include a description of how related costs will be equitably apportioned.

On October 13, 1999, the administrators filed their joint submission regarding procedures for handling the new consolidated worksheet and for allocating related costs. See Joint Submission of Program Administrators regarding Consolidated Data Collection Procedures and Cost Allocation Methodology, CC Docket No. 98–171 (filed Oct. 13, 1999) (Joint Submission). Through the Public Notice summarized here, the Bureau seeks comment on the proposals contained in that joint submission.[2]

Procedural Matters

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or beforee November 29, 1999, and reply comments on or before December 9, 1999. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24,121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To receive filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, ''get form <your e-mail address>''. A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

Parties are also requested to send two paper copies of their filing to Ms. Terry Conway, Industry Analysis Division, 445 Twelfth Street SW., 6–A523, Washington, DC 20554.

Pursuant to § 1.1206 of the Commission's Rules, 47 CFR 1.1206, this proceeding will be conducted as a permit-but-disclose proceeding in which ex parte communications are permitted subject to disclosure.

Federal Communications Commission.

Thomas Beers,

Deputy Chief, Industry Analysis Division, Common Carrier Bureau.

[FR Doc. 99–29089 Filed 11–8–99; 8:45 am]

BILLING CODE 6712–01–P

[1] 1998 Biennial Regulatory Review—Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Services, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms, Report and Order, FCC 99–175, CC Docket No. 98–171, 64 FR 41320 (rel. July 14, 1999) (Contributor Reporting Requirements Order).

[2] We note that some released copies of the Public Notice summarized here contained an incorrect Delegated Authority number. The correct DA number is 99–2334. See Common Carrier Seeks Comment on Joint Submission of Program Administrators Regarding Consolidated Data Collection Procedures and Cost Allocation Methodology, Public Notice, DA 99–2390, CC Docket No. 98–171 (rel. Nov. 1, 1999).

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and approval of the information collection system described below.

Types of Review: New collection.

Title: Customer Assistance.

OMB Number: New collection.

Annual Burden:

Estimated annual number of respondents: 5,000

Estimated time per response: 30 minutes

Average annual burden hours: 2,500 hours

Expiration Date of OMB Clearance: New collection.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503.

FDIC Contact: Tamara T. Manly, (202) 898–7453, Office of the Executive Secretary, Room F–4058, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before December 9, 1999 to both the OMB

reviewer and the FDIC contact listed above.

ADDRESSES: Information about this submission, including copies of the proposed collection of information, may be obtained by calling or writing the FDCI contact listed above.

SUPPLEMENTARY INFORMATION: This collection permits the FDIC to collect information from customers of financial institutions who have inquiries or complaints about service. Customers may document their complaints or inquiries to the FDIC using a letter or on an optional form.

Dated: November 2, 1999.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 99–29308 Filed 11–8–99; 8:45 am]

BILLING CODE 6714–01–M

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 November 24, 1999.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Michael David and Susan Ann Griffin, Dysart, Iowa; to acquire additional voting shares of Dysart Banshares, Inc., Dysart, Iowa, and thereby indirectly acquire additional voting shares of Dysart State Bank, Dysart, Iowa.

B. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. Patricia Ann Adam, Pierre, South Dakato; to acquire voting shares of Blunt Bank Holding Company, Blunt, South Dakota, and thereby indirectly acquire additional voting shares of Dakota State Bank, Blunt, South Dakota.

2. Zaruba Family Limited Partnership, Wyoming, Minnesota; to acquire voting shares of Wyoming Bancshares, Inc., Wyoming, Minnesota, and thereby indirectly acquire voting shares of First State Bank of Wyoming, Wyoming, Minnesota.

Board of Governors of the Federal Reserve System, November 3, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–29260 Filed 11–8–99; 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 (12 U.S.C. 1843). 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 December 3, 1999.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. Centra Financial Holdings, Inc., Morgantown, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of Centra Bank, Inc., Morgantown, West Virginia.

B. Federal Reserve Bank of Atlanta (Cynthia Goodwin, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Cumberland Bancorp, Inc., Carthage, Tennessee; to merge with Bancshares of Dyer, Inc., Dyer, Tennessee, and thereby indirectly acquire Bank of Dyer, Dyer, Tennessee.

C. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. United Financial Corp., Great Falls, Montana; to acquire 24 percent of the voting shares of Valley Bancorp., Phoenix, Arizona, and thereby indirectly acquire Valley Bank of Arizona, Phoenix, Arizona.

D. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Praesidium Capital Corporation, Purchase, New York; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank, Uvalde, Texas.

Board of Governors of the Federal Reserve System, November 3, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–29259 Filed 11–8–99; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Request for Nominations for the Secretary's Advisory Committee on Minority Health

AGENCY: Office of Public Health and Science, Office of Minority Health.

ACTION: Notice.

SUMMARY: The Secretary, Department of Health and Human Services, signed the charter establishing the Committee on Minority Health on September 17, 1999. Unless renewed prior to its expiration, the Committee will terminate on September 22, 2001. It is the function of the Committee to advise and make recommendations to the Secretary on improving the health of racial and ethnic minority groups and development of goals and specific program activities. This notice also requests nominations for membership on the Committee.

DATES: Nominations for members must be received no later than 5:00 P.M. on January 10, 2000.

ADDRESSES: You may mail or deliver nominations to the following address: Monica Farrar, Division of Management Operations, Office of Minority Health, 5515 Security Lane, Suite 1000, Rockville, MD 20852. Nominations will not be accepted by e-mail nor by facsimile.

A request for a copy of the Secretary's charter for the Advisory Committee should be submitted to: Joan Jacobs, Office of Minority Health, 5515 Security Lane, Suite 1000, Rockville, MD 20852. The charter can also be downloaded from the Office of Minority Health Resource Center web site at http://www.omhrc.gov.

FOR FURTHER INFORMATION CONTACT: Joan Jacobs, (301) 443–9923.

SUPPLEMENTARY INFORMATION:

I. Background and Legislative Authority

Section 1707(c) of the Public Health Service Act directs the Secretary to establish the Advisory Committee on Minority Health. The Committee is also governed by the Federal Advisory Committee Act (5 U.S.C. Appendix 2), which sets forth standards for the formulation and use of advisory committees.

The Advisory Committee shall advise the Secretary on improving the health of racial and ethnic minorities and developing goals and specific program activities. These activities include, but are not limited, to the following:

(1) Establishing short-range and long-range goals and objectives and coordinate all other activities within the Public Health Service that relate to disease prevention, health promotion, service delivery, and research concerning such individuals.

(2) Entering into interagency agreements with other agencies of the Public Health Service.

(3) Supporting research, demonstrations and evaluations to test new and innovative models.

(4) Increasing knowledge and understanding of health risk factors.

(5) Developing mechanisms that support better information dissemination, education, prevention, and service delivery to individuals from disadvantaged backgrounds, including individuals who are members of racial and ethnic minority groups.

(6) Ensuring that the National Center for Health Statistics, Centers for Disease Control and Prevention, collects data on the health status of each minority group.

(7) With respect to individuals who lack proficiency in speaking the English language, entering into contracts with public and nonprofit private providers of primary health services for the purpose of increasing the access of individuals to such services by developing and carrying out programs to provide bilingual or interpretive services.

(8) Supporting a national minority health resource center to carry out the following:

(A) Facilitate the exchange of information regarding matters relating to health information and health promotion, preventive health services, and education in the appropriate use of health care;

(B) Facilitate access to information;

(C) Assist in the analysis of issues and problems relating to such matters;

(D) Provide technical assistance with respect to the exchange of such information (including facilitating the development of materials of such technical assistance).

(9) Carrying out programs to improve access to health care services for individuals with limited proficiency in speaking the English language. Activities under the preceding sentence shall include developing and evaluating model projects.

II. Nominations

The Office of Minority Health (OMH) is requesting nominations for voting members to serve on the Advisory Committee. The Committee is to consist of 12 voting members appointed by the Secretary from among racial and ethnic minorities, defined as Black or African American, Hispanic/Latino, American Indian/Alaska Native, Asian American, and Native Hawaiian or Pacific Islander, who have expertise regarding issues of minority health. The racial and ethnic minority groups will be equally represented among the voting members. The membership will also be diverse in terms of gender, HIV status, disability, age, culture, sexual orientation, geography, and points of view. Employees or officers of the Federal Government may not serve as voting members, except that the Secretary may appoint employees of the DHHS to serve as ex-officio, non-voting members.

OMH is seeking nominations of persons from a wide-array of fields including but not limited to: public health and medicine, health administration and financing, behavioral and social sciences, immigration and rural health, health law and economics, cultural and linguistic competency, and biomedical ethics and human rights. Demonstrated expertise in minority health, in subject areas such as access to care, data collection and analysis, health professions development, cultural competency, and eliminating disparities in cancer, cardiovascular diseases, infant mortality, HIV infection/AIDS, child and adult immunization, diabetes, substance abuse, homicide, suicide, unintentional injuries, and other diseases and health conditions is also required.

Nominations must state that the nominee is willing to serve as a member of the Advisory Committee and appears to have no conflict of interest that would preclude membership. Candidates will be asked to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts to permit evaluation of possible sources of conflict of interest.

Members are appointed for a term of four years except that the Secretary shall initially appoint a portion of members to one, two, and three year terms. The Chair, selected by the Secretary from among the voting members of the Committee, will serve a term of two years. Committee members will be compensated for the time spent in Committee meetings (including travel time) as well as per diem costs.

Any interested person may nominate one or more qualified persons. Self-nominations will also be accepted.

Nomination forms may be obtained from the Office of Minority Health Resource Center, P.O. Box 37337, Washington, D.C. 20013–7337, telephone 1–800–444–6472, TDD 301–230–7199, e-mail: *info@omhrc.gov*. Nomination forms may also be downloaded from the Office of Minority Health Resource Center web site, *http://www.omhrc.gov. All nominations and curricula vitae for the Advisory Committee should be set to Monica Farrar at the address in this notice.*

Authority: Section 1707(c) of the Public Health Service Act, as amended (42 U.S.C. 300u–6(c)); Federal Advisory Committee Act (5 U.S.C. appendix 2).

Dated: November 3, 1999.

Nathan Stinson, Jr.,

Deputy Assistant Secretary for Minority Health.

[FR Doc. 99–29243 Filed 11–8–99; 8:45 am]

BILLING CODE 4160–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

Public Information Collection Requirement Proposed To Be Submitted to the Office of Management and Budget (OMB) for Clearance

The Administration on Aging (AoA), Department of Health and Human Services, is submitting the following proposals for the collection of information in compliance with the Paperwork Reduction Act (Public Law 96–511): Title VI Program Performance Reports.

Type of Request: Extension.

Use: To continue an existing information collection, Title VI Program Performance Report, from Title VI grantees to use in reporting information on programs funded by Title VI as required under Section 202(a)(19), Section 614(a)(2), and Section 614(a)(3) of the Older Americans Act, as amended.

Frequency: Semi-Annually.

Respondent: Tribal Organizations and Non-profit Organizations representing Native Hawaiians.

Estimated Number of Responses: 227.

Estimated Burden Hours: 681.

Additional Information and Comments: The Administration on Aging will be submitting to the Office of Management and Budget a request for approval for the continuation of use of the Title VI Program Performance Reports, pursuant to requirements in Section 202(a)(19), Section 614(a)(2), and Section 614(a)(3) of the Older Americans Act.

Requests for a copy of the above mentioned Program Performance Report and/or written comments and recommendations for the proposed information collection should be sent within 60 days of the publication of this notice to: M. Yvonne Jackson, Director, Office for American Indian, Alaskan Native and Native Hawaiian Programs, Administration on Aging, 330 Independence Avenue, SW., Washington, DC 20201.

Dated: November 2, 1999.

Jeanette C. Takamura,

Assistant Secretary for Aging.

[FR Doc. 99–29242 Filed 11–8–99; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: Child Welfare Demonstration Project Information Collection.

OMB No.: New.

Description: Under section 1130 of the Social Security Act, the Department of Health and Human Services is given authority to approve up to ten States for Child Welfare demonstrations in each of the five fiscal years 1998–2002. These demonstration projects involve the waiver of certain requirements of titles IV–B and IV–E, the sections of the Act that govern foster care, adoption assistance, independent living, child welfare services, promoting safe and stable families, family preservation and support, and related expenses for program administration, training, and automated systems. Child Welfare demonstration projects operating this waiver authority are required to be consistent with the purposes of existing law, cost-neutral to the Federal government, and independently evaluated. This authority provides an Opportunity for States to design and test a wide range of approaches to improve and reform child welfare. Such demonstrations should provide valuable knowledge that will lead to improvements in the delivery, effectiveness and efficiency of services.

The information collection consists of seven components, which are outlined in the Information Memorandum: (1) Application; (2) Initial Design and Implementation Report; (3) Evaluation Plan; (4) Quarterly Reports (Pre-Implementation); (5) Semi-Annual Reports (Post-Implementation); (6) Interim Evaluation Report; and (7) Final Report. The primary purpose of the demonstrations is to produce information on the outcomes for children and their families. These collections lay the information infrastructure to facilitate the dissemination of this information. If data collection is not conducted for the child welfare demonstrations, the Department relinquishes all pertinent information required to test the impact of the intervention employed in the waivers, specifically the effect of allowing the flexible use of IV–E dollars in the delivery of child welfare services. Furthermore, ensuring the safety and welfare of children is of utmost importance to CB, and if data is conducted less frequently than required by the project, interim results that could affect the well-being of children can be overlooked.

Respondents: State, Local or Tribal Governments.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Application	10	1	120	1,200
Initial Design	55	1	40	2,200
Evaluation Plan	55	1	40	2,200
Quarterly Report	55	1	24	1,320
Simi-Annual Reports	55	1	80	4,400
Interim Evaluation Report	55	1	120	6,600
Final Report	55	1	160	8,800

Estimated Total Annual Burden Hours: 26,720.

In Compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above.

Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated November 3, 1999.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 99–29240 Filed 11–8–99; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: 45 CFR Part 95, Supart F—Automatic Data Processing Equipment and Services—Conditions for Federal Financial Participation (FFP).

OMB No.: 0992–0005.

Description: The advance planning document (APD) process, established in the rules at 45 CFR Part 95, Subpart F, is the procedure by which States request and obtain approval for Federal financial participation in their cost of acquiring automatic data processing equipment and services. The State Agency submitted APD, provides the Department of Health and Human Services (DHHS) with the following information necessary to determine the State's need to acquire the requested ADP equipment and/or services:

1. A statement of need;
2. A requirements analysis and feasibility study;
3. A cost benefits analysis;
4. A proposed activity schedule; and,
5. A proposed budget.

DHHS' determination, of a State agency's need to acquire requested ADP equipment or services, is authorized at sections 402(a)(5), 452(a)(1), 1902(a)(4) and 1102 of the Social Security Act.

Respondents: State, Local or Tribal Governments.

Annual Burden Estimates:

Instrument	Number of respondents	Number of respondents per respondent	Average burden hours per response	Total burden hours
Advance Planning Document	50	1.84	60	5,520
RFP and Contract	50	1.54	1.5	115.5
Emergency Funding Request	27	1	1	27
Service Agreement	14	1	1	14
Biennial Reports	50	1	1.5	75

Estimated Total Annual Burden Hours: 5,751.5.

In Compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above.

Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarify of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: November 3, 1999.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 99–29241 Filed 11–8–99; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Gastroenterology and Urology Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Gastroenterology and Urology Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on November 19, 1999, 8 a.m. to 5 p.m.

Location: Corporate Bldg., conference room 020B, 9200 Corporate Blvd., Rockville, MD.

Contact Person: Mary J. Cornelius, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2194, ext. 118, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12523. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss, make recommendations, and vote on a premarket approval application for an optical device intended to assist in the evaluation of colonic polyps using laser-induced autofluorescence.

Procedure: On November 19, 1999, from 8:30 a.m. to 1:30 p.m., and from 2 p.m. to 5 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact

person by November 15, 1999. Oral presentations from the public will be scheduled between approximately 9:15 a.m. and 9:45 a.m. and between approximately 3 p.m. and 3:30 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before November 15, 1999, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On November 19, 1999, from 8 a.m. to 8:30 a.m., the meeting will be closed to permit discussion and review of trade secret and/or confidential commercial information regarding pending and future device issues (5 U.S.C. 552b(c)(4)). This portion of the meeting will be closed to permit discussion of this information.

FDA regrets that it was unable to publish this notice 15 days prior to the November 19, 1999, Gastroenterology and Urology Devices Panel of the Medical Devices Advisory Committee meeting. Because the agency believes there is some urgency to bring this issue to public discussion and qualified members of the Gastroenterology and Urology Devices Panel of the Medical Devices Advisory Committee were available at this time, the Commissioner concluded that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 29, 1999.

Dennis E. Baker,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 99–29223 Filed 11–8–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Prevention; Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Drug Testing Advisory Board of the Center for Substance Abuse Prevention in December 1999.

The Drug Testing Advisory Board meeting will be open from 8:30 a.m. until 10:15 a.m. on December 8, 1999. The open session will include a roll call, an HHS update, a DOT update, a brief review of the on-site testing meeting held on October 5 and 6, and a brief review of the working group meeting held on November 3, 4, and 5 to discuss alternative specimen testing. A public comment period will be scheduled during the open session. If anyone needs special accommodations for persons with disabilities please notify the Contact listed below.

The Drug Testing Advisory Board meeting will be closed from 10:15 a.m. on December 8, 1999, until 3:30 p.m. on December 9, 1999, because it involves the review of sensitive National Laboratory Certification Program (NLCP) internal operating procedures and program development issues. Therefore, this portion of the meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with 5 U.S.C. 552b(c)(2), (4), and (6) and 5 U.S.C. App.2, § 10(d).

An agenda for the open session of this meeting and a roster of board members may be obtained from: Mrs. Giselle Hersh, Division of Workplace Programs, 5600 Fishers Lane, Rockwall II, Suite 815, Rockville, MD 20857, Telephone: (301) 443–6014.

Substantive program information may be obtained from the contact whose name and telephone number is listed below.

Committee Name: Drug Testing Advisory Board.

Meeting Date: December 8–9, 1999.

Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

Open: December 8, 1999; 8:30 a.m.–10:15 a.m.

Closed: December 8, 1999; 10:15 a.m.–3:30 p.m.

Closed: December 9, 1999; 8:30 a.m.–3:30 p.m.

Contact: Donna M. Bush, Ph.D., Executive Secretary, Telephone: (301) 443–6014 and FAX: (301) 443–3031.

Dated: November 3, 1999.

Sandra E. Stephens,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 99–29225 Filed 11–8–99; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–933–1430–AG; IDI–017246]

Termination of Recreation and Public Purpose Act Classification and Opening Order, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice

SUMMARY: This notice terminates a Recreation and Public Purpose Act Classification on 43.81 acres as this classification is no longer needed.

EFFECTIVE DATE: November 9, 1999.

FOR FURTHER INFORMATION CONTACT: Catherine D. Foster, BLM Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho 83709, 208–373–3863.

SUPPLEMENTARY INFORMATION: On June 3, 1971, 43.81 acres were classified as suitable for Recreation and Public Purposes. The classification is hereby terminated and the segregation for the following described lands is hereby terminated:

T. 2 N., R. 3 E., B.M.

Section 5: Lot 4.

The area described above aggregates 43.81 acres in Ada County.

At 9 a.m. on November 9, 1999, the Recreation and Public Purposes Act classification identified above will be terminated. The lands will remain closed to location and entry under the public land laws and the general land laws, as the lands are currently segregated for exchange.

Dated: November 3, 1999.

Jimmie Buxton,

Branch Chief, Lands and Minerals.

[FR Doc. 99–29333 Filed 11–8–99; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–010–00–1430–HN/NM–101521 and NM–101522/G010–G0–0251]

Notice of Exchange Proposal/Notice of Intent To Prepare Two Environmental Impact Statements for the Proposed Santo Domingo and San Felipe Land Exchanges

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of exchange proposal; notice of intent.

SUMMARY: Notice is hereby given that the Bureau of Land Management (BLM)

is considering two proposals to exchange lands pursuant to Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716), as amended by the Federal Land Exchange Facilitation Act of August 20, 1988. This also serves as a Notice of Intent to prepare two Environmental Impact Statements (EIS's). The proposals are two separate land exchanges involving the BLM, the Pueblo of San Felipe and the Pueblo of Santo Domingo. These proposals supersede the three-way exchange proposal between the BLM, the State of New Mexico, and the two pueblos.

Under Section 102(2)(c) of the National Environmental Policy Act of 1969, the BLM Albuquerque Field Office will be directing the EIS preparation by a third-party contractor. The proposal is to exchange approximately 7,376.34 acres of federal surface and subsurface to the Santo Domingo Pueblo and approximately 9,459.03 acres to the San Felipe Pueblo. The lands are contiguous and located east of San Felipe and south of the Santo Domingo Reservations. The San Felipe and Santo Domingo Pueblos would then acquire, or cause to be acquired, BLM high-priority acquisition lands adding up to the fair market value of the federal lands. An escrow account may be used to purchase private or other lands of equal value, from a list of lands to be acquired for the BLM.

The lands to be acquired by the pueblos will be selected from the BLM's high-priority acquisition zones and may be within and adjacent to Wilderness Study Areas (WSAs), Areas of Critical Environmental Concern (ACECs), riparian areas and/or other Special Management Areas (SMAs) for the benefit of the BLM.

The following described public lands are being considered for disposal to the San Felipe Pueblo by the United States:

New Mexico Principal Meridian

T. 13 N., R. 6 E.,
Sec. 1, lots 8 to 12, inclusive, and lot 14;
Sec. 3, lots 1 to 4, inclusive, S½N½, E½SE¼, and W½SW¼;
Sec. 7, SE¼SW¼;
Sec. 8, E½;
Secs. 9 and 10;
Sec. 14, N½ and SW¼;
Sec. 15;
Sec. 16, S½NW¼;
Sec. 17, S½NE¼;
Sec. 21, lots 10 to 13, inclusive, NE¼NE¼, and NE¼SE¼;
Sec. 22, N½ and N½S½;
Sec. 23, W½W½;
Sec. 25, NW¼ and W½SW¼;
Sec. 26, S½;
Sec. 27, S½NE¼, W½SW¼, SE¼SW¼, E½SE¼, and SW¼SE¼;
Sec. 28, lots 1 to 9, inclusive, E½;
Sec. 34, E½;
Sec. 35, N½ and W½SW¼;
Sec. 36, SW¼NW¼ and W½SW¼.
T. 14 N., R. 6 E.,
Sec. 22, lots 2, 3, 4, and lots 7 to 10, inclusive, W½;
Sec. 23, lot 5, N½, SE¼;
Sec. 26, lots 3, 4, 5, and lots 10 to 14, inclusive, NE¼;
Sec. 27, N½, NE¼SW¼, N½NW¼SW¼, NE¼SE¼NW¼SW¼, NW¼SW¼NW¼SW¼, S½S½NW¼SW¼, S½SW¼, and SE¼;
Sec. 34, N½;
Sec. 35, lots 3, 4, 9 and 10, W½.
T. 13 N., R. 7 E.,
Sec. 6, lot 13;
Sec. 7, lots 8, 9, 10, 12 and 13;
Sec. 18, lots 1, 2, 3, W½NW¼, and NW¼SW¼;
Sec. 31, lots 1 to 4, inclusive, W½W½.

The areas described aggregate 9,459.03 acres.

The following described public lands are being considered for disposal to the Santo Domingo Pueblo by the United States:

New Mexico Principal Meridian

T. 13 N., R. 6 E.,
Sec. 1, lots 5, 6, 7, and 13.
T. 14 N., R. 6 E.,
Sec. 9, lots 9, 10, S½;
Sec. 10, lots 10 to 13, inclusive, S½S½;
Sec. 11, lots 9, 10 and 11;
Sec. 13, lots 5 to 8, inclusive, S½NW¼ and S½;
Sec. 14, lot 2, NW¼NE¼, S½NE¼, NW¼, and S½;
Sec. 15;
Sec. 22, lots 1, 5, and 6;
Sec. 23, lots 1 to 4, inclusive, N½ and SE¼;
Secs. 24 and 25;
Sec. 26, lots 1, 2, 6 to 9, inclusive, and lots 15, and 16, NE¼;
Sec. 35, lots 1, 2, 5 to 8, inclusive, and lot 11.
T. 13 N., R. 7 E.,
Sec. 6, lots 5 to 12, inclusive;
Sec. 7, lots 5, 6, 7, and 11.
T. 14 N., R. 7 E.,
Sec. 17, lots 10 and 11;
Sec. 18, lots 5 to 8, inclusive, SW¼ and S½SE¼;
Sec. 19;
Sec. 20, lots 1 to 4, inclusive;
Sec. 29, lots 1 and 2;
Sec. 30, lots 1 to 5, inclusive, N½N½, SW¼NW¼ and W½SW¼;
Sec. 31, lots 1 to 4, inclusive, W½W½.

The areas described aggregate 7,376.34 acres.

In this proposed exchange, the United States would acquire an equal value of lands, yet to be identified, within or adjacent to BLM WSAs, ACECs, SMAs and/or other BLM high-priority acquisition areas.

The No Action Alternative will be analyzed in each EIS and will consider the effects of not completing the exchange.

The following resources and/or their uses are likely to be issues of concern in these EIS's:

American Indian Traditional Cultural Properties
Availability of Land for Public Use
Mineral Ownership and Availability
Access to Private Lands
Grazing Permits
Water Resources
Rights-of-Way and Utility Corridors

DATES: Interested parties may submit comments concerning the proposed exchange and transfer of public lands to the Field Manager, Albuquerque Field Office, at the above address. To be considered in the environmental analysis of the proposed exchange, comments must be in writing to the Field Manager and be postmarked or delivered by December 27, 1999.

An open house/public scoping meeting will be held from 4 p.m. to 7 p.m. on December 2, 1999, at the BLM Albuquerque Field Office, 435 Montaño Rd. NE, Albuquerque, New Mexico 87107.

The scoping process will consist of a news release announcing the start of the EIS process and a public scoping meeting.

FOR FURTHER INFORMATION CONTACT: A detailed map or legal description and information concerning the proposed exchange may be obtained from Debby Lucero, Realty Specialist, Albuquerque Field Office, 435 Montaño Rd. NE, Albuquerque, New Mexico 87107, (505) 761–8787.

SUPPLEMENTARY INFORMATION: Subject to valid existing rights, the public lands identified above were previously segregated from appropriation under the public land and mineral laws for a period of 5 years beginning March 20, 1996.

Dated: November 3, 1999.

Francis M. O'Neill,

Acting Assistant Field Manager.

[FR Doc. 99–29257 Filed 11–8–99; 8:45 am]

BILLING CODE 4310–AG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM010–1430–EQ/G010–G0–0250; NMNM 101518]

Notice of Realty Action: Lease of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action—lease of public lands.

SUMMARY: This notice is to advise that the following public lands in Cibola

County, New Mexico, have been examined and found suitable for classification for a long term lease to the Baca/Prewitt Chapter under the provisions of the Federal Land Management Policy Act of 1976, (43 U.S.C. 1701, 1732, and 43 CFR part 2920). The lease is intended to authorize the Baca/Prewitt Chapter to use the land for occupancy.

New Mexico Principal Meridian

T. 13 N., R. 12 W., NMPM,
Sec. 24, N1/2NE1/4SE1/4NW1/4
Contains approximately 5.00 acres.

SUPPLEMENTARY INFORMATION: The site lands will be leased and offered for patent to the Baca/Prewitt Chapter in the future. A lease under section 302 of the Federal Land Policy and Management Act of 1976 is consistent with current BLM land use planning and has been determined to be in the public interest. The lands are not needed for Federal purposes. The term is 30 years, subject to the following: (1) The lease will terminate upon conveyance to the Baca/Prewitt Chapter; (2) or upon non-compliance with the terms and conditions of the lease. If the applicant or holder fails to meet these requirements, BLM will terminate the lease, require that the premises be vacated and treat the improvements as unauthorized occupancy and use the public lands according to regulations found in 43 CFR Part 9230.

APPLICATION COMMENTS: For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the Bureau of Land Management, Field Manager, Albuquerque Field Office, 435 Montano Rd. NE, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Joe Jaramillo, BLM, Albuquerque Field Office, 435 Montano Rd. NE, Albuquerque, New Mexico 87107, (505) 761–8779.

F.M. O'Neill,

Acting Field Manager.

[FR Doc. 99–28635 Filed 11–8–99; 8:45 am]

BILLING CODE 4310–AG–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the availability of environmental documents prepared for OCS mineral proposals on the Gulf of Mexico OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal Regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related Site-Specific Environmental Assessments (SEA's) and Findings of No Significant Impact (FONSI's), prepared by the MMS for the following oil and gas activities proposed on the Gulf of Mexico OCS. This listing includes all proposals for which the FONSI's were prepared by the Gulf of Mexico OCS Region in the period subsequent to publication of the preceding notice.

Activity/Operator	Location	Date
Amoco Pipeline Company, Pipeline Activity, SEA No. P–12255 (G–21277).	Viosca Knoll Area, Blocks 823, 779, and 735; Main Pass Area, South and East Addition, Block 281; Lease OCS–G 21277; 50 miles offshore the Louisiana.	9/20/99
Coast Coastal Oil & Gas Corporation, Pipeline Activity, SEA No. P–12265 (G–21261).	High Island Area, Blocks A–368 through A–370, Lease OCS–G 21261, 118 miles from the nearest Texas shoreline.	8/20/99
Mariner Energy, Inc., Exploration Activity, SEA No. N–6374	High Island Area, Block A–395, Lease OCS–G 18975, 118 miles from the nearest Texas shoreline.	7/29/99
C&C Technologies, Inc., and William's Gas Pipeline—Transco, G&G Activity, SEA No. M99–9.	Mobile Area and Tarpon Springs Area, 15 to 100 miles from the nearest Florida and Alabama Coast.	8/06/99
Vintage Petroleum, Inc., Structure Removal Operations, SEA No. ES/SR 99–081.	Main Pass Area, Block 124, Lease OCS–G 5697, 36 miles east of Plaquemines Parish, Louisiana.	7/20/99
Texaco Exploration and and Production Inc., Structure Removal Operations, SEA Nos. ES/SR 99–089 through 99–091.	Vermilion Area, Block 31, Lease OCS–G 2868, 8 miles south of Vermilion Parish, Louisiana.	7/20/99
Texaco Exploration and and Production Inc., Structure Removal Operations, SEA Nos. ES/SR 99–092 through 99–099.	South Marsh Island Area, Blocks 212 and 218, Lease OCS 310, 7 miles south of of Vermilion Parish, Louisiana.	7/20/99
Snyder Oil Corporation, Structure Removal Operations, SEA Nos. ES/SR 99–102 through 99–104.	South Timbalier Area, Block 226; South Marsh Island Area, Blocks 234 and 235; Leases OCS–G 6771, 4436, and 4523; 15 miles south of Vermilion Parish, Louisiana.	7/19/99
The Houston Exploration Company, Structure Removal Operations SEA No. ES/SR 99–105.	Eugene Island Area, Block 48, Lease OCS–G 7727, 12 miles south of of Iberia Parish, Louisiana.	7/29/99
NCX Company, Inc., Structure Removal Operations, SEA No. ES/SR 99–106.	High Island Area, Block A–486, Lease OCS–G 6227, 73 miles southeast of Brazoria County, Texas.	8/12/99
Basin Exploration, Inc., Structure Removal Operations, SEA No. ES/SR 99–107.	Mustang Island Area, Block 791, Lease OCS 0534, 15 miles southeast of Nueces County, Texas.	8/10/99
Cockrell Oil Corporation, Structure Removal Operations, SEA No. ES/SR 99–108.	Eugene Island Area, Block 24, Lease OCS–G2893, 5 miles south of St. Mary Parish, Louisiana.	8/03/99
Energy Resource Technology, Inc., Structure Removal Operations, SEA Nos. ES/SR 99–109 and 99–110.	High Island Area, Block A–23, Lease OCS–G 13330, 39 miles south of Jefferson County, Texas.	8/30/99
Newfield Exploration Company, Structure Removal Operations, SEA No. ES/SR 99–111.	Ship Shoal Area, Block 322, Lease OCS–G 4877, 67 miles south of Terrebonne Parish, Louisiana.	8/30/99
Cockrell Oil Corporation, Structure Removal Operations, SEA No. ES/SR 99–112.	East Cameron Area, Block 200, Lease OCS–G 10628, 74 miles south of Cameron Parish, Louisiana.	8/30/99
Energy Resources Technology, Inc., Structure Removal Operations, SEA No. ES/SR 99–113.	West Cameron Area, Block 177, Lease OCS–G 1471, 32 miles south of Cameron Parish, Louisiana.	8/30/99
Unocal Corporation, Structure Removal Operations, SEA Nos. ES/SR 99–114 and 99–115.	Eugene Island Area, Block 247; High Island Area, Block A–302; Leases OCS–G 2732 and 1888; 61 miles south of St. Mary Parish, Louisiana.	9/28/99

Activity/Operator	Location	Date
Sonat Exploration, Structure Removal Operations, SEA Nos. ES/SR 99–116 through 99–120.	West Cameron Area, Blocks 333, 332, 369, and 370, Leases OCS–G 3277, 3276, 4767, and 4092, 50 miles south of Cameron Parish, Louisiana.	9/28/99
Forcenergy Inc., Structure Removal Operations, SEA No. ES/SR 99–121.	South Marsh Island Area, Block 79, Lease OCS–G 7709, 62 miles south of Iberia Parish, Louisiana.	9/16/99
Sonat Exploration GOM, Structure Removal Operations, SEA Nos. ES/SR 99–122 through 99–128.	West Cameron Area, Blocks 55, 352 and 343; Sabine Pass Area, Block 3; High Island Area, Block 74; Leases OCS–G 13553, 2839, 2838, 4144, and 12566; 6 to 51 miles south of Cameron Parish, Louisiana.	10/01/99
Shell Offshore Inc., Structure Removal Operations, SEA No. ES/SR 99–132.	Galveston Area, Block 191, Lease OCS–G 13779, 15 miles southeast of Galveston, Texas.	10/07/99
Ocean Energy, Inc., Structure Removal Operations. SEA No. ES/SR 99–133.	Eugene Island Area, Block 128, Lease OCS–G 0053, 27 miles southwest of Terrebonne Parish, Louisiana.	10/07/99
Chevron, U.S.A. Inc., Structure Removal Operations, SEA No. ES/SR 99–134.	Main Pass Area, Block 42, Lease OCS–G 1367, 27 miles east of Plaquemines Parish, Louisiana.	10/12/99

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EA's and FONSI's prepared for activities on the Gulf of Mexico OCS are encouraged to contact the MMS office in the Gulf of Mexico OCS Region.

FOR FURTHER INFORMATION: Public Information Unit, Information Services Section, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, Telephone (504) 736–2519.

SUPPLEMENTARY INFORMATION: The MMS prepares EA's and FONSI's for proposals which relate to exploration for and the development/production of oil and gas resources on the Gulf of Mexico OCS. The EA's examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. Environmental Assessments are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA section 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

Dated: October 28, 1999.

Charles J. Schoennagel, Jr.,

Acting Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 99–29298 Filed 11–8–99; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 30, 1999.

Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW., NC400, Washington, DC 20240. Written comments should be submitted by November 24, 1999.

Beth Boland,

Acting, Keeper of the National Register.

Arkansas

Sebastian County

Fort Smith U.S. Post Office and Courthouse, 30 S. Sixth St., Fort Smith, 99001406

Colorado

Montrose County

Methodist Episcopal Church of Montrose, 19 S. Park Ave., Montrose, 99001407

Idaho

Ada County

O'Farrell, John A., Cabin, W. Fort St., bet. N. 4th and N. 5th Sts., Boise, 99001415

Bonner County

Lamb Creek School, (Public School Buildings in Idaho MPS), 28769 North Highway 57, Priest River vicinity, 99001418

Idaho County

Blue Fox Theatre, (Motion Picture Theater Buildings in Idaho MPS), 116 W. Main St., Grangeville, 99001412

Washington County

Star Theater, (Motion Picture Theater Buildings in Idaho MPS), 342 State St., Weiser, 99001413

Massachusetts

Suffolk County

Kehila Kedosha Janina Synagogue, 101–113 Summer St., Boston, 99001430

Michigan

Alger County

King Road—Whitefish River Bridge, (Highway Bridges of Michigan MPS), King Rd. over Whitefish River, Limestone Township, 99001463

M–28—Sand River Bridge, (Highway Bridges of Michigan MPS), Hwy M–28 over Sand River, Onota Township, 99001460

M–94 (old)—Au Train River Bridge, (Highway Bridges of Michigan MPS), Wolkoff Rd. over Au Train River, Au Train Township, 99001462

Bay County

Bay City Bascule Bridge, (Highway Bridges of Michigan MPS), M–13/M–84 over East Channel of Saginaw River, Bay City, 99001465

Chippewa County

M–28—Tahquamenon River Bridge, (Highway Bridges of Michigan MPS), M–28 over Tahquamenon River, Chippawa Township, 99001466

Clinton County

Stony Creek Bridge, (Highway Bridges of Michigan MPS), Private road over Stony Creek, Olive Township, 99001467

Manistee County

Babcock, Simeon, House, 420 Third St., Manistee, 99001455

Missaukee County

Canyon Falls Bridge, (Highway Bridges of Michigan MPS), U.S. 41 over Sturgeon R., L'Anse Township, 99001464

Saginaw County

Center Road—Tittabawassee River Bridge, (Highway Bridges of Michigan MPS), Center Rd. over Tittabawassee River, James Township, 99001458

Washtenaw County

Mechem, Floyd R., House, 1402 Hill St., Ann Arbor, 99001456

Wayne County

East Grand Boulevard Historic District, E. Grand Blvd., bet. E. Jefferson Ave. and Mack Ave., Detroit, 99001468

New York

Erie County

Bruce—Briggs Brick Block, (Lancaster, New York MPS), 5481–5483–5485 Broadway, Lancaster, 99001409
Clark—Lester House, (Lancaster, New York MPS), 5454 Broadway, Lancaster, 99001408
DePew Lodge No. 823, Free and Accepted Masons, (Lancaster, New York MPS), 5497 Broadway, Lancaster, 99001410
Lancaster Municipal Building, (Lancaster, New York MPS), 5423 Broadway, Lancaster, 99001420
Liebler—Rohl Gasoline Station, (Lancaster, New York MPS), 5500 Broadway, Lancaster, 99001411
Miller—Mackey House, (Lancaster, New York MPS), 5440 Broadway, Lancaster, 99001422
Nowak, Dr. John J., House, (Lancaster, New York MPS) 5539 Broadway, Lancaster, 99001414
Richardson, John, House, (Lancaster, New York MPS), 5653 Broadway, Lancaster, 99001419
VanPeyma, Herman B., House, (Lancaster, New York MPS), 5565 Broadway, Lancaster, 99001417
Auidema—Idsardi House, (Lancaster, New York MPS), 5556 Broadway, Lancaster, 99001416

New York County

American Bank Note Company Building, 70 Broad St., New York, 99001436

Beth Hamedrash Hagodol Synagogue, 60–64 Norfolk St., New York, 99001438
Insurance Company of North America Building, 99 John St., New York, 99001425
St. Ignatius of Antioch Episcopal Church, 552 W. End Ave., New York, 99001442

Westchester County

Mead Memorial Chapel, 2 Chapel Rd., Lewisboro, 99001443

North Carolina

Mecklenburg County

Carolina Transfer and Storage Company Building, (Former), 1230 W. Morehead St., Charlotte, 99001447

New Hanover County

Carolina Heights Historic District (Boundary Increase), 1200 Block of Market St. and 100 & 200 blocks of N. 13th St., Wilimington, 99001448

Pitt County

Greenville, North Carolina Warehouse Historic District, (Boundary Increase), Eleventh St. near Clark St., Greenville, 99001450

Rutherford County

Pine Gables, 328 Boys Camp Rd., Lake Lure, 99001445

Wake County

Raleigh Water Works and E.B. Bain Water Treatment Plant, 1810 Fayetteville Rd., Raleigh, 99001452

Oklahoma

Creek County

Berryhill Building, 14–20 E. Dewey Ave., Sapulpa, 99001423

Oklahoma County

Arcadia Route 66 Roadbed, (Route 66 in Oklahoma MPS), Extends SSE from Jct. OK 66 and Hiwassee Rd., Arcadia vicinity, 99001424

Pontotoc County

Sugg Clinic, 100 E. 13th St., Ada, 99001426

Stephens County

Duncan Public Library, 301 N. 8th St., Duncan, 99001427

Pennsylvania

York County

Fairmont Historic District, Roughly bounded by Cherry Ln., Stevens Ave. and Cottage Hill Rd., York City, 99001428

South Dakota

Bon Homme County

Scotland Main Street Historic District, Along Main St., roughly bounded by Railway, Poplar, 3rd and Juniper Sts., Scotland, 99001429

Brookings County

South Dakota Department of Transportation Bridge No. 06–142–190 (Historic Bridges in South Dakota MPS), Local Rd. over Big Sioux R., Brookings vicinity, 99001431
South Dakota Department of Transportation Bridge No. 06–131–040 (Historic Bridges in South Dakota MPS), Local Rd. over Big Sioux R., Bruce vicinity, 99001432
South Dakota Department of Transportation Bridge No. 06–129–029 (Historic Bridges in South Dakota MPS), Local Rd. over Big Sioux R., Bruce vicinity, 99001433

Hamlin County

Estelline Bandstand and Gazebo Park, 105 N. Main, Estelline, 99001434

Lawrence County

Galena School (Federal Relief Construction in South Dakota MPS) Block 13, Lots 1–5 Bryan Placer No. 913, Galena, 99001435

Roberts County

South Dakota Department of Transportation Bridge No. 55–030–418 (Historic Bridges in South Dakota MPS), State RR tracks over local Rd., Ortley vicinity, 99001437

Turner County

Dalton Township Bridge (Historic Bridges in South Dakota MPS), Local Rd. over unnamed stream, Marion vicinity, 99001439
Daneville Township Bridge No. E–26 (Historic Bridges in South Dakota MPS), Local Rd. over unnamed stream, Viborg vicinity, 99001441
Spring Valley Township Bridge No. E–31 (Historic Bridges in South Dakota MPS), Local Rd. over unnamed stream, Viborg vicinity, 99001440

Tennessee

Bledsoe County

Pikeville Chapel African Methodist Episcopal Zion Church (Rural African-American Churches in Tennessee MPS), E. Valley Dr., Pikeville, 99001444

Humphreys County

Hurricane Mills Rural Historic District, 44 Hurricane Mills Rd., Hurricane Mills, 99001449

Knox County

Maxwell—Kirby House (Knoxville and Knox County MPS), 8671 Northshore Dr., Knoxville, 99001446

Tipton County

Canaan Baptist Church (Rural African-American Churches in Tennessee MPS), 211 N. Main St., Covington, 99001457

Texas

Tarrant County

Tabernacle Baptist Church, 1801 Evans Ave., Fort Worth, 99001451

Washington

King County

El Rio Apartment Hotel, 1922–1928 9th Ave., Seattle, 99001453

Spokane County

Corbet—Aspray House, 820 W. 7th Ave., Spokane, 99001454
Knight House, 1715 N. West Point Rd., Spokane, 99001459

Walla Walla County

Marcus Whitman Hotel, 107 N. Second Ave., Walla Walla, 99001461

A REQUEST for a move has been made for the following Resource:

GEORGIA

Muscogee County

CSS MUSCOGEE and CHATTAHOOCHEE, 4th St. W of US 27, Columbus, 70000212

[FR Doc. 99–29339 Filed 11–8–99; 8:45 am]
BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects From Warren, RI in the Possession of the Charles Whipple Greene Museum, George Hail Library, Warren, RI

AGENCY: National Park Service.
ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the

completion of an inventory of human remains and associated funerary objects in the possession of the Charles Whipple Greene Museum, George Hail Library, Warren, RI.

A detailed assessment of the human remains was made by Charles Whipple Greene Museum professional staff in consultation with representatives of the Narragansett Indian Tribe of Rhode Island; the Wampanoag Repatriation Confederation, representing the Wampanoag Tribe of Gay Head, the Mashpee Wampanoag (a non-Federally recognized Indian group), and the Assonet Band of the Wampanoag Nation (a non-Federally recognized Indian group). Consultation was also conducted with the Pokanoket Tribe of the Wampanoag Nation (a non-Federally recognized Indian group).

In 1914, human remains representing one individual were recovered from Burr's Hill, Warren, RI by Charles R. Carr, director of the George Hail Library, Warren, RI. These human remains were placed within the Charles Whipple Greene Museum within the Library. No known individual was identified. The 90 associated funerary objects include pipes, metal work, bottles, wampum, and beads.

Based on the associated funerary objects, this individual has been identified as Native American. Burr's Hill is believed to be located on the southern border of Sowams, a Wampanoag village. Sowams is identified in historical documents of the 16th and 17th centuries as a Wampanoag village, and was ceded to the English in 1653 by Massasoit and his eldest son Wamsutta (Alexander). Based on the associated funerary objects, tese human remains have been dated to the contact period (1500-1690 A.D.).

Based on the above mentioned information, officials of the Charles Whipple Greene Museum have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the Charles Whipple Greene Museum have also determined that, pursuant to 43 CFR 10.2 (d)(2), the 90 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Charles Whipple Greene Museum have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and associated funerary objects and the Wampanoag Repatriation Confederation, representing the Wampanoag Tribe of Gay Head, the Mashpee Wampanoag (a non-Federally recognized Indian group), and the Assonet Band of the Wampanoag Nation (a non-Federally recognized Indian group).

This notice has been sent to officials of the Wampanoag Repatriation Confederation, representing the Wampanoag Tribe of Gay Head, the Mashpee Wampanoag (a non-Federally recognized Indian group), and the Assonet Band of the Wampanoag Nation (a non-Federally recognized Indian group). Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Sarah Weed, Director, George Hail Library, 530 Main Street, Warren, RI 02885; telephone: (401) 245-7686 before December 9, 1999. Repatriation of the human remains and associated funerary objects to the Wampanoag Repatriation Confederation, representing the Wampanoag Tribe of Gay Head, the Mashpee Wampanoag (a non-Federally recognized Indian group), and the Assonet Band of the Wampanoag Nation (a non-Federally recognizd Indian group) may begin after that date if no additional claimants come forward.

Dated: October 25, 1999.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 99–29340 Filed 11–8–99; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects From Rock Island County, IL in the Possession of the Department of Anthropology, University of Illinois at Urbana-Champaign, Urbana, IL

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects from Rock Island County, IL in the possession of the Department of Anthropology, University of Illinois at Urbana-Champaign (UIUC), Urbana, IL.

A detailed assessment of the human remains was made by UIUC Department of Anthropology professional staff in consultation with representatives of the Sac and Fox Nation, Oklahoma; the Sac and Fox Tribe of the Mississippi in Iowa; and the Sac and Fox Nation of Missouri in Kansas and Nebraska.

In 1959 and 1960, human remains representing 32 individuals were recovered from the Crawford Farm site (11-RI-81), on the south bank of the Rock River, Rock Island County, IL during two field schools conducted by Drs. John McGregor and Elaine Bluhm of UIUC. No known individuals were identified. The 8,138 associated funerary objects include beads (glass, shell, bone, amethyst), a catlinite pipe, a catlinite beaver pendant, ceramic sherds, chert flakes, copper bracelets, gun flints, a galena crystal, a glass mirror, head pieces, textiles, leather, buttons, a peace medal, pigments, a flintlock pistol, a porcelain pendant, a shell gorget, wood, lead objects such as coils, hairpipes, musket balls, ornament and scraps; brass objects (coils, rings, hawk bells, kettle fragments, a pipe tomahawk, tinklers, thimbles, and tinkling cones), silver objects (bracelets, brooches, crosses earrings, gorgets, hairpipes, jump rings, tinklers, a ring, and spoon lockets), and iron objects (clasp knife, a cow bell, handles, knife blades, nails, and strike-a-lights).

During the mid-1990s, human remains representing a minimum of two individuals from the Crawford Farm site (11-RI-81), Rock Island County, IL were transferred to UIUC from the Illinois State Museum in order to unite individuals from the same site for repatriation. No known individuals were identified. No associated funerary objects are present.

Based on material culture, associated funerary objects, and historical documents, the Crawford Farm site has been identified as the second village of Saukenuk, dating to c. 1790–1820 A.D. (the first village known as Saukenuk existed as early as 1737, but was burnt to the ground in 1780 by Spanish and American militias under John Montgomery). Based on the presence and age of the associated funerary objects, these individuals have been identified as Native American from the Sauk village of Saukenuk. In 1832, Saukenuk was again abandoned following the conflict known as the Black Hawk War. While members of neighboring tribes (Ho-Chunk/Winnebago, Potawatomi, Ottawa (Odawa), and Menominee) were known to have passed through Saukenuk, the settlement and cemetery sites were predominantly Sauk and/or Mesquaki (Fox).

Based on the above mentioned information, officials of the University of Illinois at Urbana-Champaign have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of a minimum of 34 individuals of Native American ancestry. Officials of the University of Illinois at Urbana-Champaign have also determined that, pursuant to 43 CFR 10.2 (d)(2), the 8,138 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the University of Illinois at Urbana-Champaign have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and associated funerary objects and the Sac and Fox Nation, Oklahoma; the Sac and Fox Tribe of the Mississippi in Iowa; and the Sac and Fox Nation of Missouri in Kansas and Nebraska.

This notice has been sent to officials of the Sac and Fox Nation, Oklahoma; the Sac and Fox Tribe of the Mississippi in Iowa; the Sac and Fox Nation of Missouri in Kansas and Nebraska, the Ho-Chunk Nation of Wisconsin, the Winnebago Tribe of Nebraska, the Citizen Potawatomi Nation, Oklahoma; the Forest County Potawatomi Community of Wisconsin Potawatomi Indians, Wisconsin; Huron Potawatomi, Inc., Michigan; the Pokagan Band of Potawatomi Indians of Michigan; the Prairie Band of Potawatomi Indians, Kansas; the Hannahville Indian Community of Wisconsin Potawatomie Indians of Michigan, the Menominee Indian Tribe of Wisconsin, the Grand Traverse Band of Ottawa and Chippewa Indians of Michigan, the Little Traverse Bay Band of Odawa Indians of Michigan, and the Little River Band of Ottawa Indians of Michigan. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Dr. Richard P. Wheeler, Head, Department of Anthropology, 109 Davenport Hall, 607 South Mathews Street, Urbana, IL 61801; telephone: (217) 333-3616, before December 9, 1999. Repatriation of the human remains and associated funerary objects to the Sac and Fox Nation, Oklahoma; the Sac and Fox Tribe of the Mississippi in Iowa; and the Sac and Fox Nation of Missouri in Kansas and Nebraska may begin after that date if no additional claimants come forward.

Dated: October 28, 1999.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 99–29341 Filed 11–8–99; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Central Valley Project Improvement Act, Criteria for Evaluating Water Management Plans

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: To meet the requirements of the Central Valley Project Improvement Act (CVPIA) of 1992 and the Reclamation Reform Act of 1982, the Bureau of Reclamation (Reclamation) developed and published the Criteria for Evaluating Water Conservation Plans, dated April 30, 1993. In September 1996, Reclamation revised the document and renamed it the Criteria for Evaluating Water Management Plans (Criteria). The Criteria is being revised again for 1999.

The draft 1999 Criteria was revised based on information provided during public scoping and public review sessions held throughout Reclamation's Mid-Pacific (MP) Region. Reclamation will use the Criteria to evaluate the adequacy of all water management plans developed by Central Valley Project contractors. The Criteria was developed for the purpose of promoting the most efficient water use reasonably achievable. Reclamation has made a commitment to publish a notice of its draft 1999 Criteria in the **Federal Register** and to allow the public 30 days to comment.

DATES: All public comments must be received by December 9, 1999.

ADDRESSES: Please mail comments to Lucille Billingsley, Bureau of Reclamation, 2800 Cottage Way, MP–410, Sacramento, CA 95825.

FOR FURTHER INFORMATION CONTACT: To be placed on a mailing list for any subsequent information, please contact Lucille Billingsley at the address above, or by telephone at (916) 978–5215 (TDD 978–5608).

SUPPLEMENTARY INFORMATION: Under provision of Section 3405 (e) of the CVPIA (Title 34 Public Law 102–575), ''The Secretary [of the Interior] shall establish and administer an office on Central Valley Project water conservation best management practices that shall * * * develop criteria for evaluating the adequacy of all water conservation plans developed by project contractors, including those plans required by section 210 of the Reclamation Reform Act of 1982.'' Also, according to Section 3405(e)(1), these criteria will be developed ''* * * with the purpose of promoting the highest level of water use efficiency reasonably achievable by project contractors using best available cost-effective technology and best management practices.''

The draft 1999 Criteria states that all parties (contractors) that contract with Reclamation for water supplies (municipal and industrial contracts over 2,000 acre-feet and agricultural contracts over 2,000 irrigable acres) will prepare water management plans that will be evaluated by Reclamation based on the following required information detailed in the sections listed below to develop, implement, monitor, and revise their water management plans. The sections are:

1. Describe the district.
2. Inventory water resources.
3. Best Management Practices (BMP's) for Agricultural Contractors.
4. BMP's for Urban Contractors.
5. Plan implementation.
6. Exemption process
7. Regional Criteria.
8. Five year revisions.

Public comment on Reclamation's draft 1999 Criteria are invited at this time. A copy of the 1999 Criteria will be available for review at Reclamation's MP Regional Office located in Sacramento, California. If you wish to review a copy of the draft 1999 Criteria, please contact Ms. Billingsley.

Dated: October 4, 1999.

Robert F. Stackhouse,

Regional Resources Manager, Mid-Pacific Region.

[FR Doc. 99–29258 Filed 11–8–99; 8:45 am]

BILLING CODE 4310–94–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Glen Canyon Adaptive Management Work Group (AMWG) and Glen Canyon Technical Work Group (TWG); Correction

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice; correction.

SUMMARY: The Bureau of Reclamation published a document in the **Federal**

Register on October 7, 1999, concerning the announcement of an upcoming public meeting of the Glen Canyon Technical Work Group. The document contained incorrect dates and an incorrect location for the meeting.

FOR FURTHER INFORMATION CONTACT: Randall Peterson, Bureau of Reclamation, at (801) 524–3758.

Correction

In the **Federal Register** of October 7, 1999, in FR Doc. 99–26118, on page 54639, in the third column, first whole paragraph, correct the date and location under Phoenix, Arizona, to read as follows:

Phoenix, Arizona—December 7–8, 1999. The meeting will begin at 9:30 a.m. and conclude at 5:00 p.m. on the first day and begin at 8:00 a.m. and conclude at 3:00 p.m. on the second day. The meeting will be held at the Embassy Suites Hotel, Turquoise Room, 1515 N. 44th Street, Phoenix, Arizona.

Dated: November 3, 1999.

Steven Richardson,

Chief of Staff.

[FR Doc. 99–29244 Filed 11–8–99; 8:45 am]

BILLING CODE 4310–94–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 2022–99; AG Order No. 2271–99]

RIN 1115–AE26

Extension and Redesignation of Burundi Under the Temporary Protected Status Program

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: On November 4, 1997, the Attorney General designated Burundi under the Temporary Protected Status (TPS) program for a period of twelve months. This initial designation allowed eligible nationals of Burundi (and aliens having no nationality who last habitually resided in Burundi) who had continuously resided in the United States since that date to apply for TPS. This initial designation, which expired November 3, 1998, was extended last year. This notice extends the TPS designation for Burundi for another twelve-month period (until November 2, 2000), and sets forth the procedures necessary for nationals of Burundi (and aliens having no nationality who last habitually resided in Burundi) with TPS to re-register for TPS program. This notice also redesignates Burundi under the TPS program, thereby expanding TPS eligibility to include nationals of Burundi (and aliens having no nationality who last habitually resided in Burundi) who have been ''continuously present in the United States'' and who have ''continuously resided in the United States'' since November 9, 1999.

EFFECTIVE DATES:

Extension of Designation and Re-Registration

The extension of Burundi's TPS designation is effective November 3, 1999, and lasts until November 2, 2000. Nationals of Burundi (and aliens having no nationality who last habitually resided in Burundi) who currently have TPS must re-register for TPS during the period lasting from November 9, 1999, until December 9, 1999.

Redesignation

The redesignation of Burundi for TPS is effective from November 9, 1999, until November 2, 2000. The registration period for nationals of Burundi (and aliens who last habitually resided in Burundi) begins on November 9, 1999, and will remain in effective until November 2, 2000.

FOR FURTHER INFORMATION CONTACT: Michael Valverde, Program Analyst, Immigration and Naturalization Service, Room 3040, 425 I Street, NW, Washington, DC 20535, telephone (202) 514–4754.

SUPPLEMENTARY INFORMATION:

What Is the Statutory Authority for the Attorney General To Extend Burundi's TPS Designation Under the TPS Program?

Section 244(b)(3)(A) of the Immigration and Nationality Act (the Act) states that at least 60 days before the end of a designation, the Attorney General must review conditions in the foreign state for which the designation is in effect. 8 U.S.C. 1254a(b)(3)(A). Under section 244(b)(3)(C), the Attorney General may extend the initial TPS period based on a determination that the foreign state continues to meet the conditions for designation. 8 U.S.C. 1254(b)(3)(C). Through such an extension, however, TPS continues to be available only to aliens who have been continuously physically present and who have continuously resided in the United States from the effective date of the initial designation, in this case since November 4, 1997.

What Is the Statutory Authority for the Attorney General To Redesignate Burundi Under the TPS Program?

Section 244(b)(1) of the Act implicitly permits the Attorney General to redesignate a foreign state (or any part of such foreign state) under the TPS program such that non-covered aliens residing in the United States could receive TPS benefits, instead of simply extending a foreign state's TPS designation and thereby extending benefits to previously eligible aliens. 8 U.S.C. 1254(b)(1). An alien is eligible for TPS if he or she is otherwise admissible, and ''has been continuously physically present since and has continually resided in the United States since the effective date of the most recent designation of that state.'' 8 U.S.C. 1254a(c)(1)(A)(i).

Why Did the Attorney General Decide To Both Extend and Redesignate Burundi Under the TPS Program?

On November 4, 1997, the Attorney General designated Burundi under the TPS program. Since that time, the Attorney General and the Department of State have continuously examined conditions in Burundi. A recent Department of State report on conditions in that country found that, ''[w]hile the Arusha peace negotiations continue, Burundi nevertheless remains a fragile country with considerable ethnic violence and deep divisions over the distribution of power. The June 1998 cease fire agreement has been generally ineffective, and Burundi can still be described as a nation undergoing civil war.'' The memorandum further states that ''[w]ide-spread and serious human rights abuses continue to be committed by both the rebels and the Burundian military. Burundi remains insecure throughout the country.'' Based on these and other findings, the Attorney General has determined that conditions in Burundi warrant the extension and redesignation of Burundi under the TPS program. This order will extend the availability of TPS to eligible nationals of Burundi (and aliens having no nationality who last habitually resided in Burundi) who arrived in the United States after the date of initial designation.

If I Currently Have TPS Through the Burundi TPS Program, Do I Still Need to Re-Register for TPS?

Yes. If you were granted TPS based on the initial designation of Burundi, that status will expire on November 3, 1999. Accordingly, you must re-register for TPS in order to maintain your status through November 2, 2000. With re-

registration, you do not need to pay the fifty-dollar ($50) filing fee for the Form I–821, Application for Temporary Protected Status. If you do not have TPS or have TPS but miss the re-registration period, you can still apply for TPS under the redesignation, if you have been continuously physically present and have continuously resided in the United States since November 9, 1999. See the registration instructions below for complete filing procedures.

If I Currently Have TPS, How Do I Register for an Extension?

All applicants previously granted TPS under the Burundi program may apply for an extension by filing a Form I–821 (without the fee) during the re-registration period that begins November 9, 1999 and ends December 9, 1999. Additionally, you must file a Form I–765, Application for Employment Authorization. See Chart 1 below to determine whether or not you must submit the one hundred-dollar ($100) filing fee with the Form I–765.

CHART 1

If	Then
You are applying for employment authorization through November 2, 2000.	You must complete and file the Form I–765, Application for Employment Authorization, with the one-hundred dollar ($100) fee.
You already have employment authorization or do not request employment authorization.	You must complete and file the Form I–765, Application for Employment Authorization, without a fee.
You are applying for employment authorization and are requesting a fee waiver.	You must complete and file Form I–765, an appropriately documented fee waiver request, and the requisite affidavit (and any other information), in accordance with 8 CFR 244.20.

To re-register for TPS, you also must include two identification photographs (1½″ x 1½″).

If I Do Not Currently Have TPS, How Do I Register?

All applicants filing for TPS under the Burundi redesignation who have not previously been granted TPS must apply by filing Form I–821 and the fifty-dollar ($50) fee. Additionally, you must submit the Form I–765 and a twenty-five dollar ($25) fingerprinting fee. See Chart 2 below to determine if you must also submit the one hundred-dollar ($100) filing fee for Form I–765, and to obtain information on requesting a fee waiver.

CHART 2

If	Then
You are applying for employment authorization through November 2, 2000.	You must complete and file the Form I–765, Application for Employment Authorization, with the one-hundred dollar ($100) fee.
You already have employment authorization or do not request employment authorization.	You must complete and file the Form I–765, Application for Employment Authorization, without a fee.
You are requesting a fee waiver for the $50 fee of the Form I–821, $100 fee for the Form I–765, and $25 fingerprinting fee.	You must complete and file Form I–821, Form I–765, and an appropriately documented fee waiver request and the affidavit (and any other information), in accordance with 8 CFR 244.20.

To register for TPS, you also must include two identification photographs (1½″ × 1½″) and supporting evidence, as provided in 8 CFR 244.9 (evidence of identity, nationality, and proof of residence).

When Must I Re-Register for TPS Under the Extension?

For nationals of Burundi (and aliens having no nationality who last habitually resided in Burundi) who currently have TPS, the re-registration period begins November 9, 1999 and lasts until December 9, 1999. If you have TSP from the original designation but do not file during the re-registration period, you can still file a new application for TPS under the redesignation. If you are filing a new application, you will need to follow the instructions for applying under the redesignation.

When Must I Register for TPS Under the Redesignation?

The registration period for nationals of Burundi applying for TPS under the redesignation begins November 9, 1999, and will remain in effect until November 2, 2000.

Where Must I File My Application for TPS Under This Extension and Redesignation?

Applicants seeking to register for TPS or to extend their TPS must submit an application and accompanying materials to the Immigration and Naturalization Service (INS) district office that has jurisdiction over the applicant's place of residence.

What Are the Requirements for Nationals of Burundi To Demonstrate That They Have Been ''Continuously Physically Present'' and Have ''Continuously Resided'' in the United States?

All new applicants for TPS under the Burundi redesignation will have to demonstrate ''continuous physical presence'' and ''continuous residence'' in the United States since November 9, 1999. ''Continuously physically present'' means actual physical presence in the United States for the entire period specified. An alien, however, shall not shall be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absence. ''Continuously resided'' means residing in the United States for the entire period specified. An alien will not be considered to have failed to maintain continuous residence in the

United States by reason of a brief, casual, and innocent absence.

Notice of Extension of Designation and Redesignation of Burundi Under the TPS Program

By the authority vested in me as Attorney General under Section 244 of the Act, and as required by sections 244(b)(3)(A) and (C), and 244 (b) (1) of the Act, I have consulted with the appropriate government agencies concerning the redesignation of Burundi under the TPS program and the extension of that country's current TPS designation. From these consultations, I find the following:

(1) There exists an ongoing armed conflict in Burundi and that a return of aliens who are nationals of Burundi (and aliens having no nationality who last habitually resided in Burundi) would pose a serious threat to their personal safety as a result of the armed conflict in that nation;

(2) There exist extraordinary and temporary conditions in Burundi that prevent aliens who are nationals of Burundi (and aliens having no nationality who last habitually resided in Burundi) from returning to Burundi in safety; and

(3) Permitting nationals of Burundi (and aliens having no nationality who last habitually resided in Burundi) to remain temporarily in the Untied States is not contrary to the national interest of the United States. 8 U.S.C. 1254a(b)(1)(A) and (C).

Accordingly, I order as follows:

(1) The designation of Burundi is extended under section 244(b)(3)(A) and (C) of the Act for the 12-month period spanning from November 3, 1999, to November 2, 2000. 8 U.S.C. 1254a(b)(3)(A) and (C). Nationals of Burundi (and aliens having no nationality who last habitually resided in Burundi) who received TPS during the initial designation period may apply for an extension of TPS during the registration period lasting from November 9, 1999 until December 9, 1999.

(2) Burundi is redesignated under section 244(b)(1) of the Act for TPS for a twelve-month period until November 2, 2000. 8 U.S.C. 1254a(b)(1). Nationals of Burundi (and aliens having no nationality who last habitually resided in Burundi) who have been ''continuously physically present'' and have ''continuously resided'' in the United States since November 9, 1999, may apply for TPS within the registration period, which begins November 9, 1999, and ends November 2, 2000.

(3) I estimate that there are no more than 500 nationals of Burundi who have been granted TPS and who are eligible for re-registration, and no more than 500 nationals of Burundi who do not have TPS and are eligible for TPS under this redesignation.

(4) In order to maintain TPS, a national of Burundi (or an alien having no nationality who last habitually resided in Burundi) who currently has TPS must re-register by filing Form I–821, together with Form I–765, within the period beginning November 9, 1999 and ending on December 9, 1999. Late re-registration applications will be allowed pursuant to 8 CFR 244.17(c). There is no fee for a Form I–821 filed as part of the re-registration application. A Form I–765 must be filed with the Form I–821. If the applicant requests employment authorization, he or she must submit one hundred dollars ($100) or a properly documented fee waiver request, pursuant to 8 CFR 244.20 with the Form I–765. An applicant who does not request employment authorization must nonetheless file Form I–765 along with Form I–821, but is not required to submit the fee.

(5) A national of Burundi (or an alien having no nationality who last habitually resided in Burundi) filing for TPS under the redesignation must file Form I–821, together with Form I–765, within the period beginning November 9, 1999, and ending on November 2, 2000. A fifty-dollar ($50) fee must accompany Form I–821. A twenty-five dollar ($25) fingerprinting fee must also be submitted. If the applicant requests employment authorization, he or she must submit one hundred dollars ($100) or a properly documented fee waiver request, pursuant to 8 CFR 244.20, with the Form I–765. An applicant who does not request employment authorization must nonetheless file Form I–765 along with Form I–821 but is not required to submit the fee. The applicant can also request a fee waiver for the twenty-five dollar ($25) fee.

(6) Pursuant to section 244(b)(3)(A) of the Act, the Attorney General will review, at least 60 days before November 2, 2000, the designation of Burundi under the TPS program to determine whether the conditions for designation continue to be met. 8 U.S.C. 1254a(b)(3)(A). Notice of that determination will be published in the **Federal Register**. If there is an extension of designation, late initial registration for TPS will be allowed only pursuant to the requirements of 8 CFR 244.2(f)(2).

(7) Information concerning the redesignation of Burundi under the TPS program will be available at local INS offices upon publication of this notice.

Dated: November 2, 1999.

Janet Reno,

Attorney General.

[FR Doc. 99–29248 Filed 11–8–99; 8:45 am]

BILLING CODE 4410–16–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 2024–99; AG Order No. 2273–99]

RIN 1115–AE26

Extension and Redesignation of Sierra Leone Under the Temporary Protected Status Program

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: On November 4, 1997, the Attorney General designated Sierra Leone under the Temporary Protected Status (TPS) program for a period of twelve months. This initial designation allowed eligible nationals of Sierra Leone (and aliens having no nationality who last habitually resided in Sierra Leone) who had continuously resided in the United States since that date to apply for TPS. This initial designation, which expired November 3, 1998, was extended last year. This notice extends the TPS designation for Sierra Leone for another twelve-month period (until November 2, 2000), and sets forth the procedures necessary for nationals of Sierra Leone (and aliens having no nationality who last habitually resided in Sierra Leone) with TPS to re-register for TPS program. This notice also redesignates Sierra Leone under the TPS program, thereby expanding TPS edibility to include nationals of Sierra Leone (and aliens having no nationality who last habitually resided in Sierra Leone) who have been ''continuously present in the United States'' and who have ''continuously resided in the United States'' since November 9, 1999.

EFFECTIVE DATE:

Extension of Designation and Re-Registration

The TPS extension is effective on November 3, 1999, and lasts until November 2, 2000. Nationals of Sierra Leone (and aliens having no nationality who last habitually resided in Sierra Leone) who currently have TPS must re-register for TPS during the period lasting from November 9, 1999, until December 9, 1999.

Redesignation

The redesignation of Sierra Leone for TPS is effective from November 9, 1999,

until November 2, 2000. The TPS registration period for nationals of Sierra Leone (and aliens who last habitually resided in Sierra Leone) who do not currently have TPS begins November 9, 1999, and will remain in effect until November 2, 2000.

FOR FURTHER INFORMATION CONTACT: Michael Valverde, Program Analyst, Immigration and Naturalization Service, Room 3040, 425 I Street, NW., Washington, DC 20536, telephone (202) 514–4754.

SUPPLEMENTARY INFORMATION:

What Is the Statutory Authority for the Attorney General To Extend Sierra Leone's TPS Designation Under the TPS Program?

Section 244(b)(3)(A) of the Immigration and Nationality Act (the Act) states that at least 60 days before the end of a designation, the Attorney General must review conditions in the foreign state for which the designation is in effect. 8 U.S.C. 1254a(b)(3)(A). Under Section 244(b)(3)(C), the Attorney General may extend the initial TPS period based on a determination that the foreign state continues to meet the conditions for designation. 8 U.S.C. 1254(b)(3)(C). Through such an extension, however, TPS continues to be available only to aliens who have been continuously physically present and who have continuously resided in the United States from the effective date of the initial designation, in this case since November 4, 1997.

What Is the Statutory Authority for the Attorney General To Redesignate Sierra Leone Under the TPS Program?

Section 244(b)(1) of the Act implicitly permits the Attorney General to redesignate a foreign state (or any part of such foreign state) under the TPS program such that non-covered aliens residing in the United States could receive TPS benefits, instead of simply extending a foreign state's TPS designation and thereby extending benefits to previously eligible aliens. 8 U.S.C. 1254(b)(1). An alien is eligible for TPS if he or she is otherwise admissible, and ''has been continuously physically present since and has continually resided in the United States since the effective date of the most recent designation of that state.'' 8 U.S.C. 1254(c)(1)(A)(i).

Why Did the Attorney General Decide To Both Extend and Redesignate Sierra Leone Under the TPS Program?

On November 4, 1997, the Attorney General designated Sierra Leone under the TPS program. Since that date, the Attorney General and the Department of State have continuously examined conditions in Sierra Leone. A recent Department of State report on conditions in that country found that, ''[a]lthough the Lome Accord was signed in early July [1999], Sierra Leone cannot yet be considered at peace. The implementation of the Accord is not going according to plan.'' The memorandum further states that ''[r]ebel forces continue to control much of the interior. According to the [United Nations], nearly one-third (1.5 million) of the country's 4.6 million people have been displaced from their homes, including 500,000 refugees now in neighboring countries.'' Based on these and other findings, the Attorney General has determined that conditions in Sierra Leone warrant the extension and redesignation of Sierra Leone under the TPS program. This order will extend the availability of TPS to eligible nationals of Sierra Leone (and aliens having no nationality who last habitually resided in Sierra Leone) who arrived in the United States after the date of initial designation.

If I Currently Have TPS Through the Sierra Leone TPS Program, Do I Still Need To Re-Register for TPS?

Yes. If you were granted TPS based on the initial designation of Sierra Leone, your protected status will expire on November 3, 1999. Accordingly, you must reregister for TPS in order to maintain your status through November 2, 2000. With re-registration, you do not need to pay the fifty-dollar ($50) filing fee for the Form I–821, Application for Temporary Protected Status. If you do not have TPS or have TPS but miss the re-registration period, you can still apply for TPS under the redesignation, if you have been continuously physically present and have continuously resided in the United States since November 9, 1999. See the registration instructions below for complete filing instructions.

If I Currently Have TPS, How Do I Register for an Extension?

All applicants previously granted TPS under the Sierra Leone program may apply for an extension by filing a Form I–821 (without the fee) during the re-registration period that begins November 9, 1999 and ends December 9, 1999. Additionally, you must file a Form I–765, Application for Employment Authorization. See Chart 1 below to determine whether or not you must submit the one-hundred dollar ($100) filing fee with the Form I–765.

CHART 1

If	Then
You are applying for employment authorization through November 2, 2000.	You must complete and file the Form I–765, Application for Employment Authorization, with the one-hundred dollar ($100) fee.
You already have employment authorization or do not request employment authorization.	You must complete and file the Form I–765, Application for Employment Authorization, without a fee.
You are applying for employment authorization and are requesting a fee waiver.	You must complete and file Form I–765, an appropriately documented fee waiver request, and the requisite affidavit (and any other information), in accordance with 8 CFR 244.20.

To re-register for TPS, you also must include two identification photographs (1½″ x 1½″.

If I Do Not Currently Have TPS, How Do I Register?

All applicants filing for TPS under the Sierra Leone redesignation who have not previously been granted TPS must apply by filing Form I–821 and the fifty-dollar ($50) fee. Additionally, you must submit Form I–765 and a twenty-five dollar ($25) fingerprinting fee. See Chart 2 below to determine if you must also submit the one-hundred dollar ($100) filing fee for Form I–765 and to obtain information on requesting a fee waiver.

CHART 2

If	Then
You already have employment authorization or do not request employment authorization.	You must complete and file the Form I–765, Application for Employment Authorization, without a fee.
You are requesting a fee waiver for the $50 fee of the Form I–821, $100 fee for the Form I–765, and $25 fingerprinting fee.	You must complete and file Form I–821, Form I–765, and an appropriately documented fee waiver request and the affidavit (and any other information), in accordance with 8 CFR 244.20.

To register for TPS, you also must include two identification photographs (1½″ x 1½″) and supporting evidence, as provided in 8 CFR 244.9 (evidence of identity, nationality, and proof of residence).

When Must I Re-Register for TPS Under the Extension?

For nationals of Sierra Leone (and aliens having no nationality who last habitually resided in Sierra Leone) who currently have TPS, the re-registered period begins November 9, 1999 and lasts until December 9, 1999. If you have TPS from the original designation but do not file during the re-registration period, you can still file a new application for TPS under the redesignation. If you are filing a new application, you will need to follow the instructions for applying under the redesignation.

When Must I Register for TPS Under the Redesignation?

The registration period for nationals of Sierra Leone applying for TPS under the redesignation begins November 9, 1999, and will remain in effect until November 2, 2000.

Where Must I File My Application for TPS Under This Extension and Redesignation?

Applicants seeking to register for TPS or to extend their TPS must submit an application and accompanying materials to the Immigration and Naturalization Service (INS) district office that has jurisdiction over the applicant's place of residence.

What Are the Requirements for Nationals of Sierra Leone To Demonstrate That They Have Been ''Continuously Physically Present'' and Have ''Continuously Resided'' in the United States?

All new applicants for TPS under the Sierra Leone redesignation will have to demonstrate ''continuous physical presence'' and ''continuous residence'' in the United States since November 9, 1999. ''Continuously physically present'' means actual physical presence in the United States for the entire period specified. An alien, however, shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of a brief, casual, and innocent absence. ''Continuously resided'' means residing in the United States for the entire period specified. An alien will not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual, and innocent absence.

Notice of Extension of Designation and Redesignation of Sierra Leone Under the TPS Program

By the authority vested in me as Attorney General under section 244 of the Act, and as required by sections 244(b)(3)(A) and (C), and 244(b)(1) of the Act, I have consulted with the appropriate government agencies concerning the redesignation of Sierra Leone under the TPS program and the extension of that country's current designation. From these consultations, I find the following:

(1) There exists an ongoing armed conflict in Sierra Leone and a return of aliens who are nationals of Sierra Leone (and aliens having no rationality who last habitually resided in Sierra Leone) would pose a serious threat to their personal safety as a result of the armed conflict in that nation;

(2) There exist extraordinary and temporary conditions in Sierra Leone that prevent aliens who are nationals of Sierra Leone (and aliens having no nationality who last habitually resided in Sierra Leone) from returning to Sierra Leone in safety; and

(3) Permitting nationals of Sierra Leone (and aliens having no nationality who last habitually resided in Sierra Leone) to remain temporarily in the United States is not contrary to the national interest of the United States. 8 U.S.C. 1254a (b)(1)(A) and (C).

Accordingly, I order as follows:

(1) The designation of Sierra Leone is extended under section 244(b)(3)(A) and (C) of the Act for the 12-month period spanning from November 3, 1999, to November 2, 2000. 8 U.S.C. 1254(b)(3)(A) and (C). Nationals of Sierra Leone (and aliens having no nationality who last habitually resided in Sierra Leone) who received TPS during the initial designation period may apply for an extension of the TPS during the registration period lasting from November 9, 1999 until December 9, 1999.

(2) Sierra Leone is redesignated under section 244(b)(1) of the Act for TPS for a twelve-month period, until November 2, 2000. 8 U.S.C. 1254a(b)(1). Nationals of Sierra Leone (and aliens having no nationality who last habitually resided in Sierra Leone) who have been ''continuously physically present'' and have ''continuously resided'' in the United States since November 9, 1999, may apply for TPS within the registration period, which begins November 9, 1999, and ends November 2, 2000.

(3) I estimate that there are no more than 3,000 nationals of Sierra Leone who have been granted TPS and who are eligible for re-registration and no more than 2,000 nationals of Sierra Leone who do not have TPS and are eligible for TPS under this redesignation.

(4) In order to maintain TPS, a national of Sierra Leone (or an alien having no nationality who last habitually resided in Sierra Leone) who currently has TPS must re-register by filing Form I–821, together with Form I–765, within the period beginning November 9, 1999 and ending on December 9, 1999. Late re-registration applications will be allowed pursuant to 8 CFR 244.17(c). There is no fee for a Form I–821 filed as part of the re-registration application. A Form I–765 must be filed with the Form I–821. If the applicant requests employment authorization, he or she must submit one-hundred dollars ($100) or a properly documented fee waiver request, pursuant to 8 CFR 244.20, with the Form I–765. An applicant who does not request employment authorization must nonetheless file Form I–765 along with Form I–821, but is not required to submit the fee.

(5) A national of Sierra Leone (or an alien having no nationality who last habitually resided in Sierra Leone) filing for TPS under the redesignation must file Form I–821, together with Form I–765, within the period beginning November 9, 1999, and ending on

November 2, 2000. A fifty-dollar ($50) fee must accompany Form I–821. A twenty-five dollar ($25) fingerprinting fee must also be submitted. If the applicant requests employment authorization, he or she must submit one hundred dollars ($100) or a properly documented fee waiver request, pursuant to 8 CFR 244.20, with the Form I–765. An applicant who does not request employment authorization must nonetheless file Form I–765 along with Form I–821, but is not required to submit the fee. The applicant can also request a fee waiver for the twenty-five dollar ($25) fee.

(6) Pursuant to section 244(b)(3)(A) of the Act, the Attorney General will review, at least 60 days before November 2, 2000, the designation of Sierra Leone under the TPS program to determine whether the conditions for designation continue to be met. 8 U.S.C. 1254a(b)(3)(A). Notice of that determination will be published in the **Federal Register**. If there is an extension of designation, late initial registration for TPS will be allowed only pursuant to the requirements of 8 CFR 244.2(f)(2).

(7) Information concerning the redesignation of Sierra Leone under the TPS program will be available at local INS offices upon publication of this notice.

Dated: November 2, 1999.

Janet Reno,

Attorney General.

[FR Doc. 99–29247 Filed 11–8–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 2023–99; AG Order No. 2272–99]

RIN 1115–AE26

Extension and Redesignation of Sudan Under the Temporary Protected Status Program

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: On November 4, 1997, the Attorney General designated Sudan under the Temporary Protected Status (TPS) program for a period of twelve months. This initial designation allowed eligible nationals of Sudan (and aliens having no nationality who last habitually resided in Sudan) who had continuously resided in the United States since that date to apply for TPS. The initial designation, which expired November 3, 1998, was extended last year. This notice extends the TPS designation for Sudan for another twelve month period (until November 2, 2000), and sets forth procedures necessary for nationals of Sudan (and aliens having no nationality who last habitually resided in Sudan) with TPS to re-register for the additional twelve-month TPS period. This notice also redesignates Sudan under the TPS program, thereby expanding TPS eligibility to include nationals of Sudan (and aliens having no nationality who last habitually resided in Sudan) who have been ''continuously present in the United States'' and who have ''continuously resided in the United States'' since November 9, 1999.

EFFECTIVE DATES:

Extension of Designation and Re-Registration

The extension of Sudan's TPS designation is effective from November 3, 1999, until November 2, 2000. Nationals of Sudan (and aliens having no nationality who last habitually resided in Sudan) who currently have TPS must re-register for TPS during the period lasting from November 9, 1999, until December 9, 1999.

Redesignation

The redesignation of Sudan for TPS is effective from November 9, 1999, until November 2, 2000. The TPS registration period for nationals of Sudan (and aliens who last habitually resided in Sudan) begins on November 9, 1999, and will remain in effect until November 2, 2000.

FOR FURTHER INFORMATION CONTACT: Michael Valverde, Program Analyst, Immigration and Naturalization Service, Room 3040, 425 I Street, NW, Washington, DC 20536, telephone (202) 514–4754.

SUPPLEMENTARY INFORMATION:

What Is the Statutory Authority for the Attorney General To Extend Sierra Leone's TPS Designation Under the TPS Program?

Section 244(b)(3)(A) of the Immigration and Nationality Act (the Act) states that at least 60 days before the end of a designation, the Attorney General must review conditions in the foreign state for which the designation is in effect. 8 U.S.C. 1254(b)(3)(A). Under section 244(b)(3)(C), the Attorney General may extend the initial TPS period based on a determination that the foreign state continues to meet the conditions for designation. 8 U.S.C. 1254(b)(3)(C). Through such an extension, however, TPS continues to be available only to aliens who have been continuously physically present and who have continuously resided in the United States from the effective date of the initial designation, in this case since November 4, 1997.

What Is the Statutory Authority for the Attorney General To Redesignate Sierra Leone Under the TPS Program?

Section 244(b)(1) of the Act implicitly permits the Attorney General to redesignate a foreign state (or any part of such foreign state) under the TPS program such that non-covered aliens residing in the United States could receive TPS benefits, instead of simply extending a foreign state's TPS designation and thereby extending benefits to previously eligible aliens. 8 U.S.C. 1254(b)(1). An alien is eligible for TPS if he or she is otherwise admissible, and ''has been continuously physically present since and has continually resided in the United States since the effective date of the most recent designation of that state.'' 8 U.S.C. 1254(c)(1)(A)(i).

Why Did the Attorney General Decide To Both Extend and Redesignate Sudan Under the TPS Program?

On November 4, 1997, the Attorney General designated Sudan under the TPS program. Since that date, the Attorney General and the Department of State have continuously examined conditions in Sudan. A recent Department of State report on conditions in that country found that, ''[i]n Sudan, the long-running civil war continues, causing extensive displacement of populations and human rights abuses directed at the displaced.'' The report also notes that recent statistics show marked increases in both the number and approval of individual asylum claims and Sudanese refugee resettlement in the United States. The findings that these individual Sudanese will face harm upon return to Sudan supports the need to extend and offer TPS to those Sudanese who have arrived in the United States since November 4, 1997. Based on these and other findings, the Attorney General has determined that conditions in Sudan warrant the extension and redesignation of Sudan under the TPS program. This order will extend the availability of TPS to eligible nationals of Sudan (and aliens having no nationality who last habitually resided in Sudan) who arrived in the United States after the date of initial designation.

If I Currently Have TPS Through the Sudan TPS Program, Do I Still Need To Re-Register for TPS?

Yes. If you were granted TPS based on the initial designation of Sudan, your

protected status will expire on November 3, 1999. Accordingly, you must re-register for TPS in order to maintain your status through November 2, 2000. With re-registration, you do not need to pay the fifty-dollar ($50) filing fee for the Form I–821, Application for Temporary Protected Status. If you do not have TPS or have TPS but miss the re-registration period, you can still apply for TPS under the redesignation, if you have been continuously physically present and have continuously resided in the United States since November 9, 1999. See the registration instructions below for complete filing instructions.

If I Currently Have TPS, How Do I Register for an Extension?

All applicants previously granted TPS under the Sudan program may apply for an extension by filing a Form I–821 (without the fee) during the re-registration period that begins November 9, 1999 and ends December 9, 1999. Additionally, you must file a Form I–765, Application for Employment Authorization. See Chart 1 below to determine whether or not you must submit the one-hundred dollar ($100) filing fee with the Form I–765.

CHART 1

If	Then
You are applying for employment authorization through November 2, 2000.	You must complete and file the Form I–765, Application for Employment Authorization, with the one-hundred dollar ($100) fee.
You already have employment authorization or do not request employment authorization.	You must complete and file the Form I–765, Application for Employment Authorization, without a fee.
You are applying for employment authorization and are requesting a fee waiver.	You must complete and file Form I–765, an appropriately documented fee waiver request, and the requisite affidavit (any other information), in accordance with 8 CFR 244.20.

To re-register for TPS, you also must include two identification photographs (1½″ x 1½″).

If I Do Not Currently Have TPS, How Do I Register?

All applicants filing for TPS under the Sudan redesignation who have not previously been granted TPS must apply by filing Form I–821 and the fifty-dollar ($50) fee. Additionally, you must submit the Form I–765 and a twenty-five dollar ($25) fingerprinting fee. See Chart 2 below to determine if you must also submit the one-hundred dollar ($100) filing fee for Form I–765, and to obtain information on requesting a fee waiver.

CHART 2

If	Then
You are applying for employment authorization through November 2, 2000.	You must complete and file the Form I–765, Application for Employment Authorization, with the one-hundred dollar ($100) fee.
You already have employment authorization or do not request employment authorization.	You must complete and file the Form I–765, Application for Employment Authorization, without a fee.
You are requesting a fee waiver for the $50 fee for the Form I–821, $100 fee for the Form I–765, and $25 fingerprinting fee.	You must complete and file Form I–821, Form I–765, and an appropriately documented fee waiver request and the affidavit (and any other information), in accordance with 8 CFR 244.20.

To register for TPS, you also must include two identification photographs (1½″ x 1½″) and supporting evidence, as provided in 8 CFR 244.9 (evidence of identity, nationality, and proof of residence).

When Must I Re-Register for TPS Under the Extension?

For nationals of Sudan (and aliens having no nationality who last habitually resided in Sudan) who already have TPS, the re-registration period begins November 9, 1999 and lasts until December 9, 1999. If you have TPS from the original designation but do not file during the re-registration period, you can still file a new application for TPS under the redesignation. If you are filing a new application, you will need to follow the instructions for applying under the redesignation.

When Must I Register for TBS Under the Redesignation.

The registration period for nationals of Sudan applying for TPS under the redesignation begins November 9, 1999, and will remain in effect until November 2, 2000.

Where Must I File My Application for TPS Under This Extension and Redesignation?

Applicants seeking to register for TPS or to extend their TPS must submit an application and accompanying materials to the Immigration and Naturalization Service (INS) district office that has jurisdiction over the applicant's place of residence.

What Are the Requirements for Nationals of Sudan To Demonstrate That They Have Been ''Continuously Physically Present'' and Have ''Continuously Resided'' in the United States?

All new applicants for TPS under the Sudan redesignation will have to demonstrate ''continuous physical presence'' and ''continuous residence'' in the United States since November 9, 1999. ''Continuously physically present'' means actual physical presence in the United States for the entire period specified. An alien, however, shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of a brief, casual, and innocent absence. ''Continuously resided'' means residing in the United States for the entire period specified. An alien will not be considered to have failed to

maintain continuous residence in the United States by reason of a brief, casual, and innocent absence.

Notice of Extension of Designation and Redesignation of Sudan Under the TPS Program

By the authority vested in me as Attorney General under section 244 of the Act, and as required by sections 244(b)(3)(A) and (C), and 244(b)(1) of the Act, I have consulted with the appropriate government agencies concerning the redesignation of Sudan under the TPS program and the extension of that country's current designation. From these consultations, I find the following:

(1) There exists an ongoing armed conflict in Sudan and that a return of aliens who are nationals of Sudan (and aliens having no nationality who last habitually resided in Sudan) would pose a serious threat to their personal safety as a result of the armed conflict in that nation;

(2) There exist extraordinary and temporary conditions in Sudan that prevent aliens who are nationals of Sudan (and aliens having no nationality who last habitually resided in Sudan) from returning to Sudan in safety; and

(3) Permitting nationals of Sudan (and aliens having no nationality who last habitually resided in Sudan) to remain temporarily in the United States is not contrary to the national interest of the United States. 8 U.S.C. 1254a(b)(1)(A) and (C).

Accordingly, I order as follows:

(1) The designation of Sudan is extended under sections 244(b)(3)(A) and (C) of the Act for the twelve-month period spanning from November 3, 1999, to November 2, 2000. 8 U.S.C. 1254a(b)(3)(A) and (C). Nationals of Sudan (and aliens having no nationality who last habitually resided in Sudan) who received TPS during the initial designation period may apply for an extension of TPS during the registration period lasting from November 9, 1999 until December 9, 1999.

(2) Sudan is redesignated under section 244(b)(1) of the Act for TPS until November 2, 2000. 8 U.S.C. 1254a(b)(1). Nationals of Sudan (and aliens having no nationality who last habitually resided in Sudan) who have been ''continuously physically present'' and have ''continuously resided'' in the United States since November 9, 1999, may apply for TPS within the registration period, which begins November 9, 1999, and ends November 2, 2000.

(3) I estimate that there are no more than 1,000 nationals of Sudan who have been granted TPS and who are eligible for re-registration, and no more than 500 nationals of Sudan who do not have TPS and are eligible for TPS under this redesignation.

(4) In order to maintain TPS, a national of Sudan (or an alien having no nationality who last habitually resided in Sudan) who currently has TPS must re-register by filing Form I–821, together with Form I–765, within the period beginning November 9, 1999 and ending on December 9, 1999. Late re-registration applications will be allowed pursuant to 8 CFR 244.17(c). There is no fee for a Form I–821 filed as part of the re-registration application. A Form I–765 must be filed with the Form I–821. If the applicant requests employment authorization, he or she must submit one hundred dollars ($100) or a properly documented fee waiver request, pursuant to 8 CFR 244.20, with the Form I–765. An applicant who does not request employment authorization must nonetheless file Form I–765 along with Form I–821, but is not required to submit the fee.

(5) A national of Sudan (or an alien having no nationality who last habitually resided in Sudan) filing for TPS under the redesignation must file Form I–821, together with Form I–765, within the period beginning November 9, 1999, and ending on November 2, 2000. A fifty-dollar ($50) fee must accompany Form I–821. A twenty-five dollar ($25) fingerprinting fee must also be submitted. If the applicant requests employment authorization, he or she must submit one hundred dollars ($100) or a properly documented fee waiver request, pursuant to a 8 CFR 244.20, with the Form I–765. An applicant who does not request employment authorization must nonetheless file Form I–765 along with Form I–821, but is not required to submit the fee. The applicant can also request a fee waiver for the twenty-five dollar ($25) fee.

(6) Pursuant to section 244(b)(3)(A) of the Act, the Attorney general will review, at least 60 days before November 2, 2000, the designation of Sudan under the TPS program to determine whether the conditions for designation continue to be met. 8 U.S.C. 1254a(b)(3)(A). Notice of that determination will be published in the **Federal Register**. If there is an extension of designation, late initial registration for TPS will be allowed only pursuant to the requirements of 8 CFR 244.2(f)(2).

(7) Information concerning the redesignation of Sudan under the TPS program will be available at local INS offices upon publication of this notice.

Dated: November 2, 1999.

Janet Reno,

Attorney General.

[FR Doc. 99–29249 Filed 11–8–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

National Advisory Council on Violence Against Women

AGENCIES: United States Department of Justice and United States Department of Health and Human Services.

ACTION: Notice of meeting.

SUMMARY: The National Advisory Council on Violence Against Women, co-chaired by the Attorney General and Secretary of Health and Human Services, will meet Tuesday November 2 and Wednesday November 3, 1999 in the Video Conference Room of the Office of Justice Programs building, U.S. Department of Justice, third floor, 810 7th Street, NW, Washington, DC 20530. Scheduled to begin at 9:00 a.m. and adjourn at 4:15 p.m., the meeting will include opening remarks by the Attorney General and Secretary Shalala and remarks by Dr. David Satcher, Surgeon General, and Laurie Robinson, Assistant Attorney General for the Office of Justice Programs.

The Advisory Council will meet in closed, small group sessions on both days. The full Advisory Council meeting will be open to the public on a space-available basis. Reservations are required and a photo ID will be requested for admittance. To reserve a space and advise of any special needs, interested persons should call Karen Noel at the Department of Justice at 202–616–6347 or Frances Page at the Department of Health and Human Services at 202–690–6373. Sign language interpreters will be provided. Anyone wishing to submit written questions to this session should notify the Department of Justice, Violence Against Women Office by November 1, 1999. The notice may be delivered by mail, telegram, facsimile, or in person. It should contain the requestor's name and his or her corporate designation, consumer affiliation, or government designation along with a short statement describing the topic to be addressed. Interested parties are encouraged to attend.

FOR FURTHER INFORMATION CONTACT; Questions regarding this meeting may be sent to the Violence Against Women Office, U.S. Department of Justice, 810 7th Street, NW, Washington, DC 20530

or directed to Karen Noel at 202–616–6347 (tel) or 202–307–3911 (fax).

Dated October 25, 1999.

Bonnie J. Campbell,

Director, Violence Against Women Office.

[FR Doc. 99–29246 Filed 11–8–99; 8:45 am]

BILLING CODE 4410–BB–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

November 2, 1999.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Ira Mills ((202) 219–5096 ext. 143) or by E-Mail to Mills-Ira@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Bureau of Labor Statistics.

Title: CPS Displaced Worker and Job Tenure Supplement.

OMB Number: 1220–0104.

Frequency: One time.

Affected Public: Individuals or households.

Number of Respondents: 48,000.

Estimated Time Per respondent: 9 minutes per household.

Total Burden Hours: 6,400 hours.

Total Annualized capital/startup costs: $0.

Total annual cost (operating/maintaining system or purchasing series): $0.

Description: The information collected will evaluate the size and characteristics of the population affected by job displacement and hence, the needs and scope of job training program serving adult displaced workers. These data also will measure the severity of the displacement problem, and assess employment stability.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 99–29261 Filed 11–8–99; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

November 3, 1999.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Ira Mills ((202) 219–5096 ext. 143) or by E-Mail to Mills-Ira@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBS, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register.**

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Pension and Welfare Benefits Administration.

Title: Advisory Opinion Procedures—ERISA Procedure 76–1.

OMB Number: 1210–0066.

Frequency: On occasion.

Affected Public: Individual or household; Business or other for-profit; Not-for-profit institutions.

Number of Respondents: 83.

Estimated Time Per respondent: 12 hours and 40 minutes.

Total Burden Hours: 101.

Total Annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $0.

Description: ERISA Procedure 76–1 is used by plan fiduciaries, administrators, and other individuals when requesting a legal interpretation from the Department regarding specific facts and circumstances. The Department's answer to such inquiries are categorized as ''information letters'' and ''advisory opinions.''

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 99–29264 Filed 11–8–99; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Bureau of International Labor Affairs, U.S. National Administrative Office, National Advisory Committee for the North American Agreement on Labor Cooperation; Notice of Open Meeting

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of open meeting, December 7, 1999.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 94–463), the U.S. National Administrative Office (NAO) gives notice of a meeting of the National Advisory Committee for the North American Agreement on Labor Cooperation (NAALC), which was established by the Secretary of Labor.

The Committee was established to provide advice to the U.S. Department

of Labor on matters pertaining to the implementation and further elaboration of the NAALC, the labor side accord to the North American Free Trade Agreement (NAFTA). The Committee is authorized under Article 17 of the NAALC.

The Committee consists of 12 independent representatives drawn from among labor organizations, business and industry, educational institutions, and the general public.

DATES: The Committee will meet on December 7, 1999 from 9 a.m. to 4:30 p.m.

ADDRESS: U.S. Department of Labor, 200 Constitution Avenue NW, Conference Room C–5515–C, Washington, D.C. 20210. The meeting is open to the public on a first-come, first served basis.

FOR FURTHER INFORMATION CONTACT: Irasema Garza, designated Federal Officer, U.S. NAO, U.S. Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW, Room C–4327, Washington, D.C. 20210. Telephone 202–501–6653 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: Please refer to the notice published in the **Federal Register** on December 15, 1994 (59 FR 64713) for supplementary information.

Signed at Washington, DC on November 1, 1999.

Irasema T. Garza,

Secretary, U.S. National Administrative Office.

[FR Doc. 99–29263 Filed 11–8–99; 8:45 am]

BILLING CODE 4510–28–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36, 202 and TA–W–36,202A]

Thunderbird Mining, Eveleth, and Forbes, MN; Notice of Negative Determination on Reconsideration

On August 11, 1999, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of the subject firm. The United Steelworkers of America (USWA), Local Union 6860, provided new information regarding possible customer import purchases of articles like or directly competitive with the taconite pellets produced by workers of the subject firm. The notice was published in the **Federal Register** on August 31, 1999 (64 FR 47525).

The Department initially denied TAA to workers of Thunderbird Mining producing taconite pellets because the ''contributed importantly'' group eligibility requirement of Section 222(3) of the Trade Act of 1974, as amended, was not met. The petitioners alleged that imports of steel led to worker separations from the subject firm. Imports of taconite pellets must be used as the basis for possible certification. The investigation revealed that the major domestic customers of the subject firm reported either that they did not import or that their imports declined in 1999. U.S. imports of agglomerated iron ores and concentrates (other than roasted iron pyrites) declined in the first quarter of 1999 compared with the same period of 1998.

To address the USWA Local Union 6860 assertion that Thunderbird Mining customers are importing products like or directly competitive with the taconite pellets produced in Eveleth and Forbes, Minnesota, the Department conducted another survey of the subject firms' major declining customers. The respondents reported that no products were purchased from domestic or foreign sources to replace taconite pellets in the relevant time period (1997, 1998, and January through April 1998 and 1999).

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of Thunderbird Mining, Eveleth and Forbes, Minnesota.

Signed at Washington, D.C., this 11 day of September 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–29262 Filed 11–8–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99F–4694]

Rohm and Haas Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Rohm and Haas Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 2-methyl-4-isothiazolin-3-one as an antimicrobial additive for adhesives, paper additives, and paper coatings that are intended to contact food.

FOR FURTHER INFORMATION CONTACT: Mark A. Hepp, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3098.

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 0B4699) has been filed by Rohm and Haas Co., 100 Independence Mall West, Philadelphia, PA 19106. The petition proposes to amend the food additive regulations in § 175.105 *Adhesives* (21 CFR 175.105) and § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) to provide for the safe use of 2-methyl-4-isothiazolin-3-one as an antimicrobial additive for adhesives, paper additives, and paper coatings that are intended to contact food.

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

Dated: October 26, 1999.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–29222 Filed 11–8–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–10676, et al.]

Proposed Exemptions; Anvil Construction Company, Inc. Employee's Money Purchase Pension Plan (the Money Purchase Plan), Anvil Construction Co., Employee Profit Sharing Plan (the Profit Sharing Plan), William Andreassi, Mark Andreassi, Michael Andreassi, and Wayne Campbell

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of

proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

Unless otherwise stated in the Notice of Proposed Exemption, all interested persons are invited to submit written comments, and with respect to exemptions involving the fiduciary prohibitions of section 406(b) of the Act, requests for hearing within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) the name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, NW, Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Anvil Construction Company, Inc. Employee's Money Purchase Pension Plan (the Money Purchase Plan), Anvil Construction Co., Employee Profit Sharing Plan (the Profit Sharing Plan), William Andreassi, Mark Andreassi, Michael Andreassi, and Wayne Campbell Located in Philadelphia, Pennsylvania; Proposed Exemption

[Exemption Application No. D–10676 and D–10677]

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975 (c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32826, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed sale (the Sale) of a certain parcel of unimproved real property (the Property) from certain accounts (the Accounts) in the Money Purchase Plan and the Profit Sharing Plan (collectively, the Plans) to the Anvil Construction Company, Inc. (Anvil), a party in interest and disqualified person with respect to the Accounts, provided that the following conditions are met:

(a) The terms and conditions of the Sale will be at least as favorable to the Accounts as those obtainable in an arm's length transaction with an unrelated party;

(b) Anvil will purchase the Property from the Accounts for $433,531, an amount comprised of the Property's current $397,000 fair market value (the Fair Market Value) as determined by a qualified, independent appraiser plus $36,531 which represents the excess of the Property's holding costs over appreciation from time of acquisition;

(c) The Sale will be a one-time transaction for cash; and

(d) The Accounts will pay no fees or commissions in connection with the Sale.

Summary of Facts and Representations

1. Anvil is a company engaged in commercial and industrial construction and is located in Philadelphia, Pennsylvania. Anvil is the sponsor of the Plans. The Plans are comprised of the Money Purchase Plan and the Profit Sharing Plan, both of which are individually-directed, defined contribution plans. The Money Purchase Plan has 5 participants and approximately $455,846 in total assets as of March 8, 1999. The Profit Sharing Plan has 5 participants and approximately $470,374 in total assets as of March 8, 1999.

2. In 1988, the Plans' participants were given the option of investing their respective Money Purchase Plan Account assets and Profit Sharing Account assets in the purchase of the Property from USR Realty Development. USR Realty Development is a division of the U.S. Diversified Group of the US Steel Corporation, an unrelated party. The Property is a rectangularly-shaped lot of unimproved real property comprising approximately 7.4 acres located in Bucks County, Pennsylvania. The Property is situated in the USX Industrial Park and is zoned for heavy industrial use.

Four of the Plans' participants; William Andreassi, Mark Andreassi, Michael Andreassi, and Wayne Campbell (collectively, the Participants); elected to have their respective Money Purchase Plan Account and Profit Sharing Account (collectively, the Accounts) participate in the purchase of the Property.

3. On July 8, 1988, the Participants directed their respective Money Purchase Plan Account and Profit Sharing Plan Account to purchase the Property (the Purchase). The sale of the Property to the Accounts was for $331,515. The Participants represent that the Purchase was for investment purposes.

The applicants represent that each Participant's respective Money Purchase Plan Account contributed an equal share (the Money Purchase Plan Share) to the Property's purchase price in relation to the other Participants' Money Purchase Plan Accounts. The Applicants additionally represent that each Participant's respective Profit Sharing Plan Account contributed an equal share (the Profit Sharing Plan Share) to the Property's purchase price in relation to the other Participants' Profit Sharing Plan Accounts. As a result, the applicants represent that,

after the Purchase, each Participant's respective Share equaled 25%, or approximately $82,880, of the Property's $331,515 purchase price.

The applicants represent that with respect to the purchase each Participant allocated a portion of the Participant's respective Share between the Participant's respective Money Purchase Plan Account and the Participant's respective Profit Sharing Plan Account. In this regard, the applicants represent that each Participant's Profit Sharing Account allocated approximately $11,035 of the Share's $82,880 value and each Participant's Money Purchase Plan Account allocated approximately $71,845 of the Share's $82,880 value.

4. The Accounts incurred certain holding costs (the Holding Costs) with the Accounts' ownership of the Property. These Holding Costs include: $93,313 in real estate taxes; $1,600 in general liability insurance; $5,987 in acquisition fees; and $1,116 in real estate marketing charges. The applicants represent that the Property's total Holding Costs of $102,016 were paid for with the assets of each Participant's Accounts. In this regard, the applicants represent that each Participant paid an equal amount of the Holding Costs. As a result, the Accounts of each Participant have incurred an expense totaling approximately $25,504 as a result of their ownership interest in the Property.

5. The Property was appraised on December 9, 1998 by William Bott and Anna Hageman (collectively, the Appraisers) for the Equity Appraisal Company, Inc., an appraisal company independent of Anvil. The Appraisers, both Pennsylvania certified real estate appraisers, used the sales comparison approach in their valuation of the Property and compared the Property to 5 parcels of land located near the Property and the subject of recent sales. Based on these comparisons, the Appraisers determined the Fair Market Value of the Property, as of December 9, 1998, to be $397,000.

6. The applicants represent that the Property's Holding Costs exceed the Property's net appreciation (the Net Appreciation). In this regard, the applicants represent that the Property's acquisition price of $331,515 and the Property's Fair Market Value of $397,000 results in a Net Appreciation totaling $65,485. The applicants represent that this Net Appreciation of $65,485 is less than the Property's Holding Costs of $102,016. As a result, the applicants represent that any sale of the Property for a price equal to the Appraised Value will result in a net loss to the Accounts totaling $36,531 (the Excess Costs), or a net loss of $9,132.75 to each Account.[1]

7. The applicants propose the Sale of the Property from the Accounts to Anvil for a price equal to the sum of the Property's Fair Market Value of $397,000, as determined by a qualified, independent appraiser, and the Property's Excess Costs of $36,531. As a result, Anvil proposes to purchase the Property from the Accounts for $433,531. The Applicants represent that if the proposed transaction is granted, the Accounts of each Participant will receive 25% or $108,382.75 of the Property's $433,531 total sale price which will include $9,123.75 for the Property's Excess Costs. The Applicants represent that the $108,382.75 will be allocated to each Participant's respective Money Purchase Plan Account and Profit Sharing Plan Account according to the same percentage of total assets which the Property currently comprises in each Account. As a result, the applicants represent that if the proposed transaction is granted, each Participant's respective Money Purchase Plan Account will receive approximately $93,953.09 and each Participant's respective Profit Sharing Account will receive approximately $14,429.66.

The applicants represent that the Sale is administratively feasible in that it will be a one-time transaction for cash and that the Accounts will pay no fees or commissions. The applicants additionally represent that the proposed Sale is in the best interests of the Accounts' Participants and beneficiaries since the Property has not appreciated at a rate which is satisfactory to the Participants. In this regard, the applicants represent that the Sale, if granted, would provide the Accounts with cash which the Accounts could invest in assets providing a greater rate of return than that of the Property. The applicants represent further that the abundance of available undeveloped real property similar to the Property has reduced the ability of the Accounts' to sell the Property to unrelated third parties.

The applicants additionally represent that the proposed transaction is protective of the Accounts' participants and beneficiaries since the Sale, if granted, will provide the Accounts with a cash amount equal to the sum of the Property's acquisition price and the Property's holding costs. As a result, the applicants represent that the proposed Sale will enable the Accounts to recover all of the Holding Costs associated with the Accounts' ownership of the Property. The applicants also represent that the Sale, if granted, will provide cash to the Accounts which the Accounts could invest in assets providing a greater rate of return than that of the Property.

8. In summary, the applicant represent that the proposed transaction satisfies the criteria of section 408(a) of the Act because:

(a) The terms and conditions of the Sale will be at least as favorable to the Accounts as those obtainable in an arm's length transaction with an unrelated party;

(b) Anvil will purchase the Property from the Accounts for $433,531, an amount comprised of the Property's current $397,000 fair market value (the Fair Market Value) as determined by a qualified, independent appraiser and the Property's excess holding costs of $36,531;

(c) The Sale will be a one-time transaction for cash; and

(d) The Accounts will pay no fees or commissions in connection with the Sale.

Notice to Interested Persons

Notice of the proposed exemption shall be given to all interested persons in the manner agreed upon by the applicant and the Department within 10 days of the date of publication in the **Federal Register**. Comments and requests for a hearing are due thirty (30) days after publication of the Notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Christopher J. Motta of the Department, telephone (202) 219–8883 (this is not a toll free number).

Cassano's Inc. 401(k) Plan and Trust (the Plan) Located in Dayton, Ohio, Proposed Exemption

[Exemption Application Number D–10734]

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990). If the proposed exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale (the Sale) of an improved parcel of real property (the

[1] The Department notes that the decision to invest in the Property is governed by the fiduciary responsibility requirements of Part 4, Subtitle B, Title I of the Act. In this regard, the Department is not proposing relief for any violations of Part 4 which may have arisen as a result of the acquisition and holding of the Property.

Property) by the Plan to Cassano's, Inc. (Cassano's), a party in interest and disqualified person with respect to the Plan, provided that the following conditions are met:

(a) The Sale is a one-time transaction for cash;

(b) The terms and conditions of the Sale are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party;

(c) The Plan receives the greater of $155,500 or the fair market value of the Property as of the date of the Sale;

(d) The Plan is not required to pay any commissions, costs or other expenses in connection with the Sale; and

(e) Cassano's files Form 5330 with the Internal Revenue Service (the Service) and pays certain excise taxes with respect to the past prohibited leasing of the Property within 90 days of the date that a notice granting this proposed exemption is published in the **Federal Register**.

Summary of Facts and Representations

1. The Plan is a profit sharing plan located in Dayton, Ohio. The Plan had approximately 75 participants and $450,621.83 in assets as of September 30, 1998. The Plan is sponsored by Cassano's, a pizza company having its principal place of business located in Dayton, Ohio.

2. The assets of the Plan include the Property which was acquired by the Plan for $155,500 in 1973. The Property is located at 2418 East Third Street, Dayton, Ohio and is comprised of four contiguous lots totaling 22,438 square feet and improved by two buildings. One of these buildings is a one-story restaurant having 2,640 square feet in rentable space and occupying two of the lots. The other building is a storage facility occupying the rear portion of the remaining two lots. The balance of the Property is comprised of a paved parking lot and a small grass-covered plot fronting the restaurant. The Property currently comprises approximately 29.3% of the assets of the Plan.

3. The applicant represents that, on June 15, 1973, Cassano's leased the Property from the Plan (the First Lease). The applicant represents that the First Lease was entered into pursuant to section 414(c)(2) of the Act.[2] On August 10, 1984, Cassano's received an individual exemption, PTE 84–114, 49 FR 32132 (Aug. 10, 1984) (PTE 84–114) to enter into a new leasing arrangement with the Plan. PTE 84–114 authorized: (1) A new leasing agreement between Cassano's and the Plan (the Second Lease) provided that certain conditions were met; and (2) an option held by Cassano's for the sale of the Property to Cassano's provided that certain conditions were met.

The applicant represents that, between December, 1994 and March, 1995, Cassano's missed four rent payments due under the Second Lease.[3] As a result, the exemptive relief provided to Cassano's through PTE 84–114 was no longer available. Despite this, Cassano's continued to lease the Property from the Plan and thus engaged in a transaction which violated section 406 of the Act. The applicant estimates that the continuation of the Second Lease without the exemptive relief provided for by PTE 84–114 has resulted in approximately $1,662 in excise taxes (the Excise Taxes) due under section 4975 of the Code. In this regard, the applicant represents that Cassano's will correct its violation of PTE 84–114 by paying the Excise Taxes, after filing Form 5330 with the Service, within 90 days of the date that a notice granting this proposed exemption is published in the **Federal Register**.

4. The applicant now proposes to purchase the Property from the Plan. The Property was appraised by Chester A. Brewer (Mr. Brewer) and Timothy N. Dunham (Mr. Dunham; collectively, the Appraisers) of the Dunham Company, a real estate appraisal company located in Dayton, Ohio. The Appraisers represent that they are certified in the State of Ohio and are independent of the Plan and Cassano's. The Appraisers used the sales comparison approach and compared the Property to three properties similar to the Property and the subject of recent sales. The Appraisers represent that, based on these comparisons, the fair market value of the Property was $132,000 as of July 29, 1999.

5. The applicant represents that the Plan has incurred certain costs and has received certain income due to the Plan's ownership of the Property. In this regard, the applicant represents that, since its acquisition by the Plan, the Property has been assessed a total of approximately $100,000 in real estate taxes. Additionally, the applicants represent that, since its acquisition by the Plan, the Property has generated a total of approximately $559,250 in rental income for the Plan.

6. The applicant proposes the sale of the Property to Cassano's (*i.e.*, the Sale) for the greater of $155,500 or the fair market value of the Property as of the date of the Sale.[4] The Sale would allow the Plan to recover the original acquisition cost to the Plan of the Property. The applicant represents that the proposed transaction is feasible since it involves a one-time transaction for cash. Furthermore, the applicant represents that the proposed transaction is protective of the rights of participants and beneficiaries since the Sale would enable the trustees of the Plan to diversify the Plan's assets. Finally, the applicant represents that the proposed transaction is in the best interests of the Plan and its participants and beneficiaries since the Sale will ensure that the Plan receives for the Property a price not less than the price the Plan paid to acquire the Property. As a result, the applicant represents that the terms of the proposed sale guarantee that the Plan will recover the Property's full acquisition price.

7. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria for an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code because:

(a) The Sale is a one-time transaction for cash;

(b) The terms and conditions of the Sale are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party;

(c) The Plan receives the greater of $155,500 or the fair market value of the Property as of the date of the Sale;

(d) The Plan is not required to pay any commissions, costs or other expenses in connection with the Sale; and

(e) Cassano's files Form 5330 with the Service and pays certain excise taxes with respect to the past prohibited leasing of the Property within 90 days of the date that a notice granting this proposed exemption is published in the **Federal Register**.

Notice to Interested Persons

Notice of the proposed exemption shall be given to all interested persons in the manner agreed upon by the applicant and the Department within 10 days of the date of publication in the **Federal Register**. Comments and requests for a hearing are due thirty (30)

[2] The Department is expressing no opinion herein as to the application of section 414(c)(2) of the Act to this transaction.

[3] The applicant represents that Cassano's filed for Chapter 11 bankruptcy protection in 1995. The applicant represents that the rent delinquency (ultimately totaling $7,669.36), has been repaid by Cassano's to the Plan pursuant to Cassano's U.S. Bankruptcy Court-approved plan of reorganization.

[4] The applicant represents that any payment by Cassano's to the Plan which is in excess of the Property's fair market value will not exceed the limitations set forth in section 415 of the Internal Revenue Code.

days after publication of the Notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Motta, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, DC, this 4th day of November, 1999.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 99–29267 Filed 11–8–99; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 99–44; Exemption Application No. D–10257, et al.]

Grant of Individual Exemptions; Pacific Life Corporation (Pacific Life), et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Pacific Life Corporation (Pacific Life) Located in Newport Beach, California; Exemption

[Prohibited Transaction Exemption 99–44; Exemption Application No. D–10257]

Section I—Transactions

(a) The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply:

(1) For the period from January 22, 1993 until October 31, 1998, to the sale by Pacific Life of an ''actively-managed synthetic'' guaranteed investment contract (Actively-Managed Synthetic GIC) to an employee benefit plan for which Pacific Life was a party in interest with respect to such plan (Plan) in instances where Pacific Life or an Affiliate manages the Plan's assets relating to the Synthetic GIC (an Affiliated-Manager GIC); and

(2) As of January 22, 1993, to the purchase or retention of the Affiliated-Manager GICs, described in section (a)(1) above, by the Plans and the payments made by Pacific Life to the Plans pursuant to the terms and conditions of the Affiliated-Manager GICs, provided that the general conditions set forth in section II, the specific conditions set forth in section III, the retroactive conditions set forth in section IV, and the record-keeping requirements set forth in section V below are met.

(b) The restrictions of sections 406(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply:

(1) As of January 22, 1993, to the sale by Pacific Life of an Actively-Managed Synthetic GIC to a Plan in instances where the Plan's assets relating to the Actively-Managed Synthetic GIC are managed by an investment manager who is unaffiliated with Pacific Life and

its Affiliates (an Unaffiliated-Manager GIC); and

(2) As of January 22, 1993, to the purchase or retention of the Unaffiliated-Manager GICs, described in section (b)(1) above, by the Plans and the payments made by Pacific Life to the Plans pursuant to the terms and conditions of the Unaffiliated-Manager GICs, provided that the general conditions set forth in section II and the record-keeping requirements set forth in section V below are met.

Section II—General Conditions

(a) Prior to the sale of an Actively-Managed Synthetic GIC, an independent fiduciary of each Plan receives a full and detailed written disclosure of all material features of the Actively-Managed Synthetic GIC, including all applicable fees and charges;

(b) Following receipt of such disclosure, the Plan's independent fiduciary approves in writing the purchase of the Actively-Managed Synthetic GIC on behalf of the Plan;

(c) All fees and charges imposed under any such Actively-Managed Synthetic GIC are not in excess of reasonable compensation within the meaning of section 408(b)(2) of the Act;

(d) Each Actively-Managed Synthetic GIC will specifically provide an objective means of determining the fair market value of the securities owned by the Plan pursuant to the Actively-Managed Synthetic GIC;

(e) Each Actively-Managed Synthetic GIC will specifically provide an objective formula for determining the interest rates to be credited periodically under the Actively-Managed Synthetic GIC;

(f) Pacific Life does not maintain custody of the assets which are the subject of the Actively-Managed Synthetic GIC or commingle those assets with any other funds under its management;

(g) The assets subject to the Actively-Managed Synthetic GIC are invested in high quality fixed income investments specified in the investment guidelines agreed to, or provided by, the independent fiduciary;

(h) The Plan may, at any time, terminate the Actively-Managed Synthetic GIC;

(i) The fee charged under the arrangement is negotiated between Pacific Life and a Plan fiduciary independent of Pacific Life;

(j) At all times during the term of each Actively-Managed Synthetic GIC, a Plan may elect to receive such lump sum amount equal to the Contract Value Record and shall be entitled to receive a lump sum payment no more than 3 (three) years after making an election which will establish a maturity date;

(k) The Plan may establish a maturity date by notifying Pacific Life in writing of an intent to establish a maturity date. Each Actively-Managed Synthetic GIC will mature within three (3) years after the Plan notifies Pacific Life of its intent to establish a maturity date; and

(l) Actively-Managed Synthetic GICs are sold only to Plans which have at least $25 million in assets.

Section III—Specific Conditions

(a) With respect to any Affiliated-Manager GIC described in section I(a), Pacific Life will notify a Plan's independent fiduciary, in writing no later than 30 days prior to the date on which the Credited Rate is to be reset, advising such fiduciary that the Plan may replace Pacific Life or its affiliate as investment manager, [1] at no expense to the Plan, when the Credited Rate with respect to any Affiliated-Manager GIC described in section I(a) is expected to be less than three (3) percent at the next reset of the Credited Rate.

Section IV—Retroactive Conditions

(a) At no time between January 22, 1993 and October 31, 1998, was the Credited Rate with respect to any Affiliated-Manager GIC described in section I(a) less than 3% (three percent) per annum; and

(b) At no time between January 22, 1993 and October 31, 1998, did a Plan elect to receive an amount equal to the Contract Value Record pursuant to an Affiliated-Manager GIC described in section I(a).

Section V—Recordkeeping

(a) The Applicant maintains or causes to be maintained for a period of six years from the date of the transaction such records as are necessary to enable the persons described in paragraph (b) of this section V of this exemption, to determine whether the conditions of this exemption have been met, except that: (1) a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the Applicant or its affiliates, such records are lost or destroyed prior to the end of such six year period; and (2) no party in interest, other than the Applicant or an affiliate, shall be subject to the civil penalty that may be accessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (b) below.

(b)(1) Notwithstanding anything to the contrary in subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (a) of this section V are unconditionally available at their customary location for examination during normal business hours by: (i) any duly authorized employee or representative of the Department of Labor or the Internal Revenue Service; (ii) any fiduciary of the plan or any duly authorized employee or representative of such fiduciary; (iii) any participant or beneficiary of the plan or duly authorized representative of such participant or beneficiary; (iv) any employer of plan participants and beneficiaries; and (v) any employee organization any of whose members are covered by such plan; and

(2) None of the persons described in paragraph (b)(1)(ii) through (v) shall be authorized to examine trade secrets of the applicant, or commercial or financial information which is privileged or confidential.

Section VI—Definitions

For purposes of this exemption:

(A) ''Actively-Managed Synthetic GIC'' means: a synthetic guaranteed investment contact, which under certain circumstances provides a guarantee that a pool of underlying plan assets which may be managed by Pacific Life, an affiliate of Pacific Life, or an unrelated investment manager, will perform at a specified rate of return.

(B) ''Affiliated-Manager GIC'' means: an Actively-Managed Synthetic GIC under which Pacific Life guarantees the performance of an related investment manager.

(C) ''Unaffiliated-Manager GIC'' means: an Actively-Managed Synthetic GIC under which Pacific Life guarantees the performance of an unrelated investment manager.

(D) ''Contract Value Record'' means: a bookkeeping account maintained by Pacific Life, pursuant to each Actively-Managed Synthetic GIC. Initially, the Contract Value Record will be credited with the value of the Investment Assets (defined in (F) below), and subsequently with a credited rate of interest (Credited Rate, defined in (E) below), which shall be reset periodically as agreed to at the inception of the Actively-Managed Synthetic GIC.

(E) ''Credited Rate'' means: the interest rate credited to the Contract Value Record. The Credited Rate is reset periodically, in accordance with an objective formula established under the

[1] Although Pacific Life must approve the new investment manager selected by the Plan, Pacific Life represents that it will not unreasonably withhold such approval.

terms of the Actively-Managed Synthetic GIC.

(F) ''Investment Assets'' means: the underlying portfolio of investment assets, title to which remains with the Plan.

(G) ''Managed Portfolio'' means: the total of all Investment Assets which comprise the portfolio which is managed by either an Affiliated-Manager or an Unaffiliated-Manager.

(H) ''Withdrawals'' means: a participant initiated payment or transfer to other investment options available under the Plan.

EFFECTIVE DATE: This exemption is effective for the period from January 22, 1993, until October 31, 1998, for the transactions described in section I(a)(1). Section I(a)(2) of the exemption will be effective for the retention by the Plan of the Affiliated-Manager GICs until the maturity date of such GICs. Lastly, the exemption is effective as of January 22, 1993, for the transactions described in section I(b) (including the continuing retention of any Unaffiliated-Manager GICs).

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on July 22, 1999, at 64 FR 39533.

Written Comments: One written comment, addressing two issues, was received from the applicant, Pacific Life, regarding the notice of proposed exemption (the Notice).

With respect to the first issue, the applicant states that the relief provided for in the operative language of the Notice regarding ''synthetic'' guaranteed investment contracts that are actively-managed by Pacific Life or an Affiliate (*i.e.*, Affiliated-Manager GICs) is effective only for contracts sold on or before August 12, 1998. The applicant represents that this date was established based on the belief that no existing Affiliated-Manager GICs had been entered into after that date. After the Notice was published in the **Federal Register** on July 22, 1998, the applicant discovered that one Plan client, which had previously held a traditional GIC issued by Pacific Life, requested conversion of that GIC contract to an Affiliated-Manager GIC prior to August 12, 1998, but the parties did not actually execute this Affiliated-Manager GIC until October 1998. Therefore, Pacific Life requests that references in the Notice to August 12, 1998 be changed to October 31, 1998 in order to accommodate the execution of this Affiliated-Manager GIC.

In response to the applicant's comment, the Department has modified Section I(a)(1) and Section IV(a) and (b) of the exemption, as well as the effective date paragraph at the end of the operative language of the exemption, by substituting October 31, 1998 for August 12, 1998.

With respect to the second issue, Section II(g) of the Notice requires that the assets subject to the Actively-Managed Synthetic GIC (*i.e.*, Investment Assets) must be invested only in high quality fixed income investments specified in the investment guidelines agreed to, or provided by, the independent fiduciary. The summary of facts and representations (the Summary) contained in the Notice also states that the Investment Assets will be invested in securities issued or guaranteed by the Federal government, or an instrumentality thereof, or other investment grade debt securities whose value is readily determinable and which can thus be objectively valued (e.g., see Paragraph 8 of the Summary, 64 FR at 39535).

The applicant's comments state that certain Plans have requested that a portion of the Investment Assets be allocated to non-investment grade securities in order to enhance the rate of return to such Plans, pursuant to certain investment guidelines established by independent Plan fiduciaries. However, the applicant represents that at least 90% of the Investment Assets will be allocated to investment grade securities at all times. Thus, for purposes of this exemption, Pacific Life wishes to clarify that while the Investment Assets will be primarily allocated to investment grade securities, a small percentage of such Assets may be non-investment grade securities.

The Department acknowledges the applicant's clarification to the information and representations contained in the Summary regarding investment grade securities. In this regard, the Department notes that the requirements of Section II(g) of the exemption, relating to the need for ''* * * high quality fixed income investments,'' will be deemed to be met if at least 90% of the Investment Assets are allocated at all times to investment grade securities. Further, in response to the applicant's comment, the Department has modified the language of Section II(g) of the exemption by deleting the word ''only'' from the phrase referring to high quality fixed income investments.

Accordingly, the Department has determined to grant the exemption as modified herein.

FOR FURTHER INFORMATION CONTACT: Janet Schmidt of the Department, telephone (202) 219–8883. (This is not a toll-free number.)

Donaldson, Lufkin & Jenrette Securities Corporation (DLJ) Located in New York, NY; Exemption

[Prohibited Transaction Exemption (PTE) 99–45; Application No. D–10772]

Section I. Covered Transactions

A. The restrictions of section 406(a)(1))(A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply, effective September 24, 1999, to any purchase or sale of a security between certain affiliates of DLJ which are foreign broker-dealers (the Foreign Affiliates, as defined below) and employee benefit plans (the Plans) with respect to which the Foreign Affiliates are parties in interest, including options written by a Plan, DLJ or a Foreign Affiliate provided that the following conditions and the General Conditions of Section II, are satisfied:

(1) The Foreign Affiliate customarily purchases and sells securities for its own account in the ordinary course of its business as a broker-dealer;

(2) The terms of any transaction are at least as favorable to the Plan as those which the Plan could obtain in a comparable arm's length transaction with an unrelated party; and

(3) Neither the Foreign Affiliate nor an affiliate thereof has discretionary authority or control with respect to the investment of the Plan assets involved in the transaction, or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets, and the Foreign Affiliate is a party in interest or disqualified person with respect to the Plan assets involved in the transaction solely by reason of section 3(14)(B) of the Act or section 4975(e)(2)(B) of the Code, or by reason of a relationship to a person described in such sections. For purposes of this paragraph, the Foreign Affiliate shall not be deemed to be a fiduciary with respect to Plan assets solely by reason of providing securities custodial services for a Plan.

B. The restrictions of sections 406(a)(1)(A) through (D) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply, effective September 24, 1999, to any extension of credit to the Plans by the Foreign Affiliates to permit the settlement of securities transactions, regardless of whether they are effected on an agency or a principal basis, or in

connection with the writing of options contracts, provided that the following conditions and the General Conditions of Section II are satisfied:

(1) The Foreign Affiliate is not a fiduciary with respect to any Plan assets involved in the transaction, unless no interest or other consideration is received by the Foreign Affiliate or an affiliate thereof, in connection with such extension of credit; and

(2) Any extension of credit would be lawful under the Securities Exchange Act of 1934 (the 1934 Act) and any rules or regulations thereunder if such Act, rules or regulations were applicable.

C. The restrictions of section 406(a)(1)(A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply, effective September 24, 1999, to the lending of securities to the Foreign Affiliates by the Plans, provided that the following conditions and the General Conditions of Section II are satisfied:

(1) Neither the Foreign Affiliate nor an affiliate thereof has discretionary authority or control with respect to the investment of Plan assets involved in the transaction, or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets;

(2) The Plan receives from the Foreign Affiliate (by physical delivery or by book entry in a securities depository, wire transfer, or similar means) by the close of business on the day on which the loaned securities are delivered to the Foreign Affiliate, collateral consisting of cash, securities issued or guaranteed by the U.S. Government or its agencies or instrumentalities, or irrevocable U.S. bank letters of credit issued by persons other than the Foreign Affiliate or an affiliate of the Foreign Affiliate, or any combination thereof. All collateral shall be in U.S. dollars, or dollar-denominated securities or bank letters of credit, and shall be held in the United States;

(3) The collateral has, as of the close of business on the preceding business day, a market value equal to at least 100 percent of the then market value of the loaned securities (or, in the case of letters of credit, a stated amount equal to same);

(4) The loan is made pursuant to a written loan agreement (the Loan Agreement), which may be in the form of a master agreement covering a series of securities lending transactions, and which contains terms at least as favorable to the Plan as those the Plan could obtain in an arm's length transaction with an unrelated party;

(5) In return for lending securities, the Plan either (a) receives a reasonable fee, which is related to the value of the borrowed securities and the duration of the loan, or (b) has the opportunity to derive compensation through the investment of cash collateral. In the latter case, the Plan may pay a loan rebate or similar fee to the Foreign Affiliate, if such fee is not greater than the Plan would pay an unrelated party in a comparable arm's length transaction with an unrelated party;

(6) The Plan receives at least the equivalent of all distributions on the borrowed securities made during the term of the loan, including, but not limited to, cash dividends, interest payments, shares of stock as a result of stock splits and rights to purchase additional securities that the Plan would have received (net of tax withholdings)[2] had it remained the record owner of such securities.

(7) If the market value of the collateral as of the close of trading on a business day falls below 100 percent of the market value of the borrowed securities as of the close of trading on that day, the Foreign Affiliate delivers additional collateral, by the close of the Plan's business on the following business day, to bring the level of the collateral back to at least 100 percent. However, if the market value of the collateral exceeds 100 percent of the market value of the borrowed securities, the Foreign Affiliate may require the Plan to return part of the collateral to reduce the level of the collateral to 100 percent;

(8) Before entering into a Loan Agreement, the Foreign Affiliate furnishes to the independent Plan fiduciary (a) the most recent available audited statement of the Foreign Affiliate's financial condition, (b) the most recent available unaudited statement of its financial condition (if more recent than the audited statement), and (c) a representation that, at the time the loan is negotiated, there has been no material adverse change in its financial condition that has not been disclosed since the date of the most recent financial statement furnished to the independent Plan fiduciary. Such representation may be made by the Foreign Affiliate's agreeing that each loan of securities shall constitute a representation that there has been no such material adverse change;

(9) The Loan Agreement and/or any securities loan outstanding may be terminated by the Plan at any time, whereupon the Foreign Affiliate shall deliver certificates for securities identical to the borrowed securities (or the equivalent thereof in the event of reorganization, recapitalization or merger of the issuer of the borrowed securities) to the Plan within (a) the customary delivery period for such securities, (b) five business days, or (c) the time negotiated for such delivery by the Plan and the Foreign Affiliate, whichever is least, or, alternatively such period as permitted by Prohibited Transaction Class Exemption (PTCE) 81–6 (46 FR 7527, January 23, 1981, as amended at 52 FR 18754, May 19, 1987), as it may be amended or superseded.[3]

(10) In the event that the loan is terminated and the Foreign Affiliate fails to return the borrowed securities or the equivalent thereof within the time described in paragraph (9), the Plan may purchase securities identical to the borrowed securities (or their equivalent as described above) and may apply the collateral to the payment of the purchase price, any other obligations of the Foreign Affiliate under the Loan Agreement, and any expenses associated with the sale and/or purchase. The Foreign Affiliate is obligated to pay, under the terms of the Loan Agreement, and does pay, to the Plan, the amount of any remaining obligations and expenses not covered by the collateral, plus interest at a reasonable rate. Notwithstanding the foregoing, the Foreign Affiliate may, in the event it fails to return borrowed securities as described above, replace non-cash collateral with an amount of cash not less than the then current market value of the collateral, provided that such replacement is approved by the independent Plan fiduciary; and

(11) The independent Plan fiduciary maintains the situs of the Loan Agreement in accordance with the indicia of ownership requirements under section 404(b) of the Act and the regulations promulgated under 29 CFR 2550.404b–1. However, in the event that the independent Plan fiduciary does not maintain the situs of the Loan Agreement in accordance with the indicia of ownership requirements of section 404(b) of the Act, the Foreign

[2] The Department notes the applicant's representation that dividends and other distributions on foreign securities payable to a lending Plan may be subject to foreign tax withholdings and that the Foreign Affiliate will always put the Plan back in at least as good a position as it would have been in had it not lent the securities.

[3] PTCE 81–6 provides an exemption under certain conditions from section 406(a)(1)(A) through (D) of the Act and the corresponding provisions of section 4975(c) of the Code for the lending of securities that are assets of an employee benefit plan to a U.S. broker-dealer registered under the 1934 Act (or exempted from registration under the 1934 Act as a dealer in exempt Government securities, as defined therein).

Affiliate shall not be subject to the civil penalty which may be assessed under section 502(i) of the Act, or the taxes imposed by section 4975(a) and (b) of the Code.

If the Foreign Affiliate fails to comply with any condition of this exemption in the course of engaging in a securities lending transaction, the Plan fiduciary which caused the Plan to engage in such transaction shall not be deemed to have caused the Plan to engage in a transaction prohibited by section 406(a)(1)(A) through (D) of the Act solely by reason of the Foreign Affiliate's failure to comply with the conditions of the exemption.

Section II. General Conditions

A. The Foreign Affiliate is a registered broker-dealer subject to regulation by a governmental agency, as described in Section III. B., and is in compliance with all applicable rules and regulations thereof in connection with any transactions covered by this exemption;

B. The Foreign Affiliate, in connection with any transactions covered by this exemption, is in compliance with the requirements of Rule 15a–6 (17 CFR 240.15a–6) of the 1934 Act, and Securities and Exchange Commission interpretations thereof, providing for foreign affiliates a limited exemption from U.S. broker-dealer registration requirements.

C. Prior to the transaction, the Foreign Affiliate enters into a written agreement with the Plan in which the Foreign Affiliate consents to the jurisdiction of the courts of the United States for any civil action or proceeding brought in respect of the subject transactions.

D. The Foreign Affiliate maintains, or causes to be maintained, within the United States for a period of six years from the date of any transaction such records as are necessary to enable the persons described in paragraph E. to determine whether the conditions of this exemption have been met except that—

(1) A party in interest with respect to a Plan, other than the Foreign Affiliate, shall not be subject to a civil penalty under section 502(i) of the Act or the taxes imposed by section 4975(a) or (b) of the Code, if such records are not maintained, or are not available for examination, as required by paragraph E.; and

(2) A prohibited transaction shall not be deemed to have occurred if, due to circumstances beyond the control of the Foreign Affiliate, such records are lost or destroyed prior to the end of such six year period;

E. Notwithstanding the provisions of subsections (a)(2) and (b) of section 504 of the Act, the Foreign Affiliate makes the records referred to above in paragraph D., unconditionally available for examination during normal business hours at their customary location to the following persons or an authorized representative thereof:

(1) The Department, the Internal Revenue Service or the SEC;

(2) Any fiduciary of a Plan;

(3) Any contributing employer to a Plan;

(4) Any employee organization any of whose members are covered by a Plan; and

(5) Any participant or beneficiary of a Plan.

However, none of the persons described above in paragraphs (2)–(5) of this paragraph E. shall be authorized to examine trade secrets of the Foreign Affiliate, or any commercial or financial information which is privileged or confidential.

F. Prior to any Plan's approval of any transaction with a Foreign Affiliate, the Plan is provided copies of the proposed and final exemption with respect to the exemptive relief granted herein.

Section III. Definitions

For purposes of this exemption,

A. The term ''DLJ'' as referred to in Parts A., B., and C. of Section I., means Donaldson, Lufkin & Jenrette Securities Corporation.

B. The term ''affiliate'' of another person shall include:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(2) Any officer, director, or partner, employee or relative (as defined in section 3(15) of the Act) of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner. (For purposes of this definition, the term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.)

C. The term ''Foreign Affiliate,'' shall mean a current or future affiliate of DLJ that is subject to regulation as a broker-dealer by—

(1) The Securities and Futures Authority, in the United Kingdom; or

(2) The Australian Securities & Investments Commission in Australia.

C. The term ''security'' shall include equities, fixed income securities, options on equity and on fixed income securities, government obligations, and any other instrument that constitutes a security under U.S. securities laws. The term ''security'' does not include swap agreements or other notional principal contracts.

EFFECTIVE DATE: This exemption is effective as of September 24, 1999.

For a more complete statement of the facts and representations supporting this exemption, refer to notice of proposed exemption (the Notice) published on September 24, 1999 at 64 FR 51797.

Written Comments

The Department received one written comment with respect to the Notice and no requests for a public hearing. The comment, which was submitted by DLJ, requested that the exemption be made retroactive to September 24, 1999, the date the Notice was published in the **Federal Register**, to ensure that any transactions entered into on or after the publication date of the Notice by Plans and the Foreign Affiliates would be covered by the requested exemption. In response to this comment, the Department has made the exemption effective as of September 24, 1999.

For further information regarding DLJ's comment or other matters discussed herein, interested persons are encouraged to obtain copies of the exemption application file (Exemption Application No. D–10772) the Department is maintaining in this case. The complete application file, as well as all supplemental submissions received by the Department, are made available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, Room N–5638, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Accordingly, after giving full consideration to the entire record, including the written comment provided by the DLJ, the Department has made the aforementioned change to the Notice and has decided to grant the exemption subject to the modification described above.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary

responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, D.C., this 4th day of November, 1999.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 99–29266 Filed 11–8–99; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meeting

AGENCY HOLDING MEETING: National Science Foundation, National Science Board.

DATE AND TIMES:

November 18, 1999: 11:30 a.m.—Closed Session
November 18, 1999: 1 p.m.—Closed Session
November 18, 1999: 2 p.m.—Open Session

PLACE: The National Science Foundation, 4201 Wilson Boulevard, Room 1235, Arlington, VA 22230.

STATUS:

Part of this meeting will be closed to the public
Part of this meeting will be open to the public

MATTERS TO BE CONSIDERED:

Closed Session (11:30 a.m.–12 Noon)

Closed Session Minutes
NSB Member Proposal
Personnel

Closed Session (1 p.m.–2 p.m.)

Awards and Agreements
FY 2001 Budget

Open Session (2 p.m.–6 p.m.)

Minutes, July 1999
Closed Session Items for February 2000
Chair's Report
Director's Report
Committee Reports
NSB Delegation of Authority
NSF Strategic Plan
NSB/EHR Workplan
NSB Interim Report on the Environment
International Task Force Status Report
Science & Engineering Indicators
Committee on Communication & Outreach Status Report
NSB February 2000 Policy Meeting & Retreat
NSB 2000 Calendar
Presentation: Nanoscience & Engineering

Marta Cehelsky,

Executive Officer.

[FR Doc. 99–29490 Filed 11–5–99; 3:54 pm]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

1. *The title of the information collection:* 10 CFR part 55, ''Operators' Licenses.''

2. *Current OMB approval number:* 3150–0018.

3. *How often the collection is required:* As necessary for NRC to meet its responsibilities to determine the eligibility of applicants for operators' licenses, prepare or review initial operator licensing and requalification examinations, and perform a review of applications and reports for simulation facilities submitted to the NRC.

4. *Who is required or asked to report:* Holders of and applicants for facility (*i.e.,* nuclear power, research, and test reactor) operating licenses and individual operators' licenses.

5. *The number of annual of respondents:* 231.

6. *The number of hours needed annually to complete the requirement or request:* 25,937 (approximately 19,840 hours of reporting burden and approximately 6,097 hours of record-keeping burden).

7. *Abstract:* 10 CFR part 55, ''Operators' Licenses,'' of the NRC's regulations, specifies information and data to be provided by applicants and facility licensees so that the NRC may make determinations concerning the licensing and requalification of operators for nuclear reactors, as necessary to promote public health and safety. The reporting and record-keeping requirements contained in 10 CFR part 55 are mandatory for the licensees and applicants affected.

Submit, by January 10, 2000, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the submittal may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site *(http://www.nrc.gov/NRC/PUBLIC/OMB/index.html).* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 E6, Washington, DC 20555–0001, by telephone at 301–415–7233, or by Internet electronic mail at bjs1@nrc.gov.

Dated at Rockville, MD, this 3rd day of November, 1999.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–29314 Filed 11–8–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, extension, or reinstatement:* Reinstatement.

2. *The title of the information collection:* NRC Form 592, ''NRC's Handling of Your Concerns.''

3. *The form number if applicable:* NRC Form 592.

4. *How often the collection is required:* One time, as allegations are closed.

5. *Who will be required or asked to report:* Individuals who have submitted an allegation to the NRC.

6. *An estimate of the number of responses:* 240.

7. *The estimated number of annual respondents:* 240.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 240 (one hour per response).

9. *An indication of whether section 3507(d), Pub. L. 104–13 applies:* Not applicable.

10. *Abstract:* NRC is requesting reinstatement of NRC Form 592 to conduct a voluntary survey of allegers who bring health and safety concerns to the NRC. The survey is used to determine the level of satisfaction or dissatisfaction with NRC's handling of their allegation. The survey will be sent to allegers in various categories (allegers who allegations were resolved but not substantiated, resolved and substantiated, or resolved and partially substantiated) whose allegations were filed in each of the four NRC regional offices and the two major program offices, the Office of Nuclear Reactor Regulation and the Office of Nuclear Material Safety and Safeguards. The results of this survey will be used by NRC management to gauge the effectiveness of its existing program and to develop programmatic revisions, as needed, to improve its handling of allegations.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov/NRC/PUBLIC/OMB/index.html). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by December 9, 1999. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date. Erik Godwin, Office of Information and Regulatory Affairs (3150–0185), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, MD, this 3rd day of November, 1999.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–29313 Filed 11–8–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NUREG–1600]

Revision of the NRC Enforcement Policy

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy Statement: revision.

SUMMARY: The Nuclear Regulatory Commission (NRC) is publishing a complete revision of its General Statement of Policy and Procedure for NRC Enforcement Actions (NUREG–1600) (Enforcement Policy or Policy). This is the third complete revision of the Enforcement Policy since it was first published as a NUREG document on June 30, 1995; 60 FR 34381. The NRC publishes the policy statement as a NUREG to foster its widespread dissemination. This revision: (1) Revises the approach for assessing the significance of violations; (2) Changes guidance to conform to recent revisions to the NRC's regulations for operating reactors regarding changes, tests, and experiments (64 FR 53582; October 4, 1999); (3) Updates the Policy to reflect the Deputy Executive Director for Reactor Programs and the Deputy Executive Director for Materials, Research and State Programs as the principal enforcement officers of the NRC; (4) Corrects the schedule for exercising enforcement discretion for findings involving the completeness and accuracy of licensee Final Safety Analysis Reports (FSAR); (5) Consolidates the guidance on dispositioning Severity Level IV violations as either Notices of Violation or Non-Cited Violations; (6) Reorganizes existing guidance on the relationship between safety and compliance to improve clarity; (7) Consolidates changes to the Enforcement Policy since May 1998; and (8) Edits and restructures existing guidance to assure consistency with recent policy changes and to facilitate maintenance of the Enforcement Policy. The intent of this Policy revision is to move towards a more risk-informed and performance-based approach.

DATES: This action is effective November 9, 1999. Comments on this revision should be submitted on or before December 9, 1999 and will be considered by the NRC prior to the next Enforcement Policy revision.

ADDRESSES: Submit written comments to: David L. Meyer, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mail Stop: T6D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Hand deliver comments to: 11555 Rockville Pike, Maryland, between 7:30 a.m. and 4:15 p.m., Federal workdays. Copies of comments received may be examined at the NRC Public Document Room 2120 L Street, NW. (Lower Level), Washington, DC.

The NRC's Office of Enforcement maintains the current policy statement on its homepage on the Internet at *www.nrc.gov/OE/*.

FOR FURTHER INFORMATION CONTACT: Bill Borchardt, Director, Office of Enforcement, (301) 415–2741, or Renée Pedersen, Senior Enforcement Specialist, Office of Enforcement, U.S.

Nuclear Regulatory Commission, Washington, D.C. 20555–0001, (301) 415–2741.

SUPPLEMENTARY INFORMATION: The NRC Enforcement Policy was first issued as a formal policy statement on September 4, 1980. Since that time, the Enforcement Policy has been revised on a number of occasions. On June 30, 1995; (60 FR 34381), the Enforcement Policy was completely revised as a result of the recommendations of a high-level review team who assessed the enforcement program and solicited input from stakeholders and other government agencies (NUREG–1525, ''Assessment of the NRC Enforcement Program.'') On May 13, 1998; (63 FR 26630) the Enforcement Policy was completely republished based on a review of the experience with the revised policy and consideration of public comment (NUREG–1600, ''NRC Enforcement Policy Review; July 1995–July 1997''). Most recently (February 9, 1999; 64 FR 6388), the Policy was modified by revising the treatment of Severity Level IV violations at power reactors to help reduce unnecessary regulatory burden. The NRC is constantly refining and improving its policy and processes to ensure that enforcement actions are appropriate and contribute to safety.

In developing this Policy revision, the NRC considered comments of various internal and external stakeholders. Consideration was given to written comments submitted in response to the May 13, 1998; 63 FR 26630, revision to the Enforcement Policy; Congressional concerns; information provided during numerous meetings with representatives of the industry and public interest groups; and several written submittals.[1] The main stakeholder involvement has been with the Nuclear Energy Institute (NEI), various power reactor licensees, the Union of Concerned Scientists (UCS), and Public Citizen.

The NRC recognizes that additional changes may be considered as a result of ongoing efforts to make improvements to the inspection and performance assessment processes for power reactors. In addition, changes are anticipated in the materials areas that will conform to the move toward risk-informed performance-based inspections in this area.

The more significant changes to the Enforcement Policy (in the order that they appear in the Policy) are described below:

I. Introduction and Purpose

This section has been modified by adding a discussion of the relationship between safety and compliance. This discussion captures the essence of the Commission-approved discussion that was previously included as Appendix A to this policy statement. Moving this discussion from the back of the Policy to the front improves the logical flow of information and helps ensure that it will not be overlooked.

III. Responsibilities

This section has been modified to reflect the August 9, 1999, reorganization of the office of the Executive Director for Operations. The Deputy Executive Director for Reactor Programs and the Deputy Executive Director for Materials, Research and State Programs, replace the Deputy Executive Director for Regulatory Effectiveness as the principal enforcement officers of the NRC. The Deputy Executive Director for Reactor Programs is responsible to the Executive Director for Operations for NRC enforcement programs.

IV. Significance of Violations

This section has been renamed and significantly modified to reflect the NRC's new approach on how it will assess the significance of violations.

Because regulatory requirements have varying degrees of safety, safeguards, or environmental significance, the NRC's Enforcement Policy uses a graded approach in dealing with noncompliances both in terms of assessing significance and developing enforcement sanctions. This section provides that assessing the relative importance or significance of the violation is the first step in the enforcement process. The NRC is revising its approach for assessing significance that identifies four specific issues to consider: (1) Actual safety consequences; (2) potential safety consequences, including the consideration of risk information; (3) potential for impacting the NRC's ability to perform its regulatory function; and (4) any willful aspects of the violation.

This is a change from previous practice that assessed significance by weighing (1) Actual consequences; (2) potential consequences; and (3) the regulatory significance of a violation. Although not specifically defined by the Policy, ''regulatory significance'' historically included issues such as, but not limited to, programmatic breakdowns (*i.e.*, aggregation of violations[2]), repetitive violations, willful violations and reporting violations. The NRC is eliminating the use of this term in the context of assessing the significance of violations. The NRC believes this is warranted given the nature of stakeholder concerns, which included the term's lack of sufficient definition, its subjective nature, and its lack of a clear nexus to safety. There is also a concern that use of regulatory significance (under the practice of aggregation) is a form of assessment that should be performed outside the enforcement process. Under the revised Policy, if the NRC has concerns about a licensee's performance as a result of a large number of less significant violations, or repetitive violations based on ineffective corrective actions, the current and future assessment processes provide the regulatory tools necessary to address these performance concerns.

Although the NRC believes it is appropriate to eliminate the term, ''regulatory significance'' from this policy statement, some of its underlying concepts are appropriate to maintain. The NRC will continue to consider violations that impact or have the potential to impact NRC's ability to carry out its statutory mission. Examples of cases in this category would include violations of §§ 30.9, 50.9, *etc.* (completeness and accuracy of information), §§ 30.34(f), 50.54(a), 50.59, 76.68, *etc.* (need for NRC approval of changes), and Subpart M of Part 20, §§ 30.50, 50.72–73, *etc.* (reporting requirements). Even inadvertent reporting failures are important because many of the surveillance, quality control, and auditing systems on which both the NRC and its licensees rely in order to monitor compliance with safety standards are based primarily on complete, accurate and timely recordkeeping and reporting. The NRC will continue to consider willful violations involving licensees and their employees, including the ability to maintain a safety conscious work environment. Examples of cases in this category would include violations of §§ 30.10, 50.5, *etc.* (deliberate misconduct), and willful violations of requirements including §§ 30.7, 50.7, *etc.* (discrimination), §§ 30.9, 50.9, *etc.* (completeness and accuracy of information), and reporting requirements. Willful violations are, by definition, of particular concern to the

[1] See, NEI letters to James Lieberman, dated December 14, 1998, and to William Travers, dated October 23, 1998, and UCS letter to James Lieberman dated November 11, 1998. These documents are available at the NRC's Public Document Room (see **ADDRESSES** section).

[2] The previous policy stated that a group of Severity Level IV violations could be evaluated in the aggregate and assigned a single, increased severity level, thereby resulting in a Severity Level III problem, if the violations had the same underlying cause or programmatic deficiencies.

Commission because its regulatory program is based on licensees and their contractors, employees, and agents acting with integrity and communicating with candor.

This section also elaborates on the concept of potential consequences as a consideration in the significance assessment process. It emphasizes that the NRC will consider the realistic likelihood of affecting safety (*i.e.*, the existence of credible scenarios with potentially significant consequences). It also states that risk information will be used wherever possible and clarifies that use of risk information may increase or decrease the severity level of a violation.

This overall approach to assessing significance preserves the ability to evaluate violations based on those concepts the NRC believes important, while minimizing the controversy that surrounds the use of the term ''regulatory significance.''

VI.B.2.d Exercise of Discretion

The guidance in this section has been rewritten to state that the NRC may exercise discretion by either escalating or mitigating the amount of a civil penalty after the normal assessment process to ensure that the proposed civil penalty reflects all relevant circumstances of the particular case. The phrases ''reflects the NRC's level of concern'' and ''conveys the appropriate message to the licensee'' have been eliminated. Like regulatory significance, these phrases have been criticized as allowing the regulator to arbitrarily issue sanctions without a sufficient nexus to safety. This new language is consistent with the agency's other policy changes and its plain language initiatives. Similar changes are made throughout the Policy.

VII.A.1 Civil Penalties

Paragraph (h) of this section has been modified to include the correct schedule the NRC will use when it considers whether it should exercise escalating enforcement discretion for violations associated with departures from the FSAR. The previous schedule stated, ''after two years from October 18, 1996.'' The correct schedule identifies March 30, 2000, for risk-significant items as defined by the licensee's maintenance rule program and March 30, 2001, for all other issues. This change corrects an error in the policy and conforms to the schedule established by the Commission in a staff requirements memorandum dated June 30, 1998.

VII.B.1 Non-Cited Violations

This section has been renamed and consolidates the guidance on dispositioning Severity Level IV violations as either Notices of Violation or Non-Cited Violations. The definition of a Non-Cited Violation (NCV) is simplified to state that it is a Severity Level IV violation for which the NRC chooses to exercise discretion and refrain from issuing a formal Notice of Violation. It makes it clear that this discretion is not meant to eliminate either the NRC's emphasis on compliance or the importance of maintaining safety. Section VII.B.1.a includes the essence of the guidance on dispositioning power reactor Severity Level IV violations that was previously included in Appendix C. Sections VII.B.1.b–g are reserved for future applications. Section VII.B.1.h includes guidance for dispositioning all other types of licensees. This subsection captures the guidance that was previously included under VII.B.1.

VII.B.3 Violations Involving Old Design Issues

Paragraph (a) of this section has been modified to include the correct schedule the NRC will use when it considers whether it should exercise mitigating enforcement discretion for violations associated with departures from the FSAR. The previous schedule stated, ''within two years after October 18, 1996.'' The correct schedule identifies March 30, 2000, for risk-significant items as defined by the licensee's maintenance rule program and March 30, 2001, for all other issues. Like the schedule in Section VII.A.1.h, this Commission-approved schedule inadvertently failed to be reflected in a revision to the policy statement.

VII.C Notice of Enforcement Discretion for Power Reactors and Gaseous Diffusion Plants

This section has been renamed to more clearly reflect that this type of discretion applies to both power reactors and gaseous diffusion plants.

Supplements—Violation Examples

Each of the eight supplements was modified by removing examples of violations based on the concept of aggregating less significant violations into one of higher significance and the use of repetitive violations to increase the severity of a given violation, *i.e.*, ''a number of violations that are related (or, if isolated, that are recurring violations) that collectively represent a potentially significant lack of attention or carelessness toward licensed responsibilities.''

Supplement I—Reactor Operations

Example B.4 is eliminated because it was unnecessary, given that it is highly unlikely that § 50.59 violations will rise to Severity Level II and if operability of equipment is actually affected, then the severity level of the system inoperability will be based on the actual and potential consequences of that inoperability.

Example C.2. (b) is eliminated because basing severity level on any necessary analyses is inconsistent with determining severity level based on actual and potential consequences.

Example C.9 replaces previous examples C.10 and C.11 (which are no longer consistent with recent revisions of 10 CFR 50.59). This example provides that violations of 10 CFR 50.59 will be characterized at Severity Level III only if the change, which would require Commission approval prior to implementation, would not have been found acceptable to the Commission.

Example C.10 replaces previous example C.13 and reflects that Severity Level III characterization may be appropriate for violations of 10 CFR 50.71(e) in those situations where the erroneous information contained in the FSAR resulted in a change to the facility, implemented without prior Commission approval, that would not be acceptable.

Example C.11 replaces previous example C.14. Given that unreviewed safety questions and conflicts with technical specifications will not necessarily be Severity Level III violations under the revised enforcement guidance pertaining to 10 CFR 50.59, this example simply reflects that the failure to make required reports associated with any Severity Level III violation may be characterized at Severity Level III.

Example D.5 replaces previous examples D.5 and D.6 (which are no longer consistent with recent revisions of 10 CFR 50.59). This example provides that Severity Level IV categorization is appropriate for violations of 10 CFR 50.59 that do not involve circumstances in which a change that required prior Commission approval would not be found acceptable had the approval been sought. Any reference to programmatic failures is unnecessary.

Example D.6 replaces previous examples D.7 and D.8 (which are no longer consistent with recent revisions of 10 CFR 50.59). This example provides that Severity Level IV characterization may be appropriate for violations of 10 CFR 50.71(e) in those situations where the erroneous information contained in the FSAR is not used to make an

unacceptable change to the facility or procedures.

Paperwork Reduction Act

This final policy statement does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval number 3150–0136.

Public Protection Notification

If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a ''major'' rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

Accordingly, the NRC Enforcement Policy is revised to read as follows:

General Statement of Policy and Procedure for NRC Enforcement Actions

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Preface

The following policy statement describes the enforcement policy and procedures that the U.S. Nuclear Regulatory Commission (NRC or Commission) and its staff intends to follow in initiating and reviewing enforcement actions in response to violations of NRC requirements. This statement of general policy and procedure is published as NUREG–1600 to foster its widespread dissemination. However, this is a policy statement and not a regulation. The Commission may deviate from this statement of policy as appropriate under the circumstances of a particular case.

I. Introduction and Purpose

The Atomic Energy Act of 1954, as amended, establishes ''adequate protection'' as the standard of safety on which NRC regulations are based. In the context of NRC regulations, safety means avoiding undue risk or, stated another way, providing reasonable assurance of adequate protection of workers and the public in connection with the use of source, byproduct and special nuclear materials.

While safety is the fundamental regulatory objective, compliance with NRC requirements plays an important role in giving the NRC confidence that safety is being maintained. NRC requirements, including technical specifications, other license conditions, orders, and regulations, have been designed to ensure adequate protection—which corresponds to ''no undue risk to public health and safety''—through acceptable design, construction, operation, maintenance, modification, and quality assurance measures. In the context of risk-informed regulation, compliance plays a very important role in ensuring that key assumptions used in underlying risk and engineering analyses remain valid.

While adequate protection is presumptively assured by compliance with NRC requirements, circumstances may arise where new information reveals that an unforeseen hazard exists or that there is a substantially greater potential for a known hazard to occur. In such situations, the NRC has the statutory authority to require licensee action above and beyond existing regulations to maintain the level of protection necessary to avoid undue risk to public health and safety.

The NRC also has the authority to exercise discretion to permit continued operations—despite the existence of a noncompliance—where the noncompliance is not significant from a risk perspective and does not, in the particular circumstances, pose an undue risk to public health and safety. When noncompliance occurs, the NRC must evaluate the degree of risk posed by that noncompliance to determine if specific immediate action is required. Where needed to ensure adequate protection of public health and safety, the NRC may demand immediate licensee action, up to and including a shutdown or cessation of licensed activities.

Based on the NRC's evaluation of noncompliance, the appropriate action could include refraining from taking any action, taking specific enforcement action, issuing orders, or providing input to other regulatory actions or assessments, such as increased oversight (*e.g.*, increased inspection). Since some requirements are more important to safety than others, the NRC endeavors to use a risk-informed approach when applying NRC resources to the oversight of licensed activities, including enforcement activities.

The primary purpose of the NRC's Enforcement Policy is to support the NRC's overall safety mission in protecting the public health and safety and the environment. Consistent with that purpose, the policy endeavors to:

- Deter noncompliance by emphasizing the importance of compliance with NRC requirements, and
- Encourage prompt identification and prompt, comprehensive correction of violations of NRC requirements.

Therefore, licensees,[1] contractors,[2] and their employees who do not achieve the high standard of compliance which the NRC expects will be subject to enforcement sanctions. Each enforcement action is dependent on the circumstances of the case. However, in no case will licensees who cannot achieve and maintain adequate levels of safety be permitted to continue to conduct licensed activities.

II. Statutory Authority and Procedural Framework

A. Statutory Authority

The NRC's enforcement jurisdiction is drawn from the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act (ERA) of 1974, as amended.

Section 161 of the Atomic Energy Act authorizes the NRC to conduct inspections and investigations and to issue orders as may be necessary or desirable to promote the common defense and security or to protect health or to minimize danger to life or property. Section 186 authorizes the NRC to revoke licenses under certain circumstances (*e.g.*, for material false statements, in response to conditions that would have warranted refusal of a license on an original application, for a licensee's failure to build or operate a facility in accordance with the terms of the permit or license, and for violation of an NRC regulation). Section 234 authorizes the NRC to impose civil penalties not to exceed $100,000 per violation per day for the violation of certain specified licensing provisions of the Act, rules, orders, and license terms implementing these provisions, and for violations for which licenses can be revoked. In addition to the enumerated provisions in section 234, sections 84 and 147 authorize the imposition of civil penalties for violations of regulations implementing those provisions. Section 232 authorizes the NRC to seek injunctive or other equitable relief for violation of regulatory requirements.

Section 206 of the Energy Reorganization Act authorizes the NRC to impose civil penalties for knowing and conscious failures to provide certain safety information to the NRC.

Notwithstanding the $100,000 limit stated in the Atomic Energy Act, the Commission may impose higher civil penalties as provided by the Debt Collection Improvement Act of 1996. Under the Act, the Commission is required to modify civil monetary penalties to reflect inflation. The adjusted maximum civil penalty amount is reflected in 10 CFR 2.205 and this Policy Statement.

Chapter 18 of the Atomic Energy Act provides for varying levels of criminal penalties (*i.e.*, monetary fines and imprisonment) for willful violations of the Act and regulations or orders issued under sections 65, 161(b), 161(i), or 161(o) of the Act. Section 223 provides that criminal penalties may be imposed on certain individuals employed by firms constructing or supplying basic components of any utilization facility if the individual knowingly and willfully violates NRC requirements such that a basic component could be significantly impaired. Section 235 provides that criminal penalties may be imposed on persons who interfere with inspectors. Section 236 provides that criminal penalties may be imposed on persons who attempt to or cause sabotage at a nuclear facility or to nuclear fuel. Alleged or suspected criminal violations of the Atomic Energy Act are referred to the Department of Justice for appropriate action.

B. Procedural Framework

Subpart B of 10 CFR Part 2 of NRC's regulations sets forth the procedures the NRC uses in exercising its enforcement authority. 10 CFR 2.201 sets forth the procedures for issuing Notices of Violation.

The procedure to be used in assessing civil penalties is set forth in 10 CFR 2.205. This regulation provides that the civil penalty process is initiated by issuing a Notice of Violation and Proposed Imposition of a Civil Penalty. The licensee or other person is provided an opportunity to contest in writing the proposed imposition of a civil penalty. After evaluation of the response, the civil penalty may be mitigated, remitted, or imposed. An opportunity is provided for a hearing if a civil penalty is imposed. If a civil penalty is not paid following a hearing or if a hearing is not requested, the matter may be referred to the U.S. Department of Justice to institute a civil action in District Court.

The procedure for issuing an order to institute a proceeding to modify, suspend, or revoke a license or to take other action against a licensee or other person subject to the jurisdiction of the Commission is set forth in 10 CFR 2.202. The licensee or any other person adversely affected by the order may request a hearing. The NRC is authorized to make orders immediately effective if required to protect the public health, safety, or interest, or if the violation is willful. Section 2.204 sets out the procedures for issuing a Demand for Information (Demand) to a licensee or other person subject to the Commission's jurisdiction for the purpose of determining whether an order or other enforcement action should be issued. The Demand does not provide hearing rights, as only information is being sought. A licensee must answer a Demand. An unlicensed person may answer a Demand by either providing the requested information or explaining why the Demand should not have been issued.

III. Responsibilities

The Executive Director for Operations (EDO) and the principal enforcement officers of the NRC, the Deputy Executive Director for Reactor Programs (DEDR) and the Deputy Executive Director for Materials, Research and State Programs (DEDMRS) have been delegated the authority to approve or issue all escalated enforcement actions.[3] The DEDR is responsible to the EDO for NRC enforcement programs. The Office of Enforcement (OE) exercises oversight of and implements the NRC enforcement program. The Director, OE, acts for the Deputy Executive Director in enforcement matters in his absence or as delegated.

Subject to the oversight and direction of OE, and with the approval of the Deputy Executive Director, where necessary, the regional offices normally issue Notices of Violation and proposed civil penalties. However, subject to the same oversight as the regional offices, the Office of Nuclear Reactor Regulation (NRR) and the Office of Nuclear Material Safety and Safeguards (NMSS) may also issue Notices of Violation and proposed civil penalties for certain activities. Enforcement orders are normally issued by the Deputy Executive Director or the Director, OE.

[1] This policy primarily addresses the activities of NRC licensees and applicants for NRC licenses. However, this policy provides for taking enforcement action against non-licensees and individuals in certain cases. These non-licensees include contractors and subcontractors, holders of, or applicants for, NRC approvals, e.g., certificates of compliance, early site permits, or standard design certificates, and the employees of these non-licensees. Specific guidance regarding enforcement action against individuals and non-licensees is addressed in Sections VIII and X, respectively.

[2] The term ''contractor'' as used in this policy includes vendors who supply products or services to be used in a NRC-licensed facility or activity.

[3] The term ''escalated enforcement action'' as used in this policy means a Notice of Violation or civil penalty for any Severity Level I, II, or III violation (or problem) or any order based upon a violation.

However, orders may also be issued by the EDO, especially those involving the more significant matters. The Directors of NRR and NMSS have also been delegated authority to issue orders, but it is expected that normal use of this authority by NRR and NMSS will be confined to actions not associated with compliance issues. The Chief Financial Officer has been delegated the authority to issue orders where licensees violate Commission regulations by nonpayment of license and inspection fees.

In recognition that the regulation of nuclear activities in many cases does not lend itself to a mechanistic treatment, judgment and discretion must be exercised in determining the severity levels of the violations and the appropriate enforcement sanctions, including the decision to issue a Notice of Violation, or to propose or impose a civil penalty and the amount of this penalty, after considering the general principles of this statement of policy and the significance of the violations and the surrounding circumstances.

Unless Commission consultation or notification is required by this policy, the NRC staff may depart, where warranted in the public's interest, from this policy as provided in Section VII, ''Exercise of Discretion.''

The Commission will be provided written notification for the following situations:

(1) All enforcement actions involving civil penalties or orders;

(2) The first time that discretion is exercised for a plant that meets the criteria of Section VII.B.2;

(3) (Where appropriate, based on the uniqueness or significance of the issue) when discretion is exercised for violations that meet the criteria of Section VII.B.6; and

(4) All Notices of Enforcement Discretion (NOEDs) issued involving natural events, such as severe weather conditions.

The Commission will be consulted prior to taking action in the following situations (unless the urgency of the situation dictates immediate action):

(1) An action affecting a licensee's operation that requires balancing the public health and safety or common defense and security implications of not operating against the potential radiological or other hazards associated with continued operation (cases involving severe weather or other natural phenomena may be addressed by the staff without prior Commission consultation in accordance with Section VII.C);

(2) Proposals to impose a civil penalty for a single violation or problem that is greater than 3 times the Severity Level I value shown in Table 1A for that class of licensee;

(3) Any proposed enforcement action that involves a Severity Level I violation;

(4) Any action the EDO believes warrants Commission involvement;

(5) Any proposed enforcement case involving an Office of Investigations (OI) report where the NRC staff (other than the OI staff) does not arrive at the same conclusions as those in the OI report concerning issues of intent if the Director of OI concludes that Commission consultation is warranted; and

(6) Any proposed enforcement action on which the Commission asks to be consulted.

IV. Significance of Violations

Regulatory requirements[4] have varying degrees of safety, safeguards, or environmental significance. Therefore, the relative importance or significance of each violation is assessed as the first step in the enforcement process. Following this assessment, a commensurate severity level may be assigned to help determine and develop the appropriate enforcement sanction.

A. Assessing Significance

In assessing the significance of a noncompliance, the NRC considers four specific issues: (1) actual safety consequences; (2) potential safety consequences, including the consideration of risk information; (3) potential for impacting the NRC's ability to perform its regulatory function; and (4) any willful aspects of the violation.

1. Actual Safety Consequences

In evaluating actual safety consequences, the NRC considers issues such as actual onsite or offsite releases of radiation, onsite or offsite radiation exposures, accidental criticalities, core damage, loss of significant safety barriers, loss of control of radioactive material or radiological emergencies.

2. Potential Safety Consequences

In evaluating potential safety consequences, the NRC considers the realistic likelihood of affecting safety, *i.e.*, the existence of credible scenarios with potentially significant actual consequences. The NRC will use risk information wherever possible in assessing significance and assigning severity levels. A higher severity may be warranted for violations that have greater risk significance and a lower severity level may be appropriate for issues that have low risk significance. Duration is an appropriate consideration in assessing the significance of violations.

3. Impacting the Regulatory Process

The NRC considers the safety implications of noncompliances which may impact the NRC's ability to carry out its statutory mission. Noncompliances may be significant because they may challenge the regulatory envelope upon which certain activities were licensed. These types of violations include failures such as: failures to provide complete and accurate information, failures to receive prior NRC approval for changes in licensed activities, failures to notify NRC of changes in licensed activities, failure to perform 10 CFR 50.59 analysis, reporting failures, *etc.* Even inadvertent reporting failures are important because many of the surveillance, quality control, and auditing systems on which both the NRC and its licensees rely in order to monitor compliance with safety standards are based primarily on complete, accurate and timely recordkeeping and reporting. The existence of a regulatory process violation does not automatically mean that the issue is safety significant. In determining the significance of a violation, the NRC will consider appropriate factors for the particular regulatory process violation. These factors may include: the significance of the underlying issue, whether the failure actually impeded or influenced regulatory action, the level of individuals involved in the failure and the reasonableness of the failure given their position and training, and whether the failure invalidates the licensing basis. Factors to consider for failures to provide complete and accurate information are addressed in Section IX of this policy.

Unless otherwise categorized in the Supplements to this policy statement, the severity level of a violation involving the failure to make a required report to the NRC will be based upon the significance of and the circumstances surrounding the matter that should have been reported. However, the severity level of an untimely report, in contrast to no report, may be reduced depending on the circumstances surrounding the matter. A licensee will not normally be cited for a failure to report a condition or event unless the licensee was actually aware of the condition or event that it failed to report. A licensee will, on the other hand, normally be cited for a failure to

[4] The term ''requirement'' as used in this policy means a legally binding requirement such as a statute, regulation, license condition, technical specification, or order.

report a condition or event if the licensee knew of the information to be reported, but did not recognize that it was required to make a report.

4. Willful Violations

Willful violations are by definition of particular concern to the Commission because its regulatory program is based on licensees and their contractors, employees, and agents acting with integrity and communicating with candor. Willful violations cannot be tolerated by either the Commission or a licensee. Therefore, a violation may be considered more significant than the underlying noncompliance if it includes indications of willfulness. The term ''willfulness'' as used in this policy embraces a spectrum of violations ranging from deliberate intent to violate or falsify to and including careless disregard for requirements. Willfulness does not include acts which do not rise to the level of careless disregard, *e.g.*, negligence, inadvertent clerical errors in a document submitted to the NRC. In determining the significance of a violation involving willfulness, consideration will be given to such factors as the position and responsibilities of the person involved in the violation (*e.g.*, licensee official [5] or non-supervisory employee), the significance of any underlying violation, the intent of the violator (*i.e.*, careless disregard or deliberateness), and the economic or other advantage, if any, gained as a result of the violation. The relative weight given to each of these factors in arriving at the significance assessment will be dependent on the circumstances of the violation. However, if a licensee refuses to correct a minor violation within a reasonable time such that it willfully continues, the violation should be considered at least more than minor. Licensees are expected to take significant remedial action in responding to willful violations commensurate with the circumstances such that it demonstrates the seriousness of the violation thereby creating a deterrent effect within the licensee's organization.

[5] The term ''licensee official'' as used in this policy statement means a first-line supervisor or above, a licensed individual, a radiation safety officer, or an authorized user of licensed material whether or not listed on a license. Notwithstanding an individual's job title, severity level categorization for willful acts involving individuals who can be considered licensee officials will consider several factors, including the position of the individual relative to the licensee's organizational structure and the individual's responsibilities relative to the oversight of licensed activities and to the use of licensed material.

B. Assigning Severity Level

For purposes of formal enforcement action, violations are normally categorized in terms of four levels of severity to show their relative importance or significance within each of the following eight activity areas:

I. Reactor Operations;
II. Facility Construction;
III. Safeguards;
IV. Health Physics;
V. Transportation;
VI. Fuel Cycle and Materials Operations;
VII. Miscellaneous Matters; and
VIII. Emergency Preparedness.

Licensed activities will be placed in the activity area most suitable in light of the particular violation involved including activities not directly covered by one of the above listed areas, *e.g.*, export license activities. Within each activity area, Severity Level I has been assigned to violations that are the most significant and Severity Level IV violations are the least significant. Severity Level I and II violations are of very significant regulatory concern [6]. In general, violations that are included in these severity categories involve actual or high potential consequences on public health and safety. Severity Level III violations are cause for significant regulatory concern. Severity Level IV violations are less serious but are of more than minor concern. Violations at Severity Level IV involve noncompliance with NRC requirements that are not considered significant based on risk. This should not be misunderstood to imply that Severity Level IV issues have no risk significance.

The Commission recognizes that there are other violations of minor safety or environmental concern which are below the level of significance of Severity Level IV violations. These minor violations are not the subject of formal enforcement action and are not usually described in inspection reports. To the extent such violations are described, they will be noted as violations of minor significance that are not subject to formal enforcement action.

Comparisons of significance between activity areas are inappropriate. For example, the immediacy of any hazard to the public associated with Severity Level I violations in Reactor Operations is not directly comparable to that associated with Severity Level I violations in Facility Construction.

Supplements I through VIII provide examples and serve as guidance in determining the appropriate severity level for violations in each of the eight activity areas. However, the examples are neither exhaustive nor controlling. In addition, these examples do not create new requirements. Each is designed to illustrate the significance that the NRC places on a particular type of violation of NRC requirements. Each of the examples in the supplements is predicated on a violation of a regulatory requirement.

The NRC reviews each case being considered for enforcement action on its own merits to ensure that the severity of a violation is characterized at the level best suited to the significance of the particular violation.

[6] Regulatory concern pertains to primary NRC regulatory responsibilities, *i.e.*, safety, safeguards, and the environment.

V. Predecisional Enforcement Conferences

Whenever the NRC has learned of the existence of a potential violation for which escalated enforcement action appears to be warranted, or recurring nonconformance on the part of a contractor, the NRC may provide an opportunity for a predecisional enforcement conference with the licensee, contractor, or other person before taking enforcement action. The purpose of the conference is to obtain information that will assist the NRC in determining the appropriate enforcement action, such as: (1) A common understanding of facts, root causes and missed opportunities associated with the apparent violations; (2) a common understanding of corrective actions taken or planned; and (3) a common understanding of the significance of issues and the need for lasting comprehensive corrective action.

If the NRC concludes that it has sufficient information to make an informed enforcement decision, a conference will not normally be held. However, an opportunity for a conference will normally be provided before issuing an order based on a violation of the rule on Deliberate Misconduct or a civil penalty to an unlicensed person. If a conference is not held, the licensee may be requested to provide a written response to an inspection report, if issued, as to the licensee's views on the apparent violations and their root causes and a description of planned or implemented corrective actions. However, if the NRC has sufficient information to conclude that a civil penalty is not warranted, it may proceed to issue an enforcement action without first obtaining the licensee's response to the inspection report.

During the predecisional enforcement conference, the licensee, contractor, or other persons will be given an

opportunity to provide information consistent with the purpose of the conference, including an explanation to the NRC of the immediate corrective actions (if any) that were taken following identification of the potential violation or nonconformance and the long-term comprehensive actions that were taken or will be taken to prevent recurrence. Licensees, contractors, or other persons will be told when a meeting is a predecisional enforcement conference.

A predecisional enforcement conference is a meeting between the NRC and the licensee. Conferences are normally held in the regional offices and are normally open to public observation. Conferences will not normally be open to the public if the enforcement action being contemplated:

(1) Would be taken against an individual, or if the action, though not taken against an individual, turns on whether an individual has committed wrongdoing;

(2) Involves significant personnel failures where the NRC has requested that the individual(s) involved be present at the conference;

(3) Is based on the findings of an NRC Office of Investigations report that has not been publicly disclosed; or

(4) Involves safeguards information, Privacy Act information, or information which could be considered proprietary;

In addition, conferences will not normally be open to the public if:

(5) The conference involves medical misadministrations or overexposures and the conference cannot be conducted without disclosing the exposed individual's name; or

(6) The conference will be conducted by telephone or the conference will be conducted at a relatively small licensee's facility.

Notwithstanding meeting any of these criteria, a conference may still be open if the conference involves issues related to an ongoing adjudicatory proceeding with one or more interveners or where the evidentiary basis for the conference is a matter of public record, such as an adjudicatory decision by the Department of Labor. In addition, notwithstanding the above normal criteria for opening or closing conferences, with the approval of the Executive Director for Operations, conferences may either be open or closed to the public after balancing the benefit of the public's observation against the potential impact on the agency's decision-making process in a particular case.

The NRC will notify the licensee that the conference will be open to public observation. Consistent with the agency's policy on open meetings (included on the NRC's Public Meeting Web site), the NRC intends to announce open conferences normally at least 10 calendar days in advance of conferences. Conferences will be announced on the Internet at the NRC Office of Enforcement's homepage (*www.nrc.gov/OE*) and on the Public Meeting Web site (*www.nrc.gov/NRC/PUBLIC/meet.html*). Individuals who do not have Internet access may get assistance on scheduled conferences by contacting the NRC staff at the Public Document Room, by calling toll-free 1–800–397–4209. In addition, the NRC will normally issue a press release and notify appropriate State liaison officers that a predecisional enforcement conference has been scheduled and that it is open to public observation.

The public attending open conferences may observe but may not participate in the conference. It is noted that the purpose of conducting open conferences is not to maximize public attendance, but rather to provide the public with opportunities to be informed of NRC activities consistent with the NRC's ability to exercise its regulatory and safety responsibilities. Therefore, members of the public will be allowed access to the NRC regional offices to attend open enforcement conferences in accordance with the ''Standard Operating Procedures For Providing Security Support For NRC Hearings and Meetings,'' published November 1, 1991 (56 FR 56251). These procedures provide that visitors may be subject to personnel screening, that signs, banners, posters, etc., not larger than 18″ be permitted, and that disruptive persons may be removed. The open conference will be terminated if disruption interferes with a successful conference. NRC's Predecisional Enforcement Conferences (whether open or closed) normally will be held at the NRC's regional offices or in NRC Headquarters Offices and not in the vicinity of the licensee's facility.

For a case in which an NRC Office of Investigations (OI) report finds that discrimination as defined under 10 CFR 50.7 (or similar provisions in Parts 30, 40, 60, 70, or 72) has occurred, the OI report may be made public, subject to withholding certain information (*i.e.*, after appropriate redaction), in which case the associated predecisional enforcement conference will normally be open to public observation. In a conference where a particular individual is being considered potentially responsible for the discrimination, the conference will remain closed. In either case (i.e., whether the conference is open or closed), the employee or former employee who was the subject of the alleged discrimination (hereafter referred to as ''complainant'') will normally be provided an opportunity to participate in the predecisional enforcement conference with the licensee/employer. This participation will normally be in the form of a complainant statement and comment on the licensee's presentation, followed in turn by an opportunity for the licensee to respond to the complainant's presentation. In cases where the complainant is unable to attend in person, arrangements will be made for the complainant's participation by telephone or an opportunity given for the complainant to submit a written response to the licensee's presentation. If the licensee chooses to forego an enforcement conference and, instead, responds to the NRC's findings in writing, the complainant will be provided the opportunity to submit written comments on the licensee's response. For cases involving potential discrimination by a contractor, any associated predecisional enforcement conference with the contractor would be handled similarly. These arrangements for complainant participation in the predecisional enforcement conference are not to be conducted or viewed in any respect as an adjudicatory hearing. The purpose of the complainant's participation is to provide information to the NRC to assist it in its enforcement deliberations.

A predecisional enforcement conference may not need to be held in cases where there is a full adjudicatory record before the Department of Labor. If a conference is held in such cases, generally the conference will focus on the licensee's corrective action. As with discrimination cases based on OI investigations, the complainant may be allowed to participate.

Members of the public attending open conferences will be reminded that (1) The apparent violations discussed at predecisional enforcement conferences are subject to further review and may be subject to change prior to any resulting enforcement action and (2) the statements of views or expressions of opinion made by NRC employees at predecisional enforcement conferences, or the lack thereof, are not intended to represent final determinations or beliefs.

When needed to protect the public health and safety or common defense and security, escalated enforcement action, such as the issuance of an immediately effective order, will be taken before the conference. In these cases, a conference may be held after the escalated enforcement action is taken.

VI. Enforcement Actions

This section describes the enforcement sanctions available to the NRC and specifies the conditions under which each may be used. The basic enforcement sanctions are Notices of Violation, civil penalties, and orders of various types. As discussed further in Section VI.D, related administrative actions such as Notices of Nonconformance, Notices of Deviation, Confirmatory Action Letters, Letters of Reprimand, and Demands for Information are used to supplement the enforcement program. In selecting the enforcement sanctions or administrative actions, the NRC will consider enforcement actions taken by other Federal or State regulatory bodies having concurrent jurisdiction, such as in transportation matters.

Usually, whenever a violation of NRC requirements of more than a minor concern is identified, enforcement action is taken. The nature and extent of the enforcement action is intended to reflect the seriousness of the violation involved.

However, circumstances regarding the violation findings may warrant discretion being exercised such that the NRC refrains from issuing a Notice of Violation or other enforcement action. (See Section VII.B, ''Mitigation of Enforcement Sanctions.'')

A. Notice of Violation

A Notice of Violation is a written notice setting forth one or more violations of a legally binding requirement. The Notice of Violation normally requires the recipient to provide a written statement describing (1) the reasons for the violation or, if contested, the basis for disputing the violation; (2) corrective steps that have been taken and the results achieved; (3) corrective steps that will be taken to prevent recurrence; and (4) the date when full compliance will be achieved. The NRC may waive all or portions of a written response to the extent relevant information has already been provided to the NRC in writing or documented in an NRC inspection report. The NRC may require responses to Notices of Violation to be under oath. Normally, responses under oath will be required only in connection with Severity Level I, II, or III violations or orders.

The NRC uses the Notice of Violation as the usual method for formalizing the existence of a violation. Issuance of a Notice of Violation is normally the only enforcement action taken, except in cases where the criteria for issuance of civil penalties and orders, as set forth in Sections VI.B and VI.C, respectively, are met.

B. Civil Penalty

A civil penalty is a monetary penalty that may be imposed for violation of (1) certain specified licensing provisions of the Atomic Energy Act or supplementary NRC rules or orders; (2) any requirement for which a license may be revoked; or (3) reporting requirements under section 206 of the Energy Reorganization Act. Civil penalties are designed to deter future violations both by the involved licensee as well as by other licensees conducting similar activities and to emphasize the need for licensees to identify violations and take prompt comprehensive corrective action.

Civil penalties are considered for Severity Level III violations. In addition, civil penalties will normally be assessed for Severity Level I and II violations and knowing and conscious violations of the reporting requirements of section 206 of the Energy Reorganization Act.

Civil penalties are used to encourage prompt identification and prompt and comprehensive correction of violations, to emphasize compliance in a manner that deters future violations, and to serve to focus licensees' attention on significant violations.

Although management involvement, direct or indirect, in a violation may lead to an increase in the civil penalty, the lack of management involvement may not be used to mitigate a civil penalty. Allowing mitigation in the latter case could encourage the lack of management involvement in licensed activities and a decrease in protection of the public health and safety.

1. Base Civil Penalty

The NRC imposes different levels of penalties for different severity level violations and different classes of licensees, contractors, and other persons. Tables 1A and 1B show the base civil penalties for various reactor, fuel cycle, and materials programs. (Civil penalties issued to individuals are determined on a case-by-case basis.) The structure of these tables generally takes into account the gravity of the violation as a primary consideration and the ability to pay as a secondary consideration. Generally, operations involving greater nuclear material inventories and greater potential consequences to the public and licensee employees receive higher civil penalties. Regarding the secondary factor of ability of various classes of licensees to pay the civil penalties, it is not the NRC's intention that the economic impact of a civil penalty be so severe that it puts a licensee out of business (orders, rather than civil penalties, are used when the intent is to suspend or terminate licensed activities) or adversely affects a licensee's ability to safely conduct licensed activities. The deterrent effect of civil penalties is best served when the amounts of the penalties take into account a licensee's ability to pay. In determining the amount of civil penalties for licensees for whom the tables do not reflect the ability to pay or the gravity of the violation, the NRC will consider as necessary an increase or decrease on a case-by-case basis. Normally, if a licensee can demonstrate financial hardship, the NRC will consider payments over time, including interest, rather than reducing the amount of the civil penalty. However, where a licensee claims financial hardship, the licensee will normally be required to address why it has sufficient resources to safely conduct licensed activities and pay license and inspection fees.

TABLE 1A.—BASE CIVIL PENALTIES

a. Power reactors and gaseous diffusion plants	$110,000
b. Fuel fabricators authorized to possess Category I or II quantities of SNM	55,000
c. Fuel fabricators, industrial processors,[1] and independent spent fuel and monitored retrievable storage installations	27,500
d. Test reactors, mills and uranium conversion facilities, contractors, waste disposal licensees, industrial radiographers, and other large material users	11,000
e. Research reactors, academic, medical, or other small material users[2]	5,500

[1] Large firms engaged in manufacturing or distribution of byproduct, source, or special nuclear material.

[2] This applies to nonprofit institutions not otherwise categorized in this table, mobile nuclear services, nuclear pharmacies, and physician offices.

TABLE 1B.—BASE CIVIL PENALTIES

Severity level	Base civil penalty amount (Percent of amount listed in Table 1A)
I	100
II	80
III	50

2. Civil Penalty Assessment

In an effort to (1) emphasize the importance of adherence to requirements and (2) reinforce prompt

self-identification of problems and root causes and prompt and comprehensive correction of violations, the NRC reviews each proposed civil penalty on its own merits and, after considering all relevant circumstances, may adjust the base civil penalties shown in Table 1A and 1B for Severity Level I, II, and III violations as described below.

The civil penalty assessment process considers four decisional points: (a) Whether the licensee has had any previous escalated enforcement action (regardless of the activity area) during the past 2 years or past 2 inspections, whichever is longer; (b) whether the licensee should be given credit for actions related to identification; (c) whether the licensee's corrective actions are prompt and comprehensive; and (d) whether, in view of all the circumstances, the matter in question requires the exercise of discretion. Although each of these decisional points may have several associated considerations for any given case, the outcome of the assessment process for each violation or problem, absent the exercise of discretion, is limited to one of the following three results: no civil penalty, a base civil penalty, or a base civil penalty escalated by 100%. The flow chart presented below is a graphic representation of the civil penalty assessment process.

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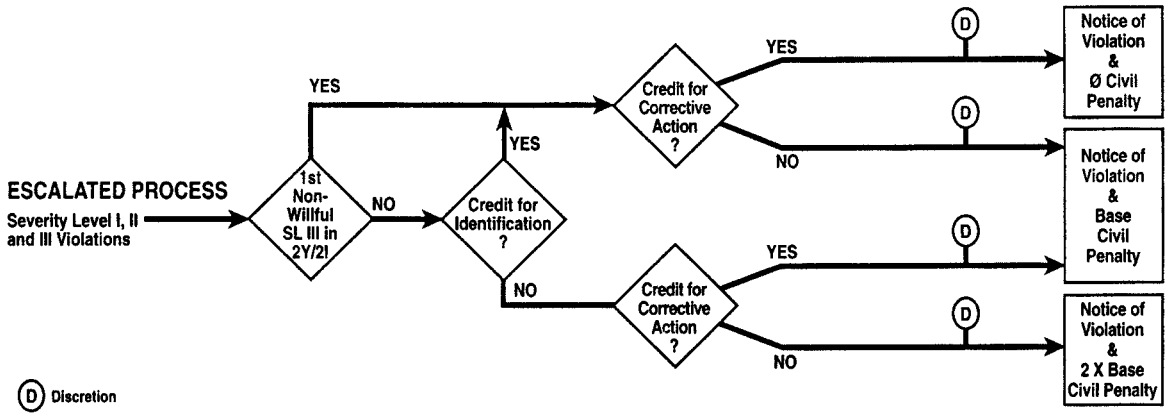

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a. Initial escalated action. When the NRC determines that a non-willful Severity Level III violation or problem has occurred, and the licensee has not had *any* previous escalated actions (regardless of the activity area) during the past 2 years or 2 inspections, whichever is longer, the NRC will consider whether the licensee's corrective action for the present violation or problem is reasonably prompt and comprehensive (see the discussion under Section VI.B.2.c, below). Using 2 years as the basis for assessment is expected to cover most situations, but considering a slightly longer or shorter period might be warranted based on the circumstances of a particular case. The starting point of this period should be considered the date when the licensee was put on notice of the need to take corrective action. For a licensee-identified violation or an event, this would be when the licensee is aware that a problem or violation exists requiring corrective action. For an NRC-identified violation, the starting point would be when the NRC puts the licensee on notice, which could be during the inspection, at the inspection exit meeting, or as part of post-inspection communication.

If the corrective action is judged to be prompt and comprehensive, a Notice of Violation normally should be issued with no associated civil penalty. If the corrective action is judged to be less than prompt and comprehensive, the Notice of Violation normally should be issued with a base civil penalty.

b. Credit for Actions Related to Identification. (1) If a Severity Level I or II violation or a willful Severity Level III violation has occurred—or if, during the past 2 years or 2 inspections, whichever is longer, the licensee has been issued at least one other escalated action—the civil penalty assessment should normally consider the factor of identification in addition to corrective action (see the discussion under Section VI.B.2.c, below). As to identification, the NRC should consider whether the licensee should be given credit for actions related to identification.

In each case, the decision should be focused on identification of the problem requiring corrective action. In other words, although giving credit for Identification and Corrective Action should be separate decisions, the concept of Identification presumes that the identifier recognizes the existence of a problem, and understands that corrective action is needed. The decision on Identification requires considering all the circumstances of identification including:

(i) Whether the problem requiring corrective action was NRC-identified, licensee-identified, or revealed through an event;[7]

(ii) Whether prior opportunities existed to identify the problem requiring corrective action, and if so, the age and number of those opportunities;

(iii) Whether the problem was revealed as the result of a licensee self-monitoring effort, such as conducting an audit, a test, a surveillance, a design review, or troubleshooting;

(iv) For a problem revealed through an event, the ease of discovery, and the degree of licensee initiative in identifying the root cause of the problem and any associated violations;

(v) For NRC-identified issues, whether the licensee would likely have identified the issue in the same time-period if the NRC had not been involved;

[7] An ''event,'' as used here, means (1) an event characterized by an active adverse impact on equipment or personnel, readily obvious by human observation or instrumentation, or (2) a radiological impact on personnel or the environment in excess of regulatory limits, such as an overexposure, a release of radioactive material above NRC limits, or a loss of radioactive material. For example, an equipment failure discovered through a spill of liquid, a loud noise, the failure to have a system respond properly, or an annunciator alarm would be considered an event; a system discovered to be inoperable through a document review would not. Similarly, if a licensee discovered, through quarterly dosimetry readings, that employees have been inadequately monitored for radiation, the issue would normally be considered licensee-identified; however, if the same dosimetry readings disclosed an overexposure, the issue would be considered an event.

(vi) For NRC-identified issues, whether the licensee should have identified the issue (and taken action) earlier; and

(vii) For cases in which the NRC identifies the overall problem requiring corrective action (*e.g.*, a programmatic issue), the degree of licensee initiative or lack of initiative in identifying the problem or problems requiring corrective action.

(2) Although some cases may consider all of the above factors, the importance of each factor will vary based on the type of case as discussed in the following general guidance:

(i) Licensee-Identified. When a problem requiring corrective action is licensee-identified (*i.e.*, identified before the problem has resulted in an event), the NRC should normally give the licensee credit for actions related to identification, regardless of whether prior opportunities existed to identify the problem.

(ii) Identified Through an Event. When a problem requiring corrective action is identified through an event, the decision on whether to give the licensee credit for actions related to identification normally should consider the ease of discovery, whether the event occurred as the result of a licensee self-monitoring effort (*i.e.*, whether the licensee was ''looking for the problem''), the degree of licensee initiative in identifying the problem or problems requiring corrective action, and whether prior opportunities existed to identify the problem.

Any of these considerations may be overriding if particularly noteworthy or particularly egregious. For example, if the event occurred as the result of conducting a surveillance or similar self-monitoring effort (*i.e.*, the licensee was looking for the problem), the licensee should normally be given credit for identification. As a second instance, even if the problem was easily discovered (*e.g.*, revealed by a large spill of liquid), the NRC may choose to give credit because noteworthy licensee effort was exerted in ferreting out the root cause and associated violations, or simply because no prior opportunities (*e.g.*, procedural cautions, post-maintenance testing, quality control failures, readily observable parameter trends, or repeated or locked-in annunciator warnings) existed to identify the problem.

(iii) NRC-Identified. When a problem requiring corrective action is NRC-identified, the decision on whether to give the licensee credit for actions related to Identification should normally be based on an additional question: should the licensee have reasonably identified the problem (and taken action) earlier?

In most cases, this reasoning may be based simply on the ease of the NRC inspector's discovery (*e.g.*, conducting a walkdown, observing in the control room, performing a confirmatory NRC radiation survey, hearing a cavitating pump, or finding a valve obviously out of position). In some cases, the licensee's missed opportunities to identify the problem might include a similar previous violation, NRC or industry notices, internal audits, or readily observable trends.

If the NRC identifies the violation but concludes that, under the circumstances, the licensee's actions related to Identification were not unreasonable, the matter would be treated as licensee-identified for purposes of assessing the civil penalty. In such cases, the question of Identification credit shifts to whether the licensee should be penalized for NRC's identification of the problem.

(iv) Mixed Identification. For ''mixed'' identification situations (*i.e.*, where multiple violations exist, some NRC-identified, some licensee-identified, or where the NRC prompted the licensee to take action that resulted in the identification of the violation), the NRC's evaluation should normally determine whether the licensee could reasonably have been expected to identify the violation in the NRC's absence. This determination should consider, among other things, the timing of the NRC's discovery, the information available to the licensee that caused the NRC concern, the specificity of the NRC's concern, the scope of the licensee's efforts, the level of licensee resources given to the investigation, and whether the NRC's path of analysis had been dismissed or was being pursued in parallel by the licensee.

In some cases, the licensee may have addressed the isolated symptoms of each violation (and may have identified the violations), but failed to recognize the common root cause and taken the necessary comprehensive action. Where this is true, the decision on whether to give licensee credit for actions related to Identification should focus on identification of the problem requiring corrective action (*e.g.*, the programmatic breakdown). As such, depending on the chronology of the various violations, the earliest of the individual violations might be considered missed opportunities for the licensee to have identified the larger problem.

(v) Missed Opportunities to Identify. Missed opportunities include prior notifications or missed opportunities to identify or prevent violations such as (1) through normal surveillances, audits, or quality assurance (QA) activities; (2) through prior notice, *i.e.*, specific NRC or industry notification; or (3) through other reasonable indication of a potential problem or violation, such as observations of employees and contractors, and failure to take effective corrective steps. It may include findings of the NRC, the licensee, or industry made at other facilities operated by the licensee where it is reasonable to expect the licensee to take action to identify or prevent similar problems at the facility subject to the enforcement action at issue. In assessing this factor, consideration will be given to, among other things, the opportunities available to discover the violation, the ease of discovery, the similarity between the violation and the notification, the period of time between when the violation occurred and when the notification was issued, the action taken (or planned) by the licensee in response to the notification, and the level of management review that the notification received (or should have received).

The evaluation of missed opportunities should normally depend on whether the information available to the licensee should reasonably have caused action that would have prevented the violation. Missed opportunities is normally not applied where the licensee appropriately reviewed the opportunity for application to its activities and reasonable action was either taken or planned to be taken within a reasonable time.

In some situations the missed opportunity is a violation in itself. In these cases, unless the missed opportunity is a Severity Level III violation in itself, the missed opportunity violation may be grouped with the other violations into a single Severity Level III ''problem.'' However, if the missed opportunity is the only violation, then it should not normally be counted twice (*i.e.*, both as the violation and as a missed opportunity—''double counting'') unless the number of opportunities missed was particularly significant.

The timing of the missed opportunity should also be considered. While a rigid time-frame is unnecessary, a 2-year period should generally be considered for consistency in implementation, as the period reflecting relatively current performance.

(3) When the NRC determines that the licensee should receive credit for actions related to Identification, the civil penalty assessment should normally result in either no civil penalty or a base civil penalty, based on

whether Corrective Action is judged to be reasonably prompt and comprehensive. When the licensee is not given credit for actions related to Identification, the civil penalty assessment should normally result in a Notice of Violation with either a base civil penalty or a base civil penalty escalated by 100%, depending on the quality of Corrective Action, because the licensee's performance is clearly not acceptable.

c. Credit for Prompt and Comprehensive Corrective Action. The purpose of the Corrective Action factor is to encourage licensees to (1) take the immediate actions necessary upon discovery of a violation that will restore safety and compliance with the license, regulation(s), or other requirement(s); and (2) develop and implement (in a timely manner) the lasting actions that will not only prevent recurrence of the violation at issue, but will be appropriately comprehensive, given the significance and complexity of the violation, to prevent occurrence of violations with similar root causes.

Regardless of other circumstances (*e.g.,* past enforcement history, identification), the licensee's corrective actions should always be evaluated as part of the civil penalty assessment process. As a reflection of the importance given to this factor, an NRC judgment that the licensee's corrective action has not been prompt and comprehensive will always result in issuing at least a base civil penalty.

In assessing this factor, consideration will be given to the timeliness of the corrective action (including the promptness in developing the schedule for long term corrective action), the adequacy of the licensee's root cause analysis for the violation, and given the significance and complexity of the issue, the comprehensiveness of the corrective action (*i.e.,* whether the action is focused narrowly to the specific violation or broadly to the general area of concern). Even in cases when the NRC, at the time of the enforcement conference, identifies additional peripheral or minor corrective action still to be taken, the licensee may be given credit in this area, as long as the licensee's actions addressed the underlying root cause and are considered sufficient to prevent recurrence of the violation and similar violations.

Normally, the judgment of the adequacy of corrective actions will hinge on whether the NRC had to take action to focus the licensee's evaluative and corrective process in order to obtain comprehensive corrective action. This will normally be judged at the time of the predecisional enforcement conference (*e.g.,* by outlining substantive additional areas where corrective action is needed). Earlier informal discussions between the licensee and NRC inspectors or management may result in improved corrective action, but should not normally be a basis to deny credit for Corrective Action. For cases in which the licensee does not get credit for actions related to Identification because the NRC identified the problem, the assessment of the licensee's corrective action should begin from the time when the NRC put the licensee on notice of the problem. Notwithstanding eventual good comprehensive corrective action, if immediate corrective action was not taken to restore safety and compliance once the violation was identified, corrective action would not be considered prompt and comprehensive.

Corrective action for violations involving discrimination should normally only be considered comprehensive if the licensee takes prompt, comprehensive corrective action that (1) addresses the broader environment for raising safety concerns in the workplace, and (2) provides a remedy for the particular discrimination at issue.

In response to violations of 10 CFR 50.59, corrective action should normally be considered prompt and comprehensive only if the licensee

(i) Makes a prompt decision on operability; and either

(ii) Makes a prompt evaluation under 10 CFR 50.59 if the licensee intends to maintain the facility or procedure in the as found condition; or

(iii) Promptly initiates corrective action consistent with Criterion XVI of 10 CFR 50, Appendix B, if it intends to restore the facility or procedure to the FSAR description.

d. Exercise of Discretion. As provided in Section VII, ''Exercise of Discretion,'' discretion may be exercised by either escalating or mitigating the amount of the civil penalty determined after applying the civil penalty adjustment factors to ensure that the proposed civil penalty reflects all relevant circumstances of the particular case. However, in no instance will a civil penalty for any one violation exceed $110,000 per day.

C. Orders

An order is a written NRC directive to modify, suspend, or revoke a license; to cease and desist from a given practice or activity; or to take such other action as may be proper (see 10 CFR 2.202). Orders may also be issued in lieu of, or in addition to, civil penalties, as appropriate for Severity Level I, II, or III violations. Orders may be issued as follows:

1. License Modification orders are issued when some change in licensee equipment, procedures, personnel, or management controls is necessary.

2. Suspension Orders may be used:

(a) To remove a threat to the public health and safety, common defense and security, or the environment;

(b) To stop facility construction when,

(i) Further work could preclude or significantly hinder the identification or correction of an improperly constructed safety-related system or component; or

(ii) The licensee's quality assurance program implementation is not adequate to provide confidence that construction activities are being properly carried out;

(c) When the licensee has not responded adequately to other enforcement action;

(d) When the licensee interferes with the conduct of an inspection or investigation; or

(e) For any reason not mentioned above for which license revocation is legally authorized.

Suspensions may apply to all or part of the licensed activity. Ordinarily, a licensed activity is not suspended (nor is a suspension prolonged) for failure to comply with requirements where such failure is not willful and adequate corrective action has been taken.

3. Revocation Orders may be used:

(a) When a licensee is unable or unwilling to comply with NRC requirements;

(b) When a licensee refuses to correct a violation;

(c) When licensee does not respond to a Notice of Violation where a response was required;

(d) When a licensee refuses to pay an applicable fee under the Commission's regulations; or

(e) For any other reason for which revocation is authorized under section 186 of the Atomic Energy Act (*e.g.,* any condition which would warrant refusal of a license on an original application).

4. Cease and Desist Orders may be used to stop an unauthorized activity that has continued after notification by the NRC that the activity is unauthorized.

5. Orders to non-licensees, including contractors and subcontractors, holders of NRC approvals, *e.g.,* certificates of compliance, early site permits, standard design certificates, or applicants for any of them, and to employees of any of the foregoing, are used when the NRC has identified deliberate misconduct that may cause a licensee to be in violation of an NRC requirement or where incomplete or inaccurate information is

deliberately submitted or where the NRC loses its reasonable assurance that the licensee will meet NRC requirements with that person involved in licensed activities.

Unless a separate response is warranted pursuant to 10 CFR 2.201, a Notice of Violation need not be issued where an order is based on violations described in the order. The violations described in an order need not be categorized by severity level.

Orders are made effective immediately, without prior opportunity for hearing, whenever it is determined that the public health, interest, or safety so requires, or when the order is responding to a violation involving willfulness. Otherwise, a prior opportunity for a hearing on the order is afforded. For cases in which the NRC believes a basis could reasonably exist for not taking the action as proposed, the licensee will ordinarily be afforded an opportunity to show why the order should not be issued in the proposed manner by way of a Demand for Information. (See 10 CFR 2.204)

D. Related Administrative Actions

In addition to the formal enforcement actions, Notices of Violation, civil penalties, and orders, the NRC also uses administrative actions, such as Notices of Deviation, Notices of Nonconformance, Confirmatory Action Letters, Letters of Reprimand, and Demands for Information to supplement its enforcement program. The NRC expects licensees and contractors to adhere to any obligations and commitments resulting from these actions and will not hesitate to issue appropriate orders to ensure that these obligations and commitments are met.

1. Notices of Deviation are written notices describing a licensee's failure to satisfy a commitment where the commitment involved has not been made a legally binding requirement. A Notice of Deviation requests a licensee to provide a written explanation or statement describing corrective steps taken (or planned), the results achieved, and the date when corrective action will be completed.

2. Notices of Nonconformance are written notices describing contractors' failures to meet commitments which have not been made legally binding requirements by NRC. An example is a commitment made in a procurement contract with a licensee as required by 10 CFR Part 50, Appendix B. Notices of Nonconformances request non-licensees to provide written explanations or statements describing corrective steps (taken or planned), the results achieved, the dates when corrective actions will be completed, and measures taken to preclude recurrence.

3. Confirmatory Action Letters are letters confirming a licensee's or contractor's agreement to take certain actions to remove significant concerns about health and safety, safeguards, or the environment.

4. Letters of Reprimand are letters addressed to individuals subject to Commission jurisdiction identifying a significant deficiency in their performance of licensed activities.

5. Demands for Information are demands for information from licensees or other persons for the purpose of enabling the NRC to determine whether an order or other enforcement action should be issued.

VII. Exercise of Discretion

Notwithstanding the normal guidance contained in this policy, as provided in Section III, ''Responsibilities,'' the NRC may choose to exercise discretion and either escalate or mitigate enforcement sanctions within the Commission's statutory authority to ensure that the resulting enforcement action takes into consideration all of the relevant circumstances of the particular case.

A. Escalation of Enforcement Sanctions

The NRC considers violations categorized at Severity Level I, II, or III to be of significant regulatory concern. If the application of the normal guidance in this policy does not result in an appropriate sanction, with the approval of the Deputy Executive Director and consultation with the EDO and Commission, as warranted, the NRC may apply its full enforcement authority where the action is warranted. NRC action may include (1) escalating civil penalties; (2) issuing appropriate orders; and (3) assessing civil penalties for continuing violations on a per day basis, up to the statutory limit of $110,000 per violation, per day.

1. Civil Penalties

Notwithstanding the outcome of the normal civil penalty assessment process addressed in Section VI.B, the NRC may exercise discretion by either proposing a civil penalty where application of the factors would otherwise result in zero penalty or by escalating the amount of the resulting civil penalty (*i.e.*, base or twice the base civil penalty) to ensure that the proposed civil penalty reflects the significance of the circumstances. The Commission will be notified if the deviation in the amount of the civil penalty proposed under this discretion from the amount of the civil penalty assessed under the normal process is more than two times the base civil penalty shown in Tables 1A and 1B. Examples when this discretion should be considered include, but are not limited to the following:

(a) Problems categorized at Severity Level I or II;

(b) Overexposures, or releases of radiological material in excess of NRC requirements;

(c) Situations involving particularly poor licensee performance, or involving willfulness;

(d) Situations when the licensee's previous enforcement history has been particularly poor, or when the current violation is directly repetitive of an earlier violation;

(e) Situations when the violation results in a substantial increase in risk, including cases in which the duration of the violation has contributed to the substantial increase;

(f) Situations when the licensee made a conscious decision to be in noncompliance in order to obtain an economic benefit;

(g) Cases involving the loss of a source. In addition, unless the licensee self-identifies and reports the loss to the NRC, these cases should normally result in a civil penalty in an amount at least in the order of the cost of an authorized disposal of the material or of the transfer of the material to an authorized recipient; or

(h) Severity Level II or III violations associated with departures from the Final Safety Analysis Report identified after March 30, 2000, for risk-significant items as defined by the licensee's maintenance rule program and March 30, 2001, for all other issues. Such a violation or problem would consider the number and nature of the violations, the severity of the violations, whether the violations were continuing, and who identified the violations (and if the licensee identified the violation, whether exercise of Section VII.B.3 enforcement discretion is warranted.)

2. Orders

The NRC may, where necessary or desirable, issues orders in conjunction with or in lieu of civil penalties to achieve or formalize corrective actions and to deter further recurrence of serious violations.

3. Daily Civil Penalties

To recognize the added significance for those cases where a very strong message is warranted for a significant violation that continues for more than one day, the NRC may exercise discretion and assess a separate violation and attendant civil penalty up to the statutory limit of $110,000 for each day the violation continues. The

NRC may exercise this discretion if a licensee was aware or clearly should have been aware of a violation, or if the licensee had an opportunity to identify and correct the violation but failed to do so.

B. Mitigation of Enforcement Sanctions

The NRC may exercise discretion and refrain from issuing a civil penalty and/or a Notice of Violation after considering the general principles of this statement of policy and the surrounding circumstances. The approval of the Director, Office of Enforcement, with consultation with the Deputy Executive Director as warranted, is required for exercising discretion of the type described in Sections VII.B.1.a and VII.B.1.h where a willful violation is involved, and of the types described in Sections VII.B.2 through VII.B.6. The circumstances under which mitigation discretion should be considered include, but are not limited to the following:

1. Non-Cited Violations (NCVs)

A Non-Cited Violation (NCV) is defined as a Severity Level IV violation for which the staff chooses to exercise discretion in accordance with the Enforcement Policy and refrain from issuing a Notice of Violation pursuant to 10 CFR 2.201.

Severity Level IV violations are defined in the Enforcement Policy as violations of more than minor concern. Violations at Severity Level IV involve noncompliance with NRC requirements that are not considered significant based on risk. This should not be misunderstood to imply that Severity Level IV issues have no risk significance.

Exercising this type of discretion for Severity Level IV violations does not eliminate the NRC's emphasis on compliance with requirements nor the importance of maintaining safety. NRC inspectors will continue to identify and document Severity Level IV violations associated with matters they inspect. Doing so prompts licensees to take corrective actions and assures the public that violations are not ignored. This type of discretion is merely an option for dispositioning Severity Level IV violations; it does not change the threshold for Severity Level IV violations. This approach will allow licensees to dispute violations described as NCVs.

The specific criteria for exercising NCV discretion is described in the sections below.

a. Power Reactor Licensees. Severity Level IV violations at power reactors will normally be dispositioned as NCVs. Notwithstanding that this is the normal policy, the disposition of a Severity Level IV violation as an NCV is still an exercise of discretion, in that the agency is making a conscious decision not to issue a legal citation (Notice of Violation) for a violation of the requirements. Severity Level IV violations will be described in inspection reports, although the NRC will close these violations based on their being entered into the licensee's corrective action program. At the time a violation is closed in an inspection report, the licensee may not have completed its corrective actions or begun the process to identify the root cause and develop action to prevent recurrence. Licensee actions will be taken commensurate with the established priorities and processes of the licensee's corrective action program. The NRC inspection program will provide an assessment of the effectiveness of the corrective action program. In addition to documentation in inspection reports, violations will be entered into the Plant Issues Matrix (PIM) that the NRC maintains for each facility to assist in identifying declining performance and determining repetitiveness.

Because the NRC will not normally obtain a written response from licensees describing actions taken to restore compliance and prevent recurrence of Severity Level IV violations, this enforcement approach places greater NRC reliance on licensee corrective action programs. Therefore, notwithstanding the normal approach of treating most Severity Level IV violations as NCVs, the NRC has identified four circumstances in which a written response to a Severity Level IV violation may be important. Any one of the following circumstances will result in consideration of a Notice of Violation (NOV) requiring a formal written response from a licensee.

1. The licensee failed to restore compliance within a reasonable time after a violation was identified.

2. The licensee did not place the violation into a corrective action program to address recurrence.

3. The violation is repetitive as a result of inadequate corrective action, and was identified by the NRC.

4. The violation was willful. Notwithstanding willfulness, an NCV may still be appropriate if:

(i) The licensee identified the violation and the information concerning the violation, if not required to be reported, was promptly provided to appropriate NRC personnel, such as a resident inspector or regional section or branch chief;

(ii) The violation involved the acts of a low-level individual (and not a licensee official as defined in Section IV.A);

(iii) The violation appears to be the isolated action of the employee without management involvement and the violation was not caused by lack of management oversight as evidenced by either a history of isolated willful violations or a lack of adequate audits or supervision of employees; and

(iv) Significant remedial action commensurate with the circumstances was taken by the licensee such that it demonstrated the seriousness of the violation to other employees and contractors, thereby creating a deterrent effect within the licensee's organization.

b.–g. [Reserved]

h. All Other Licensees. The NRC, with the approval of the Regional Administrator or his or her designee, may refrain from issuing an NOV for a Severity Level IV violation that is documented in an inspection report (or official field notes for some material cases) and described therein as an NCV provided that the inspection report includes a brief description of the corrective action and that the violation meets all of the following criteria:

1. It was identified by the licensee;[8]

2. It was not a violation that could reasonably be expected to have been prevented by the licensee's corrective action for a previous violation or a previous licensee finding that occurred within the past 2 years of the inspection at issue, or the period within the last two inspections, whichever is longer;

3. It was or will be corrected within a reasonable time, by specific corrective action committed to by the licensee by the end of the inspection, including immediate corrective action and comprehensive corrective action to prevent recurrence; and

4. It was not a willful violation or if it was a willful violation;

(i) The information concerning the violation, if not required to be reported, was promptly provided to appropriate NRC personnel, such as a resident inspector or regional section or branch chief;

(ii) The violation involved the acts of a low-level individual (and not a licensee official as defined in Section IV.A);

(iii) The violation appears to be the isolated action of the employee without

[8] Discretion is not warranted when a licensee identifies a violation as a result of an event where the root cause of the event is obvious or the licensee had prior opportunity to identify the problem but failed to take action that would have prevented the event. Discretion may be warranted if the licensee demonstrated initiative in identifying the violation's root cause.

management involvement and the violation was not caused by lack of management oversight as evidenced by either a history of isolated willful violations or a lack of adequate audits or supervision of employees; and

(iv) Significant remedial action commensurate with the circumstances was taken by the licensee such that it demonstrated the seriousness of the violation to other employees and contractors, thereby creating a deterrent effect within the licensee's organization.

2. Violations Identified During Extended Shutdowns or Work Stoppages

The NRC may refrain from issuing a Notice of Violation or a proposed civil penalty for a violation that is identified after (i) the NRC has taken significant enforcement action based upon a major safety event contributing to an extended shutdown of an operating reactor or a material licensee (or a work stoppage at a construction site), or (ii) the licensee enters an extended shutdown or work stoppage related to generally poor performance over a long period of time, provided that the violation is documented in an inspection report (or official field notes for some material cases) and that it meets all of the following criteria:

(a) It was either licensee-identified as a result of a comprehensive program for problem identification and correction that was developed in response to the shutdown or identified as a result of an employee allegation to the licensee; (If the NRC identifies the violation and all of the other criteria are met, the NRC should determine whether enforcement action is necessary to achieve remedial action, or if discretion may still be appropriate.)

(b) It is based upon activities of the licensee prior to the events leading to the shutdown;

(c) It would not be categorized at Severity Level I;

(d) It was not willful; and

(e) The licensee's decision to restart the plant requires NRC concurrence.

3. Violations Involving Old Design Issues

The NRC may refrain from proposing a civil penalty for a Severity Level II or III violation involving a past problem, such as in engineering, design, or installation, provided that the violation is documented in an inspection report (or official field notes for some material cases) that includes a description of the corrective action and that it meets all of the following criteria:

(a) It was a licensee-identified as a result of its voluntary initiative;

(b) It was or will be corrected, including immediate corrective action and long term comprehensive corrective action to prevent recurrence, within a reasonable time following identification (this action should involve expanding the initiative, as necessary, to identify other failures caused by similar root causes); and

(c) It was not likely to be identified (after the violation occurred) by routine licensee efforts such as normal surveillance or quality assurance (QA) activities.

In addition, the NRC may refrain from issuing a Notice of Violation for a Severity Level II, III, or IV violation that meets the above criteria provided the violation was caused by conduct that is not reasonably linked to present performance (normally, violations that are at least 3 years old or violations occurring during plant construction) and there had not been prior notice so that the licensee should have reasonably identified the violation earlier. This exercise of discretion is to place a premium on licensees initiating efforts to identify and correct subtle violations that are not likely to be identified by routine efforts before degraded safety systems are called upon to work.

Section VII.B.3 discretion would not normally be applied to departures from the FSAR if:

(a) The NRC identifies the violation, unless it was likely in the staff's view that the licensee would have identified the violation in light of the defined scope, thoroughness, and schedule of the licensee's initiative provided the schedule provides for completion of the licensee's initiative by March 30, 2000, for risk-significant items as defined by the licensee's maintenance rule program and by March 30, 2001, for all other issues;

(b) The licensee identifies the violation as a result of an event or surveillance or other required testing where required corrective action identifies the FSAR issue;

(c) The licensee identifies the violation but had prior opportunities to do so (was aware of the departure from the FSAR) and failed to correct it earlier;

(d) There is willfulness associated with the violation;

(e) The licensee fails to make a report required by the identification of the departure from the FSAR; or

(f) The licensee either fails to take comprehensive corrective action or fails to appropriately expand the corrective action program. The corrective action should be broad with a defined scope and schedule.

4. Violations Identified Due to Previous Enforcement Action

The NRC may refrain from issuing a Notice of Violation or a proposed civil penalty for a violation that is identified after the NRC has taken enforcement action, provided that the violation is documented in an inspection report (or official field notes for some material cases) that includes a description of the corrective action and that it meets all of the following criteria:

(a) It was licensee-identified as part of the corrective action for the previous enforcement action;

(b) It has the same or similar root cause as the violation for which enforcement action was issued;

(c) It does not substantially change the safety significance or the character of the regulatory concern arising out of the initial violation; and

(d) It was or will be corrected, including immediate corrective action and long term comprehensive corrective action to prevent recurrence, within a reasonable time following identification.

(e) It would not be categorized at Severity Level I.

5. Violations Involving Certain Discrimination Issues

Enforcement discretion may be exercised for discrimination cases when a licensee who, without the need for government intervention, identifies an issue of discrimination and takes prompt, comprehensive, and effective corrective action to address both the particular situation and the overall work environment for raising safety concerns. Similarly, enforcement may not be warranted where a complaint is filed with the Department of Labor (DOL) under Section 211 of the Energy Reorganization Act of 1974, as amended, but the licensee settles the matter before the DOL makes an initial finding of discrimination and addresses the overall work environment. Alternatively, if a finding of discrimination is made, the licensee may choose to settle the case before the evidentiary hearing begins. In such cases, the NRC may exercise its discretion not to take enforcement action when the licensee has addressed the overall work environment for raising safety concerns and has publicized that a complaint of discrimination for engaging in protected activity was made to the DOL, that the matter was settled to the satisfaction of the employee (the terms of the specific settlement agreement need not be posted), and that, if the DOL Area Office found discrimination, the licensee has taken action to positively reemphasize that

discrimination will not be tolerated. Similarly, the NRC may refrain from taking enforcement action if a licensee settles a matter promptly after a person comes to the NRC without going to the DOL. Such discretion would normally not be exercised in cases in which the licensee does not appropriately address the overall work environment (*e.g.*, by using training, postings, revised policies or procedures, any necessary disciplinary action, etc., to communicate its policy against discrimination) or in cases that involve: allegations of discrimination as a result of providing information directly to the NRC, allegations of discrimination caused by a manager above first-line supervisor (consistent with current Enforcement Policy classification of Severity Level I or II violations), allegations of discrimination where a history of findings of discrimination (by the DOL or the NRC) or settlements suggests a programmatic rather than an isolated discrimination problem, or allegations of discrimination which appear particularly blatant or egregious.

6. Violations Involving Special Circumstances

Notwithstanding the outcome of the normal enforcement process addressed in Section VI.A or the normal civil penalty assessment process addressed in Section VI.B, the NRC may reduce or refrain from issuing a civil penalty or a Notice of Violation for a Severity Level II, III, or IV violation based on the merits of the case after considering the guidance in this statement of policy and such factors as the age of the violation, the significance of the violation, the clarity of the requirement, the appropriateness of the requirement, the overall sustained performance of the licensee has been particularly good, and other relevant circumstances, including any that may have changed since the violation. This discretion is expected to be exercised only where application of the normal guidance in the policy is unwarranted. In addition, the NRC may refrain from issuing enforcement action for violations resulting from matters not within a licensee's control, such as equipment failures that were not avoidable by reasonable licensee quality assurance measures or management controls. Generally, however, licensees are held responsible for the acts of their employees and contractors. Accordingly, this policy should not be construed to excuse personnel or contractor errors.

C. Notice of Enforcement Discretion for Power Reactors and Gaseous Diffusion Plants

On occasion, circumstances may arise where a power reactor's compliance with a Technical Specification (TS) Limiting Condition for Operation or with other license conditions would involve an unnecessary plant transient or performance of testing, inspection, or system realignment that is inappropriate with the specific plant conditions, or unnecessary delays in plant startup without a corresponding health and safety benefit. Similarly, for a gaseous diffusion plant (GDP), circumstances may arise where compliance with a Technical Safety Requirement (TSR) or technical specification or other certificate condition would unnecessarily call for a total plant shutdown or, notwithstanding that a safety, safeguards or security feature was degraded or inoperable, compliance would unnecessarily place the plant in a transient or condition where those features could be required.

In these circumstances, the NRC staff may choose not to enforce the applicable TS, TSR, or other license or certificate condition. This enforcement discretion, designated as a Notice of Enforcement Discretion (NOED), will only be exercised if the NRC staff is clearly satisfied that the action is consistent with protecting the public health and safety. The staff may also grant enforcement discretion in cases involving severe weather or other natural phenomena, based upon balancing the public health and safety or common defense and security of not operating, against the potential radiological or other hazards associated with continued operation, and a determination that safety will not be impacted unacceptably by exercising this discretion. The Commission is to be informed expeditiously following the granting of an NOED in such situations. A licensee or certificate holder seeking the issuance of a NOED must provide a written justification, or in circumstances where good cause is shown, oral justification followed as soon as possible by written justification, which documents the safety basis for the request and provides whatever other information the NRC staff deems necessary in making a decision on whether to issue a NOED.

The appropriate Regional Administrator, or his or her designee, may issue a NOED where the noncompliance is temporary and nonrecurring when an amendment is not practical. The Director, Office of Nuclear Reactor Regulation or Office of Nuclear Materials Safety and Safeguards, as appropriate, or his or her designee, may issue a NOED if the expected noncompliance will occur during the brief period of time it requires the NRC staff to process an emergency or exigent license amendment under the provisions of 10 CFR 50.91(a)(5) or (6) or a certificate amendment under 10 CFR 76.45. The person exercising enforcement discretion will document the decision.

For an operating reactor, this exercise of enforcement discretion is intended to minimize the potential safety consequences of unnecessary plant transients with the accompanying operational risks and impacts or to eliminate testing, inspection, or system realignment which is inappropriate for the particular plant conditions. For plants in a shutdown condition, exercising enforcement discretion is intended to reduce shutdown risk by, again, avoiding testing, inspection or system realignment which is inappropriate for the particular plant conditions, in that, it does not provide a safety benefit or may, in fact, be detrimental to safety in the particular plant condition. Exercising enforcement discretion for plants attempting to startup is less likely than exercising it for an operating plant, as simply delaying startup does not usually leave the plant in a condition in which it could experience undesirable transients. In such cases, the Commission would expect that discretion would be exercised with respect to equipment or systems only when it has at least concluded that, notwithstanding the conditions of the license: (1) The equipment or system does not perform a safety function in the mode in which operation is to occur; (2) the safety function performed by the equipment or system is of only marginal safety benefit, provided remaining in the current mode increases the likelihood of an unnecessary plant transient; or (3) the TS or other license condition requires a test, inspection or system realignment that is inappropriate for the particular plant conditions, in that it does not provide a safety benefit, or may, in fact, be detrimental to safety in the particular plant condition.

For GDPs, the exercise of enforcement discretion would be used where compliance with a certificate condition would involve an unnecessary plant shutdown or, notwithstanding that a safety, safeguards or security feature was degraded or inoperable, compliance would unnecessarily place the plant in a transient or condition where those features could be required. Such regulatory flexibility is needed because

a total plant shutdown is not necessarily the best response to a plant condition. GDPs are designed to operate continuously and have never been shut down. Although portions can be shut down for maintenance, the staff has been informed by the certificate holder that restart from a total plant shutdown may not be practical and the staff agrees that the design of a GDP does not make restart practical. Hence, the decision to place either GDP in plant-wide shutdown condition would be made only after determining that there is inadequate safety, safeguards, or security and considering the total impact of the shutdown on safety, the environment, safeguards, and security. A NOED would not be used for noncompliances with other than certificate requirements, or for situations where the certificate holder cannot demonstrate adequate safety, safeguards, or security.

The decision to exercise enforcement discretion does not change the fact that a violation will occur nor does it imply that enforcement discretion is being exercised for any violation that may have led to the violation at issue. In each case where the NRC staff has chosen to issue a NOED, enforcement action will normally be taken for the root causes, to the extent violations were involved, that led to the noncompliance for which enforcement discretion was used. The enforcement action is intended to emphasize that licensees and certificate holders should not rely on the NRC's authority to exercise enforcement discretion as a routine substitute for compliance or for requesting a license or certificate amendment.

Finally, it is expected that the NRC staff will exercise enforcement discretion in this area infrequently. Although a plant must shut down, refueling activities may be suspended, or plant startup may be delayed, absent the exercise of enforcement discretion, the NRC staff is under no obligation to take such a step merely because it has been requested. The decision to forego enforcement is discretionary. When enforcement discretion is to be exercised, it is to be exercised only if the NRC staff is clearly satisfied that such action is warranted from a health and safety perspective.

VIII. Enforcement Actions Involving Individuals

Enforcement actions involving individuals, including licensed operators, are significant personnel actions, which will be closely controlled and judiciously applied. An enforcement action involving an individual will normally be taken only when the NRC is satisfied that the individual fully understood, or should have understood, his or her responsibility; knew, or should have known, the required actions; and knowingly, or with careless disregard (*i.e.,* with more than mere negligence) failed to take required actions which have actual or potential safety significance. Most transgressions of individuals at the level of Severity Level III or IV violations will be handled by citing only the facility licensee.

More serious violations, including those involving the integrity of an individual (*e.g.,* lying to the NRC) concerning matters within the scope of the individual's responsibilities, will be considered for enforcement action against the individual as well as against the facility licensee. Action against the individual, however, will not be taken if the improper action by the individual was caused by management failures. The following examples of situations illustrate this concept:

- Inadvertent individual mistakes resulting from inadequate training or guidance provided by the facility licensee.
- Inadvertently missing an insignificant procedural requirement when the action is routine, fairly uncomplicated, and there is no unusual circumstance indicating that the procedures should be referred to and followed step-by-step.
- Compliance with an express direction of management, such as the Shift Supervisor or Plant Manager, resulted in a violation unless the individual did not express his or her concern or objection to the direction.
- Individual error directly resulting from following the technical advice of an expert unless the advise was clearly unreasonable and the licensed individual should have recognized it as such.
- Violations resulting from inadequate procedures unless the individual used a faulty procedure knowing it was faulty and had not attempted to get the procedure corrected.

Listed below are examples of situations which could result in enforcement actions involving individuals, licensed or unlicensed. If the actions described in these examples are taken by a licensed operator or taken deliberately by an unlicensed individual, enforcement action may be taken directly against the individual. However, violations involving willful conduct not amounting to deliberate action by an unlicensed individual in these situations may result in enforcement action against a licensee that may impact an individual. The situations include, but are not limited to, violations that involve:

- Willfully causing a licensee to be in violation of NRC requirements.
- Willfully taking action that would have caused a licensee to be in violation of NRC requirements but the action did not do so because it was detected and corrective action was taken.
- Recognizing a violation of procedural requirements and willfully not taking corrective action.
- Willfully defeating alarms which have safety significance.
- Unauthorized abandoning of reactor controls.
- Dereliction of duty.
- Falsifying records required by NRC regulations or by the facility license.
- Willfully providing, or causing a licensee to provide, an NRC inspector or investigator with inaccurate or incomplete information on a matter material to the NRC.
- Willfully withholding safety significant information rather than making such information known to appropriate supervisory or technical personnel in the licensee's organization.
- Submitting false information and as a result gaining unescorted access to a nuclear power plant.
- Willfully providing false data to a licensee by a contractor or other person who provides test or other services, when the data affects the licensee's compliance with 10 CFR Part 50, Appendix B, or other regulatory requirement.
- Willfully providing false certification that components meet the requirements of their intended use, such as ASME Code.
- Willfully supplying, by contractors of equipment for transportation of radioactive material, casks that do not comply with their certificates of compliance.
- Willfully performing unauthorized bypassing of required reactor or other facility safety systems.
- Willfully taking actions that violate Technical Specification Limiting Conditions for Operation or other license conditions (enforcement action for a willful violation will not be taken if that violation is the result of action taken following the NRC's decision to forego enforcement of the Technical Specification or other license condition or if the operator meets the requirements of 10 CFR 50.54 (x), (*i.e.,* unless the operator acted unreasonably considering all the relevant circumstances surrounding the emergency.)

Normally, some enforcement action is taken against a licensee for violations

caused by significant acts of wrongdoing by its employees, contractors, or contractors' employees. In deciding whether to issue an enforcement action to an unlicensed person as well as to the licensee, the NRC recognizes that judgments will have to be made on a case by case basis. In making these decisions, the NRC will consider factors such as the following:

1. The level of the individual within the organization.
2. The individual's training and experience as well as knowledge of the potential consequences of the wrongdoing.
3. The safety consequences of the misconduct.
4. The benefit to the wrongdoer, *e.g.*, personal or corporate gain.
5. The degree of supervision of the individual, *i.e.*, how closely is the individual monitored or audited, and the likelihood of detection (such as a radiographer working independently in the field as contrasted with a team activity at a power plant).
6. The employer's response, *e.g.*, disciplinary action taken.
7. The attitude of the wrongdoer, *e.g.*, admission of wrongdoing, acceptance of responsibility.
8. The degree of management responsibility or culpability.
9. Who identified the misconduct.

Any proposed enforcement action involving individuals must be issued with the concurrence of the Deputy Executive Director. The particular sanction to be used should be determined on a case-by-case basis.[9] Notices of Violation and Orders are examples of enforcement actions that may be appropriate against individuals. The administrative action of a Letter of Reprimand may also be considered. In addition, the NRC may issue Demands for Information to gather information to enable it to determine whether an order or other enforcement action should be issued.

Orders to NRC-licensed reactor operators may involve suspension for a specified period, modification, or revocation of their individual licenses. Orders to unlicensed individuals might include provisions that would;

- Prohibit involvement in NRC licensed activities for a specified period of time (normally the period of suspension would not exceed 5 years) or until certain conditions are satisfied, *e.g.*, completing specified training or meeting certain qualifications.
- Require notification to the NRC before resuming work in licensed activities.
- Require the person to tell a prospective employer or customer engaged in licensed activities that the person has been subject to an NRC order.

In the case of a licensed operator's failure to meet applicable fitness-for-duty requirements (10 CFR 55.53(j)), the NRC may issue a Notice of Violation or a civil penalty to the Part 55 licensee, or an order to suspend, modify, or revoke the Part 55 license. These actions may be taken the first time a licensed operator fails a drug or alcohol test, that is, receives a confirmed positive test that exceeds the cutoff levels of 10 CFR Part 26 or the facility licensee's cutoff levels, if lower. However, normally only a Notice of Violation will be issued for the first confirmed positive test in the absence of aggravating circumstances such as errors in the performance of licensed duties or evidence of prolonged use. In addition, the NRC intends to issue an order to suspend the Part 55 license for up to 3 years the second time a licensed operator exceeds those cutoff levels. In the event there are less than 3 years remaining in the term of the individual's license, the NRC may consider not renewing the individual's license or not issuing a new license after the three year period is completed. The NRC intends to issue an order to revoke the Part 55 license the third time a licensed operator exceeds those cutoff levels. A licensed operator or applicant who refuses to participate in the drug and alcohol testing programs established by the facility licensee or who is involved in the sale, use, or possession of an illegal drug is also subject to license suspension, revocation, or denial.

In addition, the NRC may take enforcement action against a licensee that may impact an individual, where the conduct of the individual places in question the NRC's reasonable assurance that licensed activities will be properly conducted. The NRC may take enforcement action for reasons that would warrant refusal to issue a license on an original application. Accordingly, appropriate enforcement actions may be taken regarding matters that raise issues of integrity, competence, fitness-for-duty, or other matters that may not necessarily be a violation of specific Commission requirements.

In the case of an unlicensed person, whether a firm or an individual, an order modifying the facility license may be issued to require (1) the removal of the person from all licensed activities for a specified period of time or indefinitely, (2) prior notice to the NRC before utilizing the person in licensed activities, or (3) the licensee to provide notice of the issuance of such an order to other persons involved in licensed activities making reference inquiries. In addition, orders to employers might require retraining, additional oversight, or independent verification of activities performed by the person, if the person is to be involved in licensed activities.

IX. Inaccurate and Incomplete Information

A violation of the regulations involving submittal of incomplete and/or inaccurate information, whether or not considered a material false statement, can result in the full range of enforcement sanctions. The labeling of a communication failure as a material false statement will be made on a case-by-case basis and will be reserved for egregious violations. Violations involving inaccurate or incomplete information or the failure to provide significant information identified by a licensee normally will be categorized based on the guidance herein, in Section IV, ''Significance of Violations,'' and in Supplement VII.

The Commission recognizes that oral information may in some situations be inherently less reliable than written submittals because of the absence of an opportunity for reflection and management review. However, the Commission must be able to rely on oral communications from licensee officials concerning significant information. Therefore, in determining whether to take enforcement action for an oral statement, consideration may be given to factors such as (1) the degree of knowledge that the communicator should have had, regarding the matter, in view of his or her position, training, and experience; (2) the opportunity and time available prior to the communication to assure the accuracy or completeness of the information; (3) the degree of intent or negligence, if any, involved; (4) the formality of the communication; (5) the reasonableness of NRC reliance on the information; (6) the importance of the information which was wrong or not provided; and (7) the reasonableness of the explanation for not providing complete and accurate information.

[9] Except for individuals subject to civil penalties under section 206 of the Energy Reorganization Act of 1974, as amended, NRC will not normally impose a civil penalty against an individual. However, section 234 of the Atomic Energy Act (AEA) gives the Commission authority to impose civil penalties on ''any person.'' ''Person'' is broadly defined in Section 11s of the AEA to include individuals, a variety of organizations, and any representatives or agents. This gives the Commission authority to impose civil penalties on employees of licensees or on separate entities when a violation of a requirement directly imposed on them is committed.

Absent at least careless disregard, an incomplete or inaccurate unsworn oral statement normally will not be subject to enforcement action unless it involves significant information provided by a licensee official. However, enforcement action may be taken for an unintentionally incomplete or inaccurate oral statement provided to the NRC by a licensee official or others on behalf of a licensee, if a record was made of the oral information and provided to the licensee thereby permitting an opportunity to correct the oral information, such as if a transcript of the communication or meeting summary containing the error was made available to the licensee and was not subsequently corrected in a timely manner.

When a licensee has corrected inaccurate or incomplete information, the decision to issue a Notice of Violation for the initial inaccurate or incomplete information normally will be dependent on the circumstances, including the ease of detection of the error, the timeliness of the correction, whether the NRC or the licensee identified the problem with the communication, and whether the NRC relied on the information prior to the correction. Generally, if the matter was promptly identified and corrected by the licensee prior to reliance by the NRC, or before the NRC raised a question about the information, no enforcement action will be taken for the initial inaccurate or incomplete information. On the other hand, if the misinformation is identified after the NRC relies on it, or after some question is raised regarding the accuracy of the information, then some enforcement action normally will be taken even if it is in fact corrected. However, if the initial submittal was accurate when made but later turns out to be erroneous because of newly discovered information or advance in technology, a citation normally would not be appropriate if, when the new information became available or the advancement in technology was made, the initial submittal was corrected.

The failure to correct inaccurate or incomplete information which the licensee does not identify as significant normally will not constitute a separate violation. However, the circumstances surrounding the failure to correct may be considered relevant to the determination of enforcement action for the initial inaccurate or incomplete statement. For example, an unintentionally inaccurate or incomplete submission may be treated as a more severe matter if the licensee later determines that the initial submittal was in error and does not correct it or if there were clear opportunities to identify the error. If information not corrected was recognized by a licensee as significant, a separate citation may be made for the failure to provide significant information. In any event, in serious cases where the licensee's actions in not correcting or providing information raise questions about its commitment to safety or its fundamental trustworthiness, the Commission may exercise its authority to issue orders modifying, suspending, or revoking the license. The Commission recognizes that enforcement determinations must be made on a case-by-case basis, taking into consideration the issues described in this section.

X. Enforcement Action Against Non-Licensees

The Commission's enforcement policy is also applicable to non-licensees, including contractors and subcontractors, holders of NRC approvals, *e.g.*, certificates of compliance, early site permits, standard design certificates, quality assurance program approvals, or applicants for any of them, and to employees of any of the foregoing, who knowingly provide components, equipment, or other goods or services that relate to a licensee's activities subject to NRC regulation. The prohibitions and sanctions for any of these persons who engage in deliberate misconduct or knowing submission of incomplete or inaccurate information are provided in the rule on deliberate misconduct, *e.g.*, 10 CFR 30.10 and 50.5.

Contractors who supply products or services provided for use in nuclear activities are subject to certain requirements designed to ensure that the products or services supplied that could affect safety are of high quality. Through procurement contracts with licensees, suppliers may be required to have quality assurance programs that meet applicable requirements, *e.g.*, 10 CFR Part 50, Appendix B, and 10 CFR Part 71, Subpart H. Contractors supplying certain products or services to licensees are subject to the requirements of 10 CFR Part 21 regarding reporting of defects in basic components.

When inspections determine that violations of NRC requirements have occurred, or that contractors have failed to fulfill contractual commitments (*e.g.*, 10 CFR Part 50, Appendix B) that could adversely affect the quality of a safety significant product or service, enforcement action will be taken. Notices of Violation and civil penalties will be used, as appropriate, for licensee failures to ensure that their contractors have programs that meet applicable requirements. Notices of Violation will be issued for contractors who violate 10 CFR Part 21. Civil penalties will be imposed against individual directors or responsible officers of a contractor organization who knowingly and consciously fail to provide the notice required by 10 CFR 21.21(d)(1). Notices of Violation or orders will be used against non-licensees who are subject to the specific requirements of Part 72. Notices of Nonconformance will be used for contractors who fail to meet commitments related to NRC activities but are not in violation of specific requirements.

XI. Referrals to the Department of Justice

Alleged or suspected criminal violations of the Atomic Energy Act (and of other relevant Federal laws) are referred to the Department of Justice (DOJ) for investigation. Referral to the DOJ does not preclude the NRC from taking other enforcement action under this policy. However, enforcement actions will be coordinated with the DOJ in accordance with the Memorandum of Understanding between the NRC and the DOJ, 53 FR 50317 (December 14, 1988).

XII. Public Disclosure of Enforcement Actions

Enforcement actions and licensees' responses, in accordance with 10 CFR 2.790, are publicly available for inspection. In addition, press releases are generally issued for orders and civil penalties and are issued at the same time the order or proposed imposition of the civil penalty is issued. In addition, press releases are usually issued when a proposed civil penalty is withdrawn or substantially mitigated by some amount. Press releases are not normally issued for Notices of Violation that are not accompanied by orders or proposed civil penalties.

XIII. Reopening Closed Enforcement Actions

If significant new information is received or obtained by NRC which indicates that an enforcement sanction was incorrectly applied, consideration may be given, dependent on the circumstances, to reopening a closed enforcement action to increase or decrease the severity of a sanction or to correct the record. Reopening decisions will be made on a case-by-case basis, are expected to occur rarely, and require the specific approval of the Deputy Executive Director.

Supplements—Violation Examples

This section provides examples of violations in each of four severity levels as guidance in determining the appropriate severity level for violations in each of eight activity areas (reactor operations, Part 50 facility construction, safeguards, health physics, transportation, fuel cycle and materials operations, miscellaneous matters, and emergency preparedness).

Supplement I—Reactor Operations

This supplement provides examples of violations in each of the four severity levels as guidance in determining the appropriate severity level for violations in the area of reactor operations.

A. Severity Level I—Violations involving for example:

1. A Safety Limit, as defined in 10 CFR 50.36 and the Technical Specifications being exceeded;

2. A system [10] designed to prevent or mitigate a serious safety event not being able to perform its intended safety function [11] when actually called upon to work;

3. An accidental criticality; or

4. A licensed operator at the controls of a nuclear reactor, or a senior operator directing licensed activities, involved in procedural errors which result in, or exacerbate the consequences of, an alert or higher level emergency and who, as a result of subsequent testing, receives a confirmed positive test result for drugs or alcohol.

B. Severity Level II—Violations involving for example:

1. A system designed to prevent or mitigate serious safety events not being able to perform its intended safety function;

2. A licensed operator involved in the use, sale, or possession of illegal drugs or the consumption of alcoholic beverages, within the protected area; or

3. A licensed operator at the control of a nuclear reactor, or a senior operator directing licensed activities, involved in procedural errors and who, as a result of subsequent testing, receives a confirmed positive test result for drugs or alcohol.

C. Severity Level III—Violations involving for example:

1. A significant failure to comply with the Action Statement for a Technical Specification Limiting Condition for Operation where the appropriate action was not taken within the required time, such as:

(a) In a pressurized water reactor, in the applicable modes, having one high-pressure safety injection pump inoperable for a period in excess of that allowed by the action statement; or

(b) In a boiling water reactor, one primary containment isolation valve inoperable for a period in excess of that allowed by the action statement.

2. A system designed to prevent or mitigate a serious safety event not being able to perform its intended function under certain conditions (*e.g.,* safety system not operable unless offsite power is available; materials or components not environmentally qualified).

3. Inattentiveness to duty on the part of licensed personnel;

4. Changes in reactor parameters that cause unanticipated reductions in margins of safety;

5. A non-willful compromise of an application, test, or examination required by 10 CFR Part 55 that:

(a) In the case of initial operator licensing, contributes to an individual being granted an operator or a senior operator license, or

(b) In the case of requalification, contributes to an individual being permitted to perform the functions of an operator or a senior operator.

6. A licensee failure to conduct adequate oversight of contractors resulting in the use of products or services that are of defective or indeterminate quality and that have safety significance;

7. A licensed operator's confirmed positive test for drugs or alcohol that does not result in a Severity Level I or II violation;

8. Equipment failures caused by inadequate or improper maintenance that substantially complicates recovery from a plant transient;

9. A failure to obtain prior Commission approval required by 10 CFR 50.59 for changes that would not be found acceptable by the Commission;

10. The failure to update the FSAR as required by 10 CFR 50.71(e) where the unupdated FSAR was used in performing a 10 CFR 50.59 evaluation for a change to the facility or procedures, implemented without prior Commission approval, that would not be found acceptable had approval been sought; or

11. The failure to make a report required by 10 CFR 50.72 or 50.73 associated with any Severity Level III violation.

D. Severity Level IV—Violations involving for example:

1. A less significant failure to comply with the Action Statement for a Technical Specification Limiting Condition for Operation where the appropriate action was not taken within the required time, such as:

(a) In a pressurized water reactor, a 5% deficiency in the required volume of the condensate storage tank; or

(b) In a boiling water reactor, one subsystem of the two independent MSIV leakage control subsystems inoperable;

2. A non-willful compromise of an application, test, or examination required by 10 CFR Part 55 that:

(a) In the case of initial operator licensing, is discovered and reported to the NRC before an individual is granted an operator or a senior operator license, or

(b) In the case of requalification, is discovered and reported to the NRC before an individual is permitted to perform the functions of an operator or a senior operator, or

(c) Constitutes more than minor concern.

3. A failure to meet regulatory requirements that have more than minor safety or environmental significance;

4. A failure to make a required Licensee Event Report;

5. Violations of 10 CFR 50.59 that do not involve circumstances in which a change that required prior Commission approval would not be found acceptable had the approval been sought; or

6. A failure to update the FSAR as required by 10 CFR 50.71(e) in cases where the erroneous information is not used to make an unacceptable change to the facility or procedures.

E. Minor Violations: A failure to meet 10 CFR 50.59 requirements that involves a change to the FSAR description or procedure, or involves a test or experiment not described in the FSAR, where there was not a reasonable likelihood that the change to the facility or procedure or the conduct of the test or experiment would ever be an unreviewed safety question. In the case of a 10 CFR 50.71(e) violation, where a failure to update the FSAR would not have a material impact on safety or licensed activities. The focus of the minor violation is not on the actual change, test, or experiment, but on the potential safety role of the system, equipment, etc., that is being changed, tested, or experimented on.

Supplement II—Part 50 Facility Construction

This supplement provides examples of violations in each of the four severity levels as guidance in determining the appropriate severity level for violations in the area of Part 50 facility construction.

A. Severity Level I—Violations involving structures or systems that are completed [12] in such a manner that they would not have satisfied their intended safety related purpose.

B. Severity Level II—Violations involving for example:

1. A breakdown in the Quality Assurance (QA) program as exemplified by deficiencies in construction QA related to more than one work activity (*e.g.,* structural, piping, electrical, foundations). These deficiencies normally involve the licensee's failure to conduct adequate audits or to take prompt corrective action on the basis of such audits and normally involve multiple examples of deficient construction or construction of unknown quality due to inadequate program implementation; or

2. A structure or system that is completed in such a manner that it could have an adverse effect on the safety of operations.

C. Severity Level III—Violations involving for example:

1. A deficiency in a licensee QA program for construction related to a single work activity (*e.g.,* structural, piping, electrical or foundations). This significant deficiency normally involves the licensee's failure to conduct adequate audits or to take prompt corrective action on the basis of such audits,

[10] The term ''system'' as used in these supplements, includes administrative and managerial control systems, as well as physical systems.

[11] ''Intended safety function'' means the total safety function, and is not directed toward a loss of redundancy. A loss of one subsystem does not defeat the intended safety function as long as the other subsystem is operable.

[12] The term ''completed'' as used in this supplement means completion of construction including review and acceptance by the construction QA organization.

and normally involves multiple examples of deficient construction or construction of unknown quality due to inadequate program implementation;

2. A failure to confirm the design safety requirements of a structure or system as a result of inadequate preoperational test program implementation; or

3. A failure to make a required 10 CFR 50.55(e) report.

D. Severity Level IV—Violations involving failure to meet regulatory requirements including one or more Quality Assurance Criterion not amounting to Severity Level I, II, or III violations that have more than minor safety or environmental significance.

Supplement III—Safeguards

This supplement provides examples of violations in each of the four severity levels as guidance in determining the appropriate severity level for violations in the area of safeguards.

A. Severity Level I—Violations involving for example:

1. An act of radiological sabotage in which the security system did not function as required and, as a result of the failure, there was a significant event, such as:

(a) A Safety Limit, as defined in 10 CFR 50.36 and the Technical Specifications, was exceeded;

(b) A system designed to prevent or mitigate a serious safety event was not able to perform its intended safety function when actually called upon to work; or

(c) An accidental criticality occurred;

2. The theft, loss, or diversion of a formula quantity [13] of special nuclear material (SNM); or

3. Actual unauthorized production of a formula quantity of SNM

B. Severity Level II—Violations involving for example:

1. The entry of an unauthorized individual [14] who represents a threat into a vital area [15] from outside the protected area;

2. The theft, loss or diversion of SNM of moderate strategic significance [16] in which the security system did not function as required; or

3. Actual unauthorized production of SNM.

C. Severity Level III—Violations involving for example:

1. A failure or inability to control access through established systems or procedures, such that an unauthorized individual (*i.e.,* not authorized unescorted access to protected area) could easily gain undetected access [17] into a vital area from outside the protected area;

2. A failure to conduct any search at the access control point or conducting an inadequate search that resulted in the introduction to the protected area of firearms, explosives, or incendiary devices and reasonable facsimiles thereof that could significantly assist radiological sabotage or theft of strategic SNM;

3. A failure, degradation, or other deficiency of the protected area intrusion detection or alarm assessment systems such that an unauthorized individual who represents a threat could predictably circumvent the system or defeat a specific zone with a high degree of confidence without insider knowledge, or other significant degradation of overall system capability;

4. A significant failure of the safeguards systems designed or used to prevent or detect the theft, loss, or diversion of strategic SNM;

5. A failure to protect or control classified or safeguards information considered to be significant while the information is outside the protected area and accessible to those not authorized access to the protected area;

6. A significant failure to respond to an event either in sufficient time to provide protection to vital equipment or strategic SNM, or with an adequate response force; or

7. A failure to perform an appropriate evaluation or background investigation so that information relevant to the access determination was not obtained or considered and as a result a person, who would likely not have been granted access by the licensee, if the required investigation or evaluation had been performed, was granted access.

D. Severity Level IV—Violations involving for example:

1. A failure or inability to control access such that an unauthorized individual (i.e., authorized to protected area but not to vital area) could easily gain undetected access into a vital area from inside the protected area or into a controlled access area;

2. A failure to respond to a suspected event in either a timely manner or with an adequate response force;

3. A failure to implement 10 CFR Parts 25 and 95 with respect to the information addressed under Section 142 of the Act, and the NRC approved security plan relevant to those parts;

4. A failure to conduct a proper search at the access control point;

5. A failure to properly secure or protect classified or safeguards information inside the protected area which could assist an individual in an act of radiological sabotage or theft of strategic SNM where the information was not removed from the protected area;

6. A failure to control access such that an opportunity exists that could allow unauthorized and undetected access into the protected area but which was neither easily or likely to be exploitable;

7. A failure to conduct an adequate search at the exit from a material access area;

8. A theft or loss of SNM of low strategic significance that was not detected within the time period specified in the security plan, other relevant document, or regulation; or

9. Other violations that have more than minor safeguards significance.

Supplement IV—Health Physics (10 CFR Part 20)

This supplement provides examples of violations in each of the four severity levels as guidance in determining the appropriate severity level for violations in the area of health physics, 10 CFR Part 20.[18]

A. Severity Level I—Violations involving for example:

1. A radiation exposure during any year of a worker in excess of 25 rems total effective dose equivalent, 75 rems to the lens of the eye, or 250 rads to the skin of the whole body, or to the feet, ankles, hands or forearms, or to any other organ or tissue;

2. A radiation exposure over the gestation period of the embryo/fetus of a declared pregnant woman in excess of 2.5 rems total effective dose equivalent;

3. A radiation exposure during any year of a minor in excess of 2.5 rems total effective dose equivalent, 7.5 rems to the lens of the eye, or 25 rems to the skin of the whole body, or to the feet, ankles, hands or forearms, or to any other organ or tissue;

4. An annual exposure of a member of the public in excess of 1.0 rem total effective dose equivalent;

5. A release of radioactive material to an unrestricted area at concentrations in excess of 50 times the limits for members of the public as described in 10 CFR 20.1302(b)(2)(i); or

6. Disposal of licensed material in quantities or concentrations in excess of 10 times the limits of 10 CFR 20.2003.

B. Severity Level II—Violations involving for example:

1. A radiation exposure during any year of a worker in excess of 10 rems total effective dose equivalent, 30 rems to the lens of the eye, or 100 rems to the skin of the whole body, or to the feet, ankles, hands or forearms, or to any other organ or tissue;

2. A radiation exposure over the gestation period of the embryo/fetus of a declared pregnant woman in excess of 1.0 rem total effective dose equivalent;

3. A radiation exposure during any year of a minor in excess of 1 rem total effective dose equivalent; 3.0 rems to the lens of the eye, or 10 rems to the skin of the whole body, or to the feet, ankles, hands or forearms, or to any other organ or tissue;

4. An annual exposure of a member of the public in excess of 0.5 rem total effective dose equivalent;

5. A release of radioactive material to an unrestricted area at concentrations in excess of 10 times the limits for members of the public as described in 10 CFR 20.1302(b)(2)(i) (except when operation up to 0.5 rem a year has been approved by the Commission under Section 20.1301(c));

6. Disposal of licensed material in quantities or concentrations in excess of five times the limits of 10 CFR 20.2003; or

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[13] See 10 CFR 73.2 for the definition of ''formula quantity.''

[14] The term ''unauthorized individual'' as used in this supplement means someone who was not authorized for entrance into the area in question, or not authorized to enter in the manner entered.

[15] The phrase ''vital area'' as used in this supplement includes vital areas and material access areas.

[16] See 10 CFR 73.2 for the definition of ''special nuclear material of moderate strategic significance.''

[17] In determining whether access can be easily gained, factors such as predictability, identifiability, and ease of passage should be considered.

[18] Personnel overexposures and associated violations incurred during a life-saving or other emergency response effort will be treated on a case-by-case basis.

7. A failure to make an immediate notification as required by 10 CFR 20.2202 (a)(1) or (a)(2).

C. Severity Level III—Violations involving for example:

1. A radiation exposure during any year of a worker in excess of 5 rems total effective dose equivalent, 15 rems to the lens of the eye, or 50 rems to the skin of the whole body or to the feet, ankles, hands or forearms, or to any other organ or tissue;

2. A radiation exposure over the gestation period of the embryo/fetus of a declared pregnant woman in excess of 0.5 rem total effective dose equivalent (except when doses are in accordance with the provisions of Section 20.1208(d));

3. A radiation exposure during any year of a minor in excess of 0.5 rem total effective dose equivalent; 1.5 rems to the lens of the eye, or 5 rems to the skin of the whole body, or to the feet, ankles, hands or forearms, or to any other organ or tissue;

4. An annual exposure of a member of the public in excess of 0.1 rem total effective dose equivalent (except when operation up to 0.5 rem a year has been approved by the Commission under Section 20.1301(c));

5. A release of radioactive material to an unrestricted area at concentrations in excess of two times the effluent concentration limits referenced in 10 CFR 20.1302(b)(2)(i) (except when operation up to 0.5 rem a year has been approved by the Commission under Section 20.1301(c));

6. A failure to make a 24-hour notification required by 10 CFR 20.2202(b) or an immediate notification required by 10 CFR 20.2201(a)(1)(i);

7. A substantial potential for exposures or releases in excess of the applicable limits in 10 CFR Part 20 Sections 20.1001–20.2401 whether or not an exposure or release occurs;

8. Disposal of licensed material not covered in Severity Levels I or II;

9. A release for unrestricted use of contaminated or radioactive material or equipment that poses a realistic potential for exposure of the public to levels or doses exceeding the annual dose limits for members of the public;

10. Conduct of licensee activities by a technically unqualified person; or

11. A significant failure to control licensed material.

D. Severity Level IV—Violations involving for example:

1. Exposures in excess of the limits of 10 CFR 20.1201, 20.1207, or 20.1208 not constituting Severity Level I, II, or III violations;

2. A release of radioactive material to an unrestricted area at concentrations in excess of the limits for members of the public as referenced in 10 CFR 20.1302(b)(2)(i) (except when operation up to 0.5 rem a year has been approved by the Commission under Section 20.1301(c));

3. A radiation dose rate in an unrestricted or controlled area in excess of 0.002 rem in any 1 hour (2 millirem/hour) or 50 millirems in a year;

4. Failure to maintain and implement radiation programs to keep radiation exposures as low as is reasonably achievable;

5. Doses to a member of the public in excess of any EPA generally applicable environmental radiation standards, such as 40 CFR Part 190;

6. A failure to make the 30-day notification required by 10 CFR 20.2201(a)(1)(ii) or 20.2203(a);

7. A failure to make a timely written report as required by 10 CFR 20.2201(b), 20.2204, or 20.2206;

8. A failure to report an exceedance of the dose constraint established in 10 CFR 20.1101(d) or a failure to take corrective action for an exceedance, as required by 10 CFR 20.1101(d); or

9. Any other matter that has more than a minor safety, health, or environmental significance.

Supplement V—Transportation

This supplement provides examples of violations in each of the four severity levels as guidance in determining the appropriate severity level for violations in the area of NRC transportation requirements.[19]

A. Severity Level I—Violations involving for example:

1. Failure to meet transportation requirements that resulted in loss of control of radioactive material with a breach in package integrity such that the material caused a radiation exposure to a member of the public and there was clear potential for the public to receive more than .1 rem to the whole body;

2. Surface contamination in excess of 50 times the NRC limit; or

3. External radiation levels in excess of 10 times the NRC limit.

B. Severity Level II—Violations involving for example:

1. Failure to meet transportation requirements that resulted in loss of control of radioactive material with a breach in package integrity such that there was a clear potential for the member of the public to receive more than .1 rem to the whole body;

2. Surface contamination in excess of 10, but not more than 50 times the NRC limit;

3. External radiation levels in excess of five, but not more than 10 times the NRC limit; or

4. A failure to make required initial notifications associated with Severity Level I or II violations.

C. Severity Level III—Violations involving for example:

1. Surface contamination in excess of five but not more than 10 times the NRC limit;

2. External radiation in excess of one but not more than five times the NRC limit;

3. Any noncompliance with labeling, placarding, shipping paper, packaging, loading, or other requirements that could reasonably result in the following:

(a) A significant failure to identify the type, quantity, or form of material;

(b) A failure of the carrier or recipient to exercise adequate controls; or

(c) A substantial potential for either personnel exposure or contamination above regulatory limits or improper transfer of material; or

4. A failure to make required initial notification associated with Severity Level III violations.

D. Severity Level IV—Violations involving for example:

1. A breach of package integrity without external radiation levels exceeding the NRC limit or without contamination levels exceeding five times the NRC limits;

2. Surface contamination in excess of but not more than five times the NRC limit;

3. A failure to register as an authorized user of an NRC-Certified Transport package;

4. A noncompliance with shipping papers, marking, labeling, placarding, packaging or loading not amounting to a Severity Level I, II, or III violation;

5. A failure to demonstrate that packages for special form radioactive material meets applicable regulatory requirements;

6. A failure to demonstrate that packages meet DOT Specifications for 7A Type A packages; or

7. Other violations that have more than minor safety or environmental significance.

Supplement VI—Fuel Cycle and Materials Operations

This supplement provides examples of violations in each of the four severity levels as guidance in determining the appropriate severity level for violations in the area of fuel cycle and materials operations.

A. Severity Level I—Violations involving for example:

1. Radiation levels, contamination levels, or releases that exceed 10 times the limits specified in the license;

2. A system designed to prevent or mitigate a serious safety event not being operable when actually required to perform its design function;

3. A nuclear criticality accident;

4. A failure to follow the procedures of the quality management program, required by 10 CFR 35.32, that results in a death or serious injury (*e.g.*, substantial organ impairment) to a patient;

5. A safety limit, as defined in 10 CFR 76.4, the Technical Safety Requirements, or the application being exceeded; or

6. Significant injury or loss of life due to a loss of control over licensed or certified activities, including chemical processes that are integral to the licensed or certified activity, whether radioactive material is released or not.

B. Severity Level II—Violations involving for example:

1. Radiation levels, contamination levels, or releases that exceed five times the limits specified in the license;

2. A system designed to prevent or mitigate a serious safety event being inoperable;

3. A substantial programmatic failure in the implementation of the quality management program required by 10 CFR 35.32 that results in a misadministration;

4. A failure to establish, implement, or maintain all criticality controls (or control systems) for a single nuclear criticality scenario when a critical mass of fissile material was present or reasonably available, such that a nuclear criticality accident was possible; or

[19] Some transportation requirements are applied to more than one licensee involved in the same activity such as a shipper and carrier. When a violation of such a requirement occurs, enforcement action will be directed against the responsible licensee which, under the circumstances of the case, may be one or more of the licensees involved.

5. The potential for a significant injury or loss of life due to a loss of control over licensed or certified activities, including chemical processes that are integral to the licensed or certified activity, whether radioactive material is released or not (*e.g.*, movement of liquid UF_6 cylinder by unapproved methods).

C. Severity Level III—Violations involving for example:

1. A failure to control access to licensed materials for radiation protection purposes as specified by NRC requirements;

2. Possession or use of unauthorized equipment or materials in the conduct of licensee activities which degrades safety;

3. Use of radioactive material on humans where such use is not authorized;

4. Conduct of licensed activities by a technically unqualified or uncertified person;

5. A substantial potential for exposures, radiation levels, contamination levels, or releases, including releases of toxic material caused by a failure to comply with NRC regulations, from licensed or certified activities in excess of regulatory limits;

6. Substantial failure to implement the quality management program as required by 10 CFR 35.32 that does not result in a misadministration; failure to report a misadministration; or programmatic weakness in the implementation of the quality management program that results in a misadministration;

7. A failure, during radiographic operations, to have present at least two qualified individuals or to use radiographic equipment, radiation survey instruments, and/or personnel monitoring devices as required by 10 CFR Part 34;

8. A failure to submit an NRC Form 241 as required by 10 CFR 150.20;

9. A failure to receive required NRC approval prior to the implementation of a change in licensed activities that has radiological or programmatic significance, such as, a change in ownership; lack of an RSO or replacement of an RSO with an unqualified individual; a change in the location where licensed activities are being conducted, or where licensed material is being stored where the new facilities do not meet the safety guidelines; or a change in the quantity or type of radioactive material being processed or used that has radiological significance;

10. A significant failure to meet decommissioning requirements including a failure to notify the NRC as required by regulation or license condition, substantial failure to meet decommissioning standards, failure to conduct and/or complete decommissioning activities in accordance with regulation or license condition, or failure to meet required schedules without adequate justification;

11. A significant failure to comply with the action statement for a Technical Safety Requirement Limiting Condition for Operation where the appropriate action was not taken within the required time, such as:

(a) In an autoclave, where a containment isolation valve is inoperable for a period in excess of that allowed by the action statement; or

(b) Cranes or other lifting devices engaged in the movement of cylinders having inoperable safety components, such as redundant braking systems, or other safety devices for a period in excess of that allowed by the action statement;

12. A system designed to prevent or mitigate a serious safety event:

(a) Not being able to perform its intended function under certain conditions (*e.g.*, safety system not operable unless utilities available, materials or components not according to specifications); or

(b) Being degraded to the extent that a detailed evaluation would be required to determine its operability;

13. Changes in parameters that cause unanticipated reductions in margins of safety;

14. A significant failure to meet the requirements of 10 CFR 76.68, including a failure such that a required certificate amendment was not sought;

15. A failure of the certificate holder to conduct adequate oversight of contractors resulting in the use of products or services that are of defective or indeterminate quality and that have safety significance;

16. Equipment failures caused by inadequate or improper maintenance that substantially complicates recovery from a plant transient;

17. A failure to establish, maintain, or implement all but one criticality control (or control systems) for a single nuclear criticality scenario when a critical mass of fissile material was present or reasonably available, such that a nuclear criticality accident was possible; or

18. A failure, during radiographic operations, to stop work after a pocket dosimeter is found to have gone off-scale, or after an electronic dosimeter reads greater than 200 mrem, and before a determination is made of the individual's actual radiation exposure.

D. Severity Level IV—Violations involving for example:

1. A failure to maintain patients hospitalized who have cobalt-60, cesium-137, or iridium-192 implants or to conduct required leakage or contamination tests, or to use properly calibrated equipment;

2. Other violations that have more than minor safety or environmental significance;

3. Failure to follow the quality management (QM) program, including procedures, whether or not a misadministration occurs, provided the failures are isolated, do not demonstrate a programmatic weakness in the implementation of the QM program, and have limited consequences if a misadministration is involved; failure to conduct the required program review; or failure to take corrective actions as required by 10 CFR 35.32;

4. A failure to keep the records required by 10 CFR 35.32 or 35.33;

5. A less significant failure to comply with the Action Statement for a Technical Safety Requirement Limiting Condition for Operation when the appropriate action was not taken within the required time;

6. A failure to meet the requirements of 10 CFR 76.68 that does not result in a Severity Level I, II, or III violation;

7. A failure to make a required written event report, as required by 10 CFR 76.120(d)(2); or

8. A failure to establish, implement, or maintain a criticality control (or control system) for a single nuclear criticality scenario when the amount of fissile material available was not, but could have been sufficient to result in a nuclear criticality.

Supplement VII—Miscellaneous Matters

This supplement provides examples of violations in each of the four severity levels as guidance in determining the appropriate severity level for violations involving miscellaneous matters.

A. Severity Level I—Violations involving for example:

1. Inaccurate or incomplete information[20] that is provided to the NRC (a) deliberately with the knowledge of a licensee official that the information is incomplete or inaccurate, or (b) if the information, had it been complete and accurate at the time provided, likely would have resulted in regulatory action such as an immediate order required by the public health and safety;

2. Incomplete or inaccurate information that the NRC requires be kept by a licensee that is (a) incomplete or inaccurate because of falsification by or with the knowledge of a licensee official, or (b) if the information, had it been complete and accurate when reviewed by the NRC, likely would have resulted in regulatory action such as an immediate order required by public health and safety considerations;

3. Information that the licensee has identified as having significant implications for public health and safety or the common defense and security (''significant information identified by a licensee'') and is deliberately withheld from the Commission;

4. Action by senior corporate management in violation of 10 CFR 50.7 or similar regulations against an employee;

5. A knowing and intentional failure to provide the notice required by 10 CFR Part 21; or

6. A failure to substantially implement the required fitness-for-duty program.[21]

B. Severity Level II—Violations involving for example:

1. Inaccurate or incomplete information that is provided to the NRC (a) by a licensee official because of careless disregard for the completeness or accuracy of the information, or (b) if the information, had it been complete and accurate at the time provided, likely would have resulted in regulatory action such as a show cause order or a different regulatory position;

2. Incomplete or inaccurate information that the NRC requires be kept by a licensee which is (a) incomplete or inaccurate because of careless disregard for the accuracy of the

[20] In applying the examples in this supplement regarding inaccurate or incomplete information and records, reference should also be made to the guidance in Section IX, ''Inaccurate and Incomplete Information,'' and to the definition of ''licensee official'' contained in Section IV.C.

[21] The example for violations for fitness-for-duty relate to violations of 10 CFR Part 26.

information on the part of a licensee official, or (b) if the information, had it been complete and accurate when reviewed by the NRC, likely would have resulted in regulatory action such as a show cause order or a different regulatory position;

3. ''Significant information identified by a licensee'' and not provided to the Commission because of careless disregard on the part of a licensee official;

4. An action by plant management or mid-level management in violation of 10 CFR 50.7 or similar regulations against an employee;

5. A failure to provide the notice required by 10 CFR Part 21;

6. A failure to remove an individual from unescorted access who has been involved in the sale, use, or possession of illegal drugs within the protected area or take action for on duty misuse of alcohol, prescription drugs, or over-the-counter drugs;

7. A failure to take reasonable action when observed behavior within the protected area or credible information concerning activities within the protected area indicates possible unfitness for duty based on drug or alcohol use;

8. A deliberate failure of the licensee's Employee Assistance Program (EAP) to notify licensee's management when EAP's staff is aware that an individual's condition may adversely affect safety related activities; or

9. The failure of licensee management to take effective action in correcting a hostile work environment.

C. Severity Level III—Violations involving for example:

1. Incomplete or inaccurate information that is provided to the NRC (a) because of inadequate actions on the part of licensee officials but not amounting to a Severity Level I or II violation, or (b) if the information, had it been complete and accurate at the time provided, likely would have resulted in a reconsideration of a regulatory position or substantial further inquiry such as an additional inspection or a formal request for information;

2. Incomplete or inaccurate information that the NRC requires be kept by a licensee that is (a) incomplete or inaccurate because of inadequate actions on the part of licensee officials but not amounting to a Severity Level I or II violation, or (b) if the information, had it been complete and accurate when reviewed by the NRC, likely would have resulted in a reconsideration of a regulatory position or substantial further inquiry such as an additional inspection or a formal request for information;

3. A failure to provide ''significant information identified by a licensee'' to the Commission and not amounting to a Severity Level I or II violation;

4. An action by first-line supervision or other low-level management in violation of 10 CFR 50.7 or similar regulations against an employee;

5. An inadequate review or failure to review such that, if an appropriate review had been made as required, a 10 CFR Part 21 report would have been made;

6. A failure to complete a suitable inquiry on the basis of 10 CFR Part 26, keep records concerning the denial of access, or respond to inquiries concerning denials of access so that, as a result of the failure, a person previously denied access for fitness-for-duty reasons was improperly granted access;

7. A failure to take the required action for a person confirmed to have been tested positive for illegal drug use or take action for onsite alcohol use; not amounting to a Severity Level II violation;

8. A failure to assure, as required, that contractors have an effective fitness-for-duty program; or

9. Threats of discrimination or restrictive agreements which are violations under NRC regulations such as 10 CFR 50.7(f).

D. Severity Level IV—Violations involving for example:

1. Incomplete or inaccurate information of more than minor significance that is provided to the NRC but not amounting to a Severity Level I, II, or III violation;

2. Information that the NRC requires be kept by a licensee and that is incomplete or inaccurate and of more than minor significance but not amounting to a Severity Level I, II, or III violation;

3. An inadequate review or failure to review under 10 CFR Part 21 or other procedural violations associated with 10 CFR Part 21 with more than minor safety significance;

4. Violations of the requirements of Part 26 of more than minor significance;

5. A failure to report acts of licensed operators or supervisors pursuant to 10 CFR 26.73; or

6. Discrimination cases which, in themselves, do not warrant a Severity Level III categorization.

Supplement VIII—Emergency Preparedness

This supplement provides examples of violations in each of the four severity levels as guidance in determining the appropriate severity level for violations in the area of emergency preparedness. It should be noted that citations are not normally made for violations involving emergency preparedness occurring during emergency exercises. However, where exercises reveal (i) training, procedural, or repetitive failures for which corrective actions have not been taken, (ii) an overall concern regarding the licensee's ability to implement its plan in a manner that adequately protects public health and safety, or (iii) poor self critiques of the licensee's exercises, enforcement action may be appropriate.

A. Severity Level I—Violations involving for example:

In a general emergency, licensee failure to promptly (1) correctly classify the event, (2) make required notifications to responsible Federal, State, and local agencies, or (3) respond to the event (e.g., assess actual or potential offsite consequences, activate emergency response facilities, and augment shift staff.)

B. Severity Level II—Violations involving for example:

1. In a site emergency, licensee failure to promptly (1) correctly classify the event, (2) make required notifications to responsible Federal, State, and local agencies, or (3) respond to the event (*e.g.,* assess actual or potential offsite consequences, activate emergency response facilities, and augment shift staff); or

2. A licensee failure to meet or implement more than one emergency planning standard involving assessment or notification.

C. Severity Level III—Violations involving for example:

1. In an alert, licensee failure to promptly (1) correctly classify the event, (2) make required notifications to responsible Federal, State, and local agencies, or (3) respond to the event (e.g., assess actual or potential offsite consequences, activate emergency response facilities, and augment shift staff); or

2. A licensee failure to meet or implement one emergency planning standard involving assessment or notification.

D. Severity Level IV—Violations involving for example:

A licensee failure to meet or implement any emergency planning standard or requirement not directly related to assessment and notification.

Interim Enforcement Policies

Interim Enforcement Policy for Generally Licensed Devices Containing Byproduct Material (10 CFR 31.5)

This section sets forth the interim enforcement policy that the NRC will follow to exercise enforcement discretion for certain violations of requirements in 10 CFR Part 31 for generally licensed devices containing byproduct material. It addresses violations that persons licensed pursuant to 10 CFR 31.5 identify and correct now, as well as during the initial cycle of the notice and response program contemplated by the proposed new requirements published in the **Federal Register** on December 2, 1998 (63 FR 66492), entitled ''Requirements for Those Who Possess Certain Industrial Devices Containing Byproduct Material to Provide Requested Information''.

Exercise of Enforcement Discretion

Under this interim enforcement policy, enforcement action normally will not be taken for violations of 10 CFR 31.5 if they are identified by the general licensee, and reported to the NRC if reporting is required, provided that the general licensee takes appropriate corrective action to address the specific violations and prevent recurrence of similar problems.

Exceptions

Enforcement action may be taken where there is: (a) failure to take appropriate corrective action to prevent recurrence of similar violations; (b) failure to respond and provide the information required by the notice and response program (if it becomes a final rule); (c) failure to provide complete and accurate information to the NRC; or (d)

a willful violation, such as willfully disposing of generally licensed material in an unauthorized manner. Enforcement sanctions in these cases may include civil penalties as well as Orders to modify or revoke the authority to possess radioactive sources under the general license.

Interim Enforcement Policy Regarding Enforcement Discretion for Nuclear Power Plants During the Year 2000 Transition

This section sets forth the interim enforcement policy that will govern the exercise of enforcement discretion by the NRC staff when licensees of operating nuclear power plants find it necessary to deviate from license conditions, including technical specifications (TSs), in those cases in which year 2000 (Y2K) related complications would otherwise require a plant shutdown that could adversely affect the stability and reliability of the electrical power grid. This policy does not extend to situations in which a licensee may be unable to communicate with the NRC.

The policy is effective August 30, 1999, and will remain in effect through January 1, 2001. This policy only applies during Y2K transition or rollover periods (December 31, 1999, through January 3, 2000; February 28, 2000, through March 1, 2000; and December 30, 2000, through January 1, 2001). During these periods, a licensee may contact the NRC Headquarters Operations Center and seek NRC enforcement discretion with regard to the potential noncompliance with license conditions, including TSs, if the licensee has determined that:

(a) Complying with license conditions, including TSs, in a Y2K-related situation would require a plant shutdown;

(b) Continued plant operation is needed to help maintain a reliable and stable grid; and

(c) Any decrease in safety as a result of continued plant operation is small (considering both risk and deterministic aspects), and reasonable assurance of public health and safety, the environment, and security is maintained with the enforcement discretion.

Licensees are expected to follow the existing guidance as stated in NRC Inspection Manual Part 9900 for Notices of Enforcement Discretion to the maximum extent practicable, particularly regarding a safety determination and notification of NRC. A licensee seeking NRC enforcement discretion must provide a written justification, or in circumstances in which good cause is shown, an oral justification followed as soon as possible by written justification. The justification must document the need and safety basis for the request and provide whatever other information the NRC staff needs to make a decision regarding whether the exercise of discretion is appropriate. The NRC staff may grant enforcement discretion on the basis of balancing the public health and safety or common defense and security of not operating against potential radiological or other hazards associated with continued operation, and a determination that safety will not be unacceptably affected by exercising the discretion. The Director of the Office of Nuclear Reactor Regulation, or designee, will advise the licensee whether the NRC has approved the licensee's request and, if so, will subsequently confirm the exercise of discretion in writing. Enforcement discretion will only be exercised if the NRC staff is clearly satisfied that the action is consistent with protecting public health and safety and is warranted in the circumstances presented by the licensee.

If the volume of requests to the NRC Headquarters Operations Center is such that the NRC staff cannot review and approve all licensee requests in a timely fashion, the NRC staff will obtain the safety-significant information from the licensee to enable the NRC staff to make a prompt initial assessment. Unless the assessment is unfavorable, the licensee would be permitted to proceed with its planned course of action. The NRC staff will complete these assessments as time permits and the licensee will be advised of the results orally, if possible, and then in writing. If the NRC staff's prompt initial assessment or subsequent assessment determines that a licensee's actions raise safety concerns, the licensee would be so informed. The licensee would then be required to follow its license conditions, including TSs.

If there are communications difficulties between the licensee and the NRC, the licensee is encouraged to interact with the NRC inspector onsite who will have a dedicated satellite telephone. The inspector should be able to facilitate communication with the NRC Headquarters Operations Center and/or the NRC Regional Incident Response Centers (IRCs). If communication with the NRC Headquarters Operations Center is not possible, then the licensee should contact the IRC in NRC Region IV to discuss enforcement discretion. Similarly, if the Region IV IRC cannot be reached, then the licensee should attempt to contact the Region I, II and III IRCs. Although it is considered highly unlikely, if communication with NRC is not possible, the licensee should follow the plant license conditions, including technical specifications.

In conducting its assessments, the licensee should follow, to the extent practicable, the guidance in NRC Inspection Manual Part 9900 for Notices of Enforcement Discretion. Contrary to Part 9900 Section B.3 guidance, it is not necessary for an emergency to be declared by a government entity. Licensees are encouraged to contact NRC early in their evaluation process, particularly if time is of the essence, even though complete information as specified in Part 9900 may not be available.

The decision to exercise enforcement discretion does not change the fact that the licensee will be in noncompliance nor does it imply that enforcement discretion is being exercised for any noncompliance that may have led to the noncompliance at issue. To the extent noncompliance was involved, the NRC staff will normally take enforcement action for the root causes that led to the noncompliance for which enforcement discretion was granted. Enforcement action will also be considered in those cases in which incorrect or incomplete information was provided to the NRC staff by a licensee in its justification. The NRC recognizes that a licensee will need to exercise judgment in making a determination under this discretion provision. Consistent with the NRC's position involving 10 CFR 50.54(x), enforcement action for a violation of a license condition, including a TS, will not be taken unless a licensee's action was clearly unreasonable considering all the relevant circumstances. Enforcement action could include assessment of civil penalties and the issuance of orders.

Interim Enforcement Policy for Use During the NRC Power Reactor Oversight Process Pilot Plant Study

This section sets forth the interim enforcement policy that the NRC will use to address violations of the requirements of 10 CFR Part 50 and associated license conditions at nine power reactor sites participating in the NRC reactor oversight process pilot plant study beginning in June 1999. This policy approaches enforcement for the plants participating in the pilot plant study by dividing identified violations into two groups.

I. Violations Evaluated by the Significance Determination Process

The first group consists of those violations that the Reactor Oversight Program's Significance Determination Process (SDP) can evaluate. For these

violations, the SDP will determine the significance of the violation and the Agency Action Matrix will determine the appropriate agency response. These violations will be cited or non-cited. Normally, no severity levels and civil penalties will be used to characterize these violations.

A. Violations of Low Significance

Violations that the SDP evaluates as not being risk significant (i.e., green) will be described in inspection reports as Non-Cited Violation (NCVs) and be categorized by the assessment process within the licensee response band. However, a Notice of Violation (NOV) will be issued if:

(1) The licensee fails to restore compliance within a reasonable time after they identified the violation;

(2) The licensee fails to place the violation into the corrective action program; or

(3) The violation was willful. An NCV may be appropriate if the violation meets the criteria in Section VII.B.1.a.4 of the Enforcement Policy.

The three exceptions are consistent with items (1), (2), and (4) of Section VII.B.1.a.

B. Significant Violations

Violations that the SDP evaluates as risk significant (i.e., white, yellow, or red) will be assigned a color band related to its significance for use by the assessment process. Because of being risk significant, an NOV will be issued requiring a formal written response unless sufficient information is already on the docket. The Commission reserves the use of discretion for particularly significant violations (e.g. an accidental criticality) to assess civil penalties in accordance with Section 234 of the Atomic Energy Act of 1954, as amended.

II. Violations Not Evaluated by the SDP and Those Having Actual Consequences

In the second group of violations, the Enforcement Policy will be retained, along with severity levels and the potential for the imposition of civil penalties or other appropriate enforcement action. Three categories of violations are within this group:

(A) Violations that involve willfulness including discrimination,

(B) Violations that may impact the NRC's ability for oversight of licensee activities such as those associated with reporting issues, failure to obtain NRC approvals such as for changes to the facility as required by 10 CFR 50.59, 10 CFR 50.54(a), 10 CFR 50.54 (p), and failure to provide the NRC with complete and accurate information or to maintain accurate records, and

(C) Violations that involve actual consequences such as an overexposure to the public or plant personnel, failure to make the required notifications that impact the ability of federal, state and local agencies to respond to an actual emergency preparedness or transportation event, or a substantial release of radioactive material.

To the extent the above does not modify the NRC Enforcement Policy, the NRC Enforcement Policy remains applicable to power reactor licensees.

Dated at Rockville, Maryland, this 26th day of October, 1999.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50–333]

Power Authority of the State of New York; James A. Fitzpatrick Nuclear Power Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–59, issued to the Power Authority of the State of New York (PASNY) (the licensee, also known as the New York Power Authority), for operation of the James A. FitzPatrick Nuclear Power Plant, located in Oswego County, New York.

Environmental Assessment

Identification of the Proposed Action

The proposed action would modify the spent fuel pool (SFP) by installation of an additional 7 new high density storage rack modules for fuel storage in the SFP. The additional rack modules will increase the FitzPatrick SFP capacity from 2797 to 3239 fuel assemblies.

The proposed action is in accordance with the licensee's application for amendment dated October 14, 1997, as supplemented on July 23, 1998, December 3, 1998, February 25, 1999, and September 29, 1999.

The Need for the Proposed Action

The proposed action is needed to provide for storage of spent fuel until the licensee installs and obtains a license for an interim spent fuel storage installation (IFSFI). The underlying purpose of the expansion is to provide interim additional storage capacity for spent fuel to allow for continued operation until additional methods of storing spent fuel have been established.

Environmental Impacts of the Proposed Action

The factors considered in this determination are discussed below.

Radioactive Waste Treatment

FitzPatrick uses waste treatment systems designed to collect and process gaseous, liquid, and solid waste that might contain radioactive material. These radioactive waste treatment systems are evaluated in the Final Environmental Statement (FES) dated March 1973. The proposed SFP expansion will not involve any change in the waste treatment systems described in the FES.

Radioactive Material Released to the Atmosphere

The storage of additional spent fuel assemblies in the SFP is not expected to affect the releases of radioactive gases from the SFP. Gaseous fission products such as Krypton-85 and Iodine-131 are produced by the fuel in the core during reactor operation. A small percentage of these fission gases may be released to the reactor coolant from fuel assemblies which may develop leaks during reactor operation. During refueling operations, some of these fission products may enter the SFP and subsequently be released into the air. However, as the frequency of refuelings will not be increased by the proposed action, there will be no increase in the amount of radioactive material released to the atmosphere during these operations.

Experience has demonstrated that during the period between refueling outages there is no longer a significant release of fission products from stored fuel. The storage of additional fuel assemblies in the SFP will not increase the SFP bulk water temperature beyond the existing design temperature. Therefore, radioactive material airborne release rates due to evaporation from the SFP are not expected to increase.

Solid Radioactive Wastes

Spent resins are generated by the processing of SFP water through the SFP purification system. These spent resins are disposed of as solid radioactive waste. The frequency of resin changeout may increase slightly during the installation of the new racks due to the possibility of resuspension of particulate matter in the SFP (due to turbulence caused by the SFP rack installations). The licensee will use a Tri-Nuke underwater filtration unit to

clean the floor of the SFP during SFP rack installation. Vacuuming of the SFP floor will remove any extraneous debris and crud and ensure visual clarity in the SFP (to facilitate diving operations, if needed, and installation of the SFP racks). Debris and crud will be filtered and collected in the Tri-Nuke filters and stored underwater. Depending on the waste characterization of these filters, the licensee will dispose of them utilizing shielded canisters and high integrity containers which will then be stored onsite or shipped for burial accordingly. The staff does not expect that the additional fuel storage made possible by the increased SFP storage capacity will result in a significant change in the generation of solid radwaste.

Liquid Radioactive Wastes

The release of radioactive liquids will not be affected directly as a result of the modifications. The SFP ion exchanger resins remove soluble radioactive materials from the SFP water. When the resins are changed out, the small amount of resin sluice water which is released is processed by the radwaste system. As stated above, the frequency of resin changeout may increase slightly during the installation of the new racks. However, the amount of radioactive liquid released to the environment as a result of the proposed SFP expansion is expected to be negligible.

Radiological Impact Assessment

Radiation Protection personnel will constantly monitor the doses to the workers during the SFP expansion operation. The total occupational dose to plant workers as a result of the SFP expansion operation is estimated to be between 3 and 4 person-rem. Since the proposed action does not involve the removal of any spent fuel racks, the licensee does not plan on using divers for this project. However, if it becomes necessary to utilize divers to remove any interferences which may impede the installation of the new spent fuel racks, the licensee will equip each diver with radiation detectors with remote, above surface, readouts which will be continuously monitored by Radiation Protection personnel. This dose estimate is comparable to doses for similar SFP modifications performed at other plants. The proposed SFP rack installation will follow detailed procedures prepared with full consideration of as low as is reasonably achievable (ALARA) principles.

On the basis of our review of the FitzPatrick proposal, the staff concludes that the FitzPatrick SFP rack installation can be performed in a manner that will ensure that doses to workers will be maintained ALARA. The estimated dose of 3 to 4 person-rem to perform the proposed SFP rack installation is a small fraction of the annual collective dose accrued at FitzPatrick.

Accident Considerations

In its application, the licensee evaluated the possible consequences of a fuel handling accident to determine the thyroid and whole-body doses at the Exclusion Area Boundary (EAB), Low Population Zone (LPZ), and Control Room.

The proposed SFP rack installation at the FitzPatrick Nuclear Power Plant will not affect any of the assumptions or inputs used in evaluating the dose consequences of a fuel handling accident and therefore will not result in an increase in the doses from a postulated fuel handling accident.

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not involve any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Shipping Fuel to a Permanent Federal Fuel Storage/Disposal Facility

Shipment of spent fuel to the permanent repository or a centralized high-level radioactive waste storage facility is an alternative to increasing onsite spent fuel storage capacity. However, the U.S. Department of Energy (DOE) is not expected to open the permanent repository until 2010 and is currently prohibited from selecting a site for centralized storage until after a determination is made on permanent repository site suitability. Congress, with the urging of some affected utilities and States, has recently taken up proposed changes to the Federal program that would integrate storage and disposal at one site and require DOE to construct an interim storage facility. No decision has yet been made on centralized federal storage that would provide a basis for evaluating it as a viable alternative to the Power Authority's proposed action.

Shipping Fuel to a Reprocessing Facility

Reprocessing of spent fuel from the FitzPatrick plant is not a viable alternative since there are no operating commercial reprocessing facilities in the United States. Spent fuel would have to be shipped to an overseas facility for reprocessing. This approach has never been used and it would require approval by the U.S. Department of State as well as other entities. Additionally, the cost of spent fuel reprocessing is not offset by the salvage value of the residual uranium and reprocessing represents an added cost. Therefore, this alternative is considered unacceptable.

Shipping Fuel to Another Utility or Site or to Indian Point 3 (IP3) for Storage

Shipment of irradiated fuel from FitzPatrick for storage at the IP3 fuel pool would provide short-term relief from the storage problem at FitzPatrick. However, this transfer of fuel between units would create no additional storage locations for irradiated fuel, nor would it eliminate the need to develop additional spent fuel storage capability at FitzPatrick in the future. As a result, any fuel transfer would accelerate the loss of fuel pool storage at the IP3 and give no benefit to either facility.

Currently, the IP3 site has installed fuel pool storage capacity sufficient to handle site requirements for irradiated fuel storage, while maintaining full core discharge capability until approximately the year 2009. The design of the IP3 fuel pool storage racks has been optimized for storage of pressurized-water reactor fuel with a different physical and nuclear design than the boiling-water reactor fuel used at FitzPatrick. Thus, storage of FitzPatrick fuel at IP3 would both limit storage of future discharged IP3 fuel and represent a less then optimal use of the existing IP3 storage capability.

PASNY knows of no other utility that is prepared to accept shipments of irradiated fuel from FitzPatrick for long-term storage at its site.

For these reasons, and considering the increased fuel handling and additional occupational radiation exposure incurred during the shipment of irradiated fuel, the alternative of shipping FitzPatrick fuel to IP3 or other site for storage is not an acceptable alternative to the proposed action.

Alternatives Creating Additional Storage Capacity

A variety of alternatives to increase the storage capacity of the FitzPatrick SFP were considered. Fuel rod consolidation was considered as a potential alternative and was eliminated because of the limited industry experience in disassembling irradiated fuel and because of the potential for fission product release due to rod breakage during disassembly. Additionally, because DOE considers consolidated fuel to be a non-standard waste form, the licensee could be concerned that the presence of fuel in this form would cause DOE to delay its acceptance of waste from FitzPatrick.

The early implementation of dry cask storage for irradiated fuel at FitzPatrick was also considered. Dry cask storage involves transferring irradiated fuel, after several years of storage in the FitzPatrick SFP, to high capacity casks with passive heat dissipation features. After loading, these casks would be placed on a concrete pad at an outdoor location on the FitzPatrick site. Although dry cask storage is planned by the licensee as a long-term storage option for FitzPatrick, the early implementation of this alternative was rejected by the licensee because the 442 storage locations provide needed irradiated fuel storage with less environmental impact and at lower cost.

As a result, the licensee concluded that none of the alternative technologies that could create additional spent fuel storage capacity at FitzPatrick could do so with less environmental impact than the impacts associated with the chosen option.

Reduction of Spent Fuel Generation

To minimize the quantities of irradiated fuel generated during full power operation at FitzPatrick, the licensee has developed efficient fuel loading patterns that seek to maximize the utilization of each assembly consistent with limits on the integrated fuel rod exposure. Batch discharge burnups for FitzPatrick fuel currently exceed 40 GWD/MT with peak assembly burnups reaching 46 GWD/MT by the time of discharge. The licensee expects batch average discharge exposure to exceed 43 GWD/MT after the current cycle and to increase to 45 GWD/MT thereafter. FitzPatrick depletes fuel assemblies to these burnups with minimal cladding perforations so that the fission product inventory present in the SFP water remains low. The high values of batch average and peak assembly discharge burnup ensure that the electricity generated by FitzPatrick yields the minimum possible amount of spent fuel.

The fuel assembly design used at FitzPatrick is not compatible with the IP3 core. As a result, partially irradiated fuel from other PASNY nuclear units cannot be used at FitzPatrick (or vice versa) to reduce the rate of spent fuel discharge.

Operation of FitzPatrick at a reduced power level for long periods of time would extend the existing SFP storage capacity. However, to compensate for the reduced generation by FitzPatrick another power generation facility would be required to increase its power output, possibly resulting in an increase in airborne pollution and greenhouse gas emissions. The adverse environmental impact of increased airborne pollution and greenhouse gas omissions resulting from a long-term derate of FitzPatrick generating capacity is significantly greater than the environmental impact associated with increasing the storage capacity of the existing FitzPatrick SPF.

The No-Action Alternative

As an alternative to the proposed action, the NRC staff considered denial of the proposed action (*i.e.,* the ''no-action'' alternative). Denial of the application would result in no significant change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for FitzPatrick.

Agencies and Persons Consulted

In accordance with its stated policy, on May 24, 1999, the NRC staff consulted with the New York State official, Mr. Jack Spath, of the New York State Research and Development Authority, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated October 14, 1997, as supplemented by letters dated July 23, 1998, December 3, 1998, February 25, 1999, and September 29, 1999, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.NRC.gov).

Dated at Rockville, MD., this 3rd day of November, 1999.

For the Nuclear Regulatory Commission.

Sheri R. Peterson,

Chief, Section I, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–29315 Filed 11–8–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Correction to Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

On November 3, 1999, the **Federal Register** published the Biweekly Notice of Applications and Amendments to Operating Licenses Involving No Significant Hazards Consideration. On page 59797 the 30-day date for hearing request should be corrected from ''December 10, 1999,'' to read ''By December 3, 1999, the licensee may file a request for a hearing. * * *''

Dated at Rockville, Maryland, this 3rd day of November 1999.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–29316 Filed 11–8–99; 8:45 am]

BILLING CODE 7590–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

In compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, SSA is providing notice of its information collections that require submission to the Office of Management and Budget (OMB). SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

I. The information collection listed below will be submitted to OMB within 60 days from the date of this notice. Therefore, comments and recommendations regarding the information collection would be most useful if received by the Agency within 60 days from the date of this publication. Comments should be directed to the SSA Reports Clearance Officer at the address listed at the end of this publication. You can obtain a copy of the collection instrument by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him at the address listed at the end of this publication.

1. Work Activity Report—Employee-0960–0059. The information on form SSA–821–BK will be used by the Social Security Administration (SSA) to obtain work information from beneficiaries in face-to-face interviews, telephone interviews, or by mail during the initial claims process, during the continuing disability review process, and whenever a work issue arises in Supplemental Security Income claims. The purpose of the SSA–821–BK is to collect information concerning whether beneficiaries have worked in employment after becoming disabled and, if so, whether that work is substantial gainful activity. The information will be used to determine if the recipient continues to meet the disability requirements of the law.

Number of Respondents: 300,000.

Frequency of Response: 1.

Average Burden Per Response: 45 minutes.

Estimated Annual Burden: 225,000 hours.

II. The information collections listed below have been submitted to OMB for clearance. Written comments and recommendations on the information collections would be most useful if received within 30 days from the date of this publication. Comments should be directed to the SSA Reports Clearance Officer and the OMB Desk Officer at the addresses listed at the end of this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him.

1. Referral System for Vocational Rehabilitation Providers 0960—NEW

Background

In 1996 the Social Security Administration (SSA) initiated an innovative expansion of its vocational rehabilitation (VR) referral and payment program. Under this program, SSA pays VR providers for the costs of VR services provided to disability beneficiaries, if such services result in the individual going to work at a specified earnings level for at least nine months. Throughout this project, SSA has expanded its VR program to increase the base of providers who are available to serve people with disabilities. By increasing this base, more people will be able to get the services they need to go to work, become independent of the benefit rolls, and thus achieve savings to SSA's trust funds.

In September 1997, SSA contracted with Birch & Davis Associates, Inc. (B&D), to provide management support to its expanded VR referral and payment program. This contract is for a three-year demonstration project known as the Referral System for Vocational Rehabilitation Providers (Project RSVP). SSA continues to be responsible for awarding Alternate Participant (AP) contracts to VR providers, determining the appropriateness of claims submitted by APs, and reimbursing APs for the costs of their services if the requirements for payment are met.

B&D supports SSA's efforts by marketing to and recruiting VR providers, training providers on SSA's VR program requirements, and operating an Information and Referral System to link providers with beneficiaries. In addition, B&D will conduct surveys of beneficiaries and APs to determine customer satisfaction and to identify program areas requiring improvement.

Information Collection

In support of the RSVP project, SSA will conduct semi-annual voluntary information collections of both AP's and Beneficiaries/Recipients (B/R). The data collection effort will be conducted in survey format and has four goals:

1. To help program administrators understand the reasons for varying levels of satisfaction with the program; 2. To help program administrators understand the potential causes for varying levels of success of the program; 3. To guide program change; and 4. If necessary, to plan continuation of the program after the initial trial period.

Through these voluntary surveys, SSA will collect three types of data:

1. Descriptive data that describe the B/R and data that describe the APs' vocational rehabilitation practice that are not available and are necessary to evaluate respondents' satisfaction in the context of their actual experience; 2. Quantitative data on B/R and AP satisfaction with the program; and 3. Free-text comments by B/Rs and APs regarding their experience with the program.

The data will be aggregated for all B/Rs and for all APs. A semi-annual report will be generated for SSA. The information will be used by AP program administrators at SSA and by B&D project management staff. The respondents will be SSI/SSDI beneficiaries and APs under contract with SSA to provide vocational rehabilitation services to beneficiaries.

Survey form	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
Survey for APs who have submitted claims	12	2	20	8
Survey for APs who have not submitted a claim	314	2	20	210
Survey for B/Rs who have signed a Rehabilitation or Employment Plan	44	2	20	30
Survey for B/Rs who have not signed a Rehabilitation or Employment Plan	2,000	2	20	1,334
Total Annual Burden Hours Requested				1,582

2. Statement of Income and Resources—0960–0124. The information collected by the Social Security Administration on Form SSA–8010 is necessary in the SSI eligibility/payment process. Information about the income and resources of ineligible spouses/parents/children and sponsors of aliens is used in the ''Deeming'' process. ''Deeming'' is the attribution of another's income to an eligible individual/child/alien. The respondents are ineligible spouses, parents, and children who live in the same household as an eligible individual/child, and sponsors of aliens.

Number of Respondents: 355,000.

Frequency of Response: 1.

Average Burden Per Response: 25 minutes.

Estimated Annual Burden: 147,917 hours.

3. Public Law 105–306, Noncitizen Benefit Clarification and Other Technical Amendments Act of 1998 provided that nonqualified aliens who were receiving SSI on August 22, 1996 would remain eligible for SSI as long as all other requirements for eligibility were met (*e.g.*, income and resources, etc.). Section 416.1618 of the Code of Federal Regulations require nonqualified aliens to give SSA certain evidence which proves that they are lawfully admitted to the United States, in order to qualify for SSI benefits. Aliens who are alleging Permanent Residence Under Color Of Law (PRUCOL) must present evidence of their status at the time of application for SSI benefits and periodically thereafter. The respondents are nonqualified aliens who apply for or receive SSI benefits.

Number of Respondents: 9,000.

Frequency of Response: Annually.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 750 hours.

(SSA Address)

Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235

(OMB Address)

Office of Management and Budget, OIRA, Attn: Lori Schack, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, D.C. 20503

Dated: November 3, 1999.

Frederick W. Brickenkamp,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 99–29238 Filed 11–8–99; 8:45 am]

BILLING CODE 4191–02–U

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

North American Free Trade Agreement; Invitation for Applications for Inclusion on the Chapter 19 Roster

AGENCY: Office of the United States Trade Representative.

ACTION: Invitation for applications.

SUMMARY: Chapter 19 of the North American Free Trade Agreement (NAFTA) provides for the establishment of a roster of individuals to serve on binational panels convened to review final determinations in antidumping or countervailing duty (AD/CVD) proceedings and amendments to AD/CVD statutes of a NAFTA Party. The United States annually renews its selections for the Chapter 19 roster. Applications are invited from eligible individuals wishing to be included on the roster for the period April 1, 2000 through March 31, 2001.

DATES: Applications should be received no later than December 9, 1999.

ADDRESSES: Applications should be sent to Ms. Leah Mayo, Attn: Chapter 19 Roster Applications, Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: With regard to the form of the application, Ms. Leah Mayo, (202) 395–3432; with regard to eligibility requirements, David J. Ross, Assistant General Counsel, (202) 395–3581.

SUPPLEMENTARY INFORMATION:

Binational Panel Reviews Under NAFTA Chapter 19

Article 1904 of the NAFTA provides that a party involved in an AD/CVD proceeding may obtain review by a binational panel of a final AD/CVD determination of one NAFTA Party with respect to the products of another NAFTA Party. Binational panels decide whether such AD/CVD determinations are in accordance with the domestic laws of the importing NAFTA Party, and must use the standard of review that would have been applied by a domestic court of the importing NAFTA Party. A panel may uphold the AD/CVD determination, or may remand it to the national administering authority for action not inconsistent with the panel's decision. Panel decisions may be reviewed in specific circumstances by a three-member extraordinary challenge committee, selected from a separate roster composed of fifteen current or former judges.

Article 1903 of the NAFTA provides that a NAFTA Party may refer an amendment to the AD/CVD statutes of another NAFTA Party to a binational panel for a declaratory opinion as to whether the amendment is inconsistent with the General Agreement on Tariffs and Trade (GATT), the GATT Antidumping or Subsidies Codes, successor agreements, or the object and purpose of the NAFTA with regard to the establishment of fair and predictable conditions for the liberalization of trade. If the panel finds that the amendment is inconsistent, the two NAFTA Parties shall consult and seek to achieve a mutually satisfactory solution.

Chapter 19 Roster and Composition of Binational Panels

Annex 1901.2 of the NAFTA provides for the maintenance of a roster of at least 75 individuals for service on Chapter 19 binational panels, with each NAFTA Party selecting at least 25 individuals. A separate five-person panel is formed for each review of a final AD/CVD determination or statutory amendment. To form a panel, the two NAFTA Parties involved each appoint two panelists, normally by drawing upon individuals from the roster. If the Parties cannot agree upon the fifth panelist, one of the Parties, decided by lot, selects the fifth panelist from the roster. The majority of individuals on each panel must consist of lawyers in good standing, and the chair of the panel must be a lawyer.

Upon each request for establishment of a panel, roster members from the two involved NAFTA Parties will be requested to complete a disclosure form, which will be used to identify possible conflicts of interest or appearances thereof. The disclosure form requests information regarding financial interests and affiliations, including information regarding the identity of clients of the roster member and, if applicable, clients of the roster member's firm.

Criteria for Eligibility for Inclusion on Chapter 19 Roster

Section 402 of the NAFTA Implementation Act (Pub. L. 103–182, as amended (19 U.S.C. 3432)) (''Section 402'') provides that selections by the United States of individuals for inclusion on the Chapter 19 roster are to be based on the eligibility criteria set out in Annex 1901.2 of the NAFTA, and without regard to political affiliation. Annex 1901.2 provides that Chapter 19 roster members must be citizens of a NAFTA Party, must be of good character and of high standing and repute, and are to be chosen strictly on the basis of their objectivity, reliability, sound judgment and general familiarity with international trade law. Aside from judges, roster members may not be affiliated with any of the three NAFTA Parties. Section 402 also provides that, to the fullest extent practicable, judges and former judges who meet the eligibility requirements should be selected.

Procedures for Selection of Chapter 19 Roster Members

Section 402 establishes procedures for the selection by the United States Trade Representative of the individuals chosen by the United States for inclusion on the Chapter 19 roster. The roster is renewed annually, and applies

during the one-year period beginning April 1 of each calendar year.

Under section 402, an interagency committee chaired by the United States Trade Representative prepares a preliminary list of candidates eligible for inclusion on the Chapter 19 Roster. After consultation with the Senate Committee on Finance and the House Committee on Ways and Means, the United States Trade Representative selects the final list of individuals chosen by the United States for inclusion on the Chapter 19 roster.

Remuneration

Roster members selected for service on a Chapter 19 binational panel will be remunerated at the rate of 400 Canadian dollars per day.

Applications

Eligible individuals who wish to be included on the Chapter 19 roster for the period April 1, 2000 through March 31, 2001 are invited to submit applications. Applicants should submit an original application and 1 copy. Applications must be typewritten, and should be headed ''Application for Inclusion on NAFTA Chapter 19 Roster.'' Applications should include the following information, and each section of the application should be numbered as indicated:

1. Name of the applicant.
2. Business address, telephone number, fax number, and email address.
3. Citizenship(s).
4. Current employment, including title, description of responsibility, and name and address of employer.
5. Relevant education and professional training.
6. Spanish language fluency, written and spoken.
7. Post-education employment history, including the dates and address of each prior position and a summary of responsibilities.
8. Relevant professional affiliations and certifications, including, if any, current bar memberships in good standing.
9. A list and copies of publications, testimony and speeches, if any, concerning AD/CVD law. Judges or former judges should list relevant judicial decisions. Only one copy of publications, testimony, speeches and decisions need be submitted.
10. Summary of any current and past employment by, or consulting or other work for, the United States, Canadian or Mexican Governments.
11. The names and nationalities of all foreign principals for whom the applicant is currently or has previously been registered pursuant to the Foreign Agents Registration Act, 22 U.S.C. § 611 *et seq.*, and the dates of all registration periods.
12. List of proceedings brought under U.S., Canadian or Mexican AD/CVD law regarding imports of U.S., Canadian or Mexican products in which applicant advised or represented (for example, as consultant or attorney) any U.S., Canadian or Mexican party to such proceeding and, for each such proceeding listed, the name and country of incorporation of such party.
13. A short statement of qualifications and availability for service on Chapter 19 panels, including information relevant to the applicant's familiarity with international trade law and willingness and ability to make time commitments necessary for service on panels.
14. On a separate page, the names, addresses, telephone and fax number of three individuals willing to provide information concerning the applicant's qualifications for service, including the applicant's familiarity with international trade laws, character, reputation, reliability, and judgment.

Current Roster Members and Prior Applicants

Current members of the Chapter 19 roster who remain interested in inclusion on the Chapter 19 roster are requested to submit updated applications. Individuals who have previously applied but have not been selected may reapply. If an applicant, including a current or former roster member, has previously submitted materials referred to in item 9, such materials need not be resubmitted.

Public Disclosure

Applications normally will be subject to public disclosure. An applicant who wishes to exempt information from public disclosure should follow the procedures set forth in 15 CFR § 2003.6.

False Statements

Pursuant to section 402(c)(5) of the NAFTA Implementation Act, false statements by applicants regarding their personal or professional qualifications, or financial or other relevant interests that bear on the applicants' suitability for placement on the Chapter 19 roster or for appointment to binational panels are subject to criminal sanctions under 18 U.S.C. 1001.

Paperwork Reduction Act

This notice contains a collection of information provision subject to the Paperwork Reduction Act (PRA) that has been approved by the Office of Management and Budget (OMB). Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB number. This notice's collection of information burden is only for those persons who wish voluntarily to apply for nomination to the NAFTA Chapter 19 roster. It is expected that the collection of information burden will be under 3 hours. This collection of information contains no annual reporting or record keeping burden. This collection of information was approved by OMB under OMB Control Number 0350–0009. Please send comments regarding the collection of information burden or any other aspect of the information collection to USTR at the address above.

Privacy Act

The following statements are made in accordance with the Privacy Act of 1974, as amended (5 U.S.C. § 552a). The authority for requesting information to be furnished is section 402 of the NAFTA Implementation Act. Provision of the information requested above is voluntary; however, failure to provide the information will preclude your consideration as a candidate for the NAFTA Chapter 19 roster. The information provided is needed, and will be used by USTR, other federal government trade policy officials concerned with NAFTA dispute settlement, and officials of the other NAFTA Parties to select well-qualified individuals for inclusion on the Chapter 19 roster and for service on Chapter 19 binational panels.

Robert T. Novick,

General Counsel.

[FR Doc. 99–29346 Filed 11–8–99; 8:45 am]

BILLING CODE 3190–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

1999–2000 Allocation of the Raw Cane Sugar Tariff-rate Quota

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice of the country-by-country allocation of the in-quota quantity of the tariff-rate quota for imported raw cane sugar for the period beginning October 1, 1999, and ending September 30, 1999. Notice of the

country allocations for the 1999–2000 refined and sugar-containing products tariff-rate quotas was published in the **Federal Register** October 7, 1999 (**Federal Register** Volume 64, Number 1941, page 54719).

EFFECTIVE DATE: November 2, 1999.

ADDRESSES: Inquiries may be mailed or delivered to Karen Ackerman, Senior Economist, Office of Agricultural Affairs (Room 423), Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Karen Ackerman, Office of Agricultural Affairs, 202–395–6127.

SUPPLEMENTARY INFORMATION: Pursuant to Additional U.S. Note 5 to chapter 17 of the Harmonized Tariff Schedule of the United States (HTS), the United States maintains a tariff-rate quota for imports of raw cane sugar. The in-quota quantity of the raw cane sugar tariff-rate quota for the period October 1, 1999–September 30, 2000, has been initially established by the Secretary of Agriculture, and 1,135,000 metric tons, raw value (1,251,123 short tons) have been released to the Office of the U.S. Trade Representative for allocation.

Section 404(d)(3) of the Uruguay Round Agreements Act (19 U.S.C. 3601(d)(3)) authorizes the President to allocate the in-quota quantity of a tariff-rate quota for any agricultural product among supplying countries or customs areas. The President delegated this authority to the United States Trade Representative under paragraph (3) of Presidential Proclamation No. 6763 (60 FR 1007).

Accordingly, the 1,135,000 metric tons for raw cane sugar are being allocated to the following countries in metric tons, raw value:

Country	FY2000 allocation
Argentina	45,283
Australia	87,408
Barbados	7,372
Belize	11,584
Bolivia	8,425
Brazil	152,700
Colombia	25,274
Congo	7,258
Cote d'Ivoire	7,258
Costa Rica	15,797
Dominican Republic	185,346
Ecuador	11,584
El Salvador	27,381
Fiji	9,478
Gabon	7,258
Guatemala	50,549
Guyana	12,637
Haiti	7,258
Honduras	10,531
India	8,425
Jamaica	11,584
Madagascar	7,258
Malawi	10,531
Mauritius	12,637
Mexico	25,000
Mozambique	13,690
Nicaragua	22,115
Panama	30,540
Papua New Guinea	7,258
Paraguay	7,258
Peru	43,177
Philippines	142,169
South Africa	24,221
St. Kitts & Nevis	7,258
Swaziland	16,850
Taiwan	12,637
Thailand	14,743
Trinidad-Tobago	7,372
Uruguay	7,258
Zimbabwe	12,637
Total	1,135,000

This allocation includes the following minimum quota-holding countries: Congo, Cote d'Ivoire, Gabon, Haiti, Madagascar, Papua New Guinea, Paraguay, St. Kitts & Nevis, and Uruguay.

Under the NAFTA, the United States is to provide total access for raw and refined sugar from Mexico of 25,000 metric tons, raw value, for this quota period in conjunction with Mexico's net surplus producer status. This allocation is subject to the condition that the total imports of raw and refined sugar from Mexico, combined, are not to exceed 25,000 metric tons raw value. Conversion factor: 1 metric ton = 1.10231125 short tons.

Charlene Barshefsky,

United States Trade Representative.

[FR Doc. 99–29345 Filed 11–8–99; 8:45 am]

BILLING CODE 3190–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Opportunity To Apply for Nomination to the World Trade Organization Dispute Settlement Roster of Panel Candidates

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of opportunity to apply for nomination by the United States to the indicative list of non-governmental panelist candidates provided for in Article 8 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) and in the Decision on Certain Dispute Settlement Procedures for the General Agreement on Trade in Services (GATS) of the World Trade Organization (WTO).

SUMMARY: The DSU provides a mechanism for the settlement of disputes between the governments which are members of the WTO. A three-person panel conducts each dispute settlement proceeding and issues a report for consideration by the Dispute Settlement Body (DSB) in which representatives of all WTO members participate. The DSU also provides for the WTO Secretariat to maintain an indicative roster of well-qualified governmental and non-governmental individuals, to assist in the selection of panelists for dispute settlement proceedings.

Section 123(b) of the Uruguay Round Agreements Act (URAA), Public Law 103–405, provides that the Trade Representative shall seek to ensure that persons appointed to the WTO roster are well-qualified and that the roster includes persons with expertise in all of the subject matters covered by the Uruguay Round Agreements. USTR invites citizens of the United States with appropriate qualifications to apply for consideration as a nominee to the roster.

DATE: Eligible citizens are encouraged to apply by December 9, 1999 to be considered for nomination to the roster in 1999.

FOR FURTHER INFORMATION CONTACT: For information concerning the form of the application, contact Sandy McKinzy, Litigation Assistant, USTR Office of Monitoring and Enforcement, (202) 395–3582. For information concerning WTO procedures or the duties involved, contact Amelia Porges, Senior Counsel for Dispute Settlement, (202) 395–7305 or Stephen Kho, Assistant General Counsel, (202) 395–3581. For information relating to the GATS, contact Steven Fabry, Associate General Counsel, (202) 395–3582 or Peter Collins, Deputy Assistant USTR for Services and Investment, (202) 395–7271. Further information on the WTO and dispute settlement is available on the Internet at http://www.ustr.gov/reports/tpa/1999/iv-a.pdf; the text of the DSU is available on the Internet at http://www.wto.org/wto/dispute/dsu.htm.

SUPPLEMENTARY INFORMATION: Pursuant to Article 8 of the DSU, the WTO Secretariat is to maintain an indicative list of well-qualified governmental and non-governmental individuals, including persons who have served on or presented a case to a panel, taught or published on international trade law or policy, or served as a senior trade policy official of a WTO member country. The indicative list will be used to assist in the selection of panelists for dispute settlement proceedings. Panel members

are to be selected with a view to ensuring a sufficiently diverse background and a wide spectrum of experience. The current roster list dates principally from 1997 (with the addition of a few persons nominated later and approved by the DSB). The list is available on the Internet in http://www.ustr.gov/reports/tpa/1999/iv-b.pdf. The roster list is updated each two years.

USTR currently seeks applications related to the list of non-governmental individuals. Persons selected by USTR will be nominated for inclusion on the WTO indicative roster subject to DSB approval. Inclusion of a name on the roster, however, does not necessarily mean that the individual will be selected for service on a panel. DSU Article 8.2 provides that citizens of WTO Members whose governments are parties or interested third parties to a dispute may not serve on the panel in that dispute unless the parties agree otherwise. For example, panels for disputes in which the United States is a party or interested third party cannot include any U.S. citizens unless the parties to the dispute agreed otherwise.

The Decision on Certain Dispute Settlement Procedures for the GATS requires that panels for GATS disputes include specific expertise on individual sectors. GATS disputes could involve, *inter alia*, one or more of the following eleven principal sectors: (1) Business services, including professional and related services, (for example, legal, accounting, auditing and bookkeeping, taxation, medical, dental, veterinary, engineering, architectural, and urban planning services), computer and related services, research and development services, real estate services, rental and leasing services, and advertising and management services; (2) communication services (including audio-visual services); (3) construction and related engineering services; (4) distribution services; (5) educational services; (6) environmental services; (7) financial services, including insurance and insurance-related services, banking and securities services; (8) health-related and social services; (9) tourism and travel-related services; (10) recreational, cultural and sporting services, and (11) transport services.

Panels for GATS disputes are to be composed of well-qualified governmental and/or non-governmental individuals who have experience in issues related to GATS and/or trade in services, including associated regulatory matters. Dispute settlement panels concerning sectoral matters under the GATS must have expertise relevant to the specific service sector to which the dispute relates. The GATS Annex on Financial Services further provides that panels for disputes on prudential issues and other financial matters must have the necessary expertise relevant to the specific financial service under dispute.

WTO dispute settlement panels consist of three persons (unless the parties agree to have five panelists) whose function is to make an objective assessment of the matter under dispute, including an objective assessment of the facts of the case, the applicability of the relevant WTO agreements and the conformity of the measure under consideration with the obligations of those agreements. In addition, panels are to make such other findings as will assist the DSB in making the recommendations provided for in the WTO agreements.

Panelists must act in strict conformity with the provisions of the WTO agreements, including application of the appropriate standard of review. Panels are responsible for providing a report to the DSB, including recommendations if necessary, on the conformity of the matter under dispute with WTO obligations. Panelists must also comply with the WTO Rules of Conduct (available at http://www.ustr.gov/reports/tpa/1997/part4__2__8.html or http://www.wto.org/wto/dispute/rc.htm) relating to conflicts of interest and conduct as a panelist.

Procedures for Application

Non-governmental U.S. citizens (i.e., individuals not currently employed full-time by the U.S. Federal government or a state or local government) possessing expertise in international trade, services, intellectual property rights or other matters covered by the WTO agreements are invited to file an application for nomination to the WTO roster.

Applications must be typewritten and submitted along with two copies to Sandy McKinzy, Room 122, Office of the U.S. Trade Representative, 600 17th Street, N.W., Washington, D.C. 20508. However, only one copy need be provided of speeches and publications submitted under item 9 below. Applicants are to provide the following information to the extent applicable:

1. Name of the applicant;
2. Business address, telephone number and, if available, fax number and e-mail address;
3. Citizenship(s);
4. Foreign language fluency, spoken and written;
5. Current employment, including title, description of responsibilities, and name and address of employer;
6. Relevant education and professional training, including particular service-sector expertise, if any;
7. Post-education employment history, including the dates and address of each prior position and a summary of responsibilities;
8. Relevant professional affiliations and certifications;
9. List of publications and speeches; teaching experience in the area of trade; also, one copy of any speeches and publications relevant to the subject matter of the WTO agreements or service sector;
10. List of international trade proceedings or domestic proceedings relating to international trade (WTO) matters in which the person has provided advice or otherwise participated, including judicial or administrative proceedings over which that person has presided;
11. The names and nationalities of all foreign principals for whom the applicant is currently or has previously been registered pursuant to the Foreign Agents Registration Act, 22 U.S.C. 611 *et seq.*, and the dates of all registration periods; also, the names and nationalities of all foreign entities for which the applicant (or the applicant's employer on behalf of the applicant) is currently or has previously been registered under the Lobbying Disclosure Act of 1995 (P.L. 104–65), and the dates of all registration periods;
12. Names, addresses, telephone and, if available, fax numbers of three individuals authorized to provide information to USTR concerning the applicant's qualifications for service, including the applicant's familiarity with international trade laws and other areas of expertise, character, reliability and judgment; and
13. A short statement of qualifications, including information relevant to the applicant's familiarity with international trade, services or other issues covered by the WTO agreements, and availability for service.

Information provided by applicants will be used by USTR for the purpose of selecting candidates for nomination to the WTO roster. Further information concerning potential conflicts may be requested from individuals and the possibility of significant conflicts will be taken into consideration in evaluating applicants. Copies of publications and speeches submitted under item 9 above will be returned to the applicant upon request. Information submitted may be subject to public disclosure. Any business confidential information that should not be disclosed to the public should be clearly indicated

as such on each page of the submission, pursuant to 15 CFR section 2003.6.

U.S. citizens who are current members of the WTO roster and are interested in continuing to serve on the roster should reapply in response to this notice. Current members who are no longer interested in serving on panels need not notify USTR as they will be automatically removed from the list. Individuals who have previously applied but have not been selected for nomination may reapply.

USTR will contact applicants that qualify for further consideration as nominees regarding any additional information that may be required.

This notice contains a collection of information provision subject to the Paperwork Reduction Act (PRA) which has been approved by OMB. Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB number. This notice's collection of information burden is only for those persons who wish to voluntarily apply for nomination to the WTO roster. It is expected that the collection of information burden will be under 3 hours. This is a one-time-only collection of information, and contains no annual reporting and recordkeeping burden. This collection of information was approved by OMB under OMB Control Number 0350–0008. Send comments regarding the collection of information burden or any other aspect of the information collection to USTR at the address above.

The following statements are made in accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a). The authority for requesting information to be furnished is section 123(b) of the Uruguay Round Agreements Act and 15 CFR section 2003. Provision of the information requested above is voluntary; however, failure to provide the information will preclude your consideration as a candidate for the WTO roster. The information provided is needed, and will be used by USTR and other Federal government trade policy officials concerned with WTO dispute settlement, to select well-qualified U.S. roster candidates, and to complete standard curriculum vitae forms required by the WTO for each roster candidate. The information may be disclosed to members of the TPSC Subcommittee on WTO Disputes, for the purpose of evaluation of applications. Information on nominees will be furnished to the WTO pursuant to requirements under the DSU.

Robert Novick,

General Counsel.

[FR Doc. 99–29347 Filed 11–8–99; 8:45 am]

BILLING CODE 3190–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending October 29, 1999

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–99–6423.

Date Filed: October 29, 1999.

Parties: Members of the International Air Transport Association.

Subject: PTC 12 USA–EUR 0089 dated 29 October 1999, Mail Vote 042—Resolution 010L, TC12 North Atlantic USA-Europe, Special Passenger Amending Resolution, Intended effective date: 15 November 1999.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 99–29228 Filed 11–8–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending October 29, 1999

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–99–6409.

Date Filed: October 25, 1999.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: November 22, 1999.

Description: Application of SATA Internacional-Servicios E. Transportes Aereos, S.A. (''SATA Internacional'') pursuant to 49 U.S.C. Section 41302, Part 211 and Subpart Q, applies for a Foreign Air Carrier Permit authorizing SATA Internacional to conduct foreign non-scheduled air transportation of persons, property, and mail between points in the Portugal and points in United States, with service beginning on or about January 4, 2000 between Lisbon and the Azores, Portugal and Boston, Massachusetts.

Docket Number: OST–99–6246.

Date Filed: October 28, 1999.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: October 19, 1999.

Description: Motion of Delta Airlines, Inc. (''Delta'') for leave to file and Supplement #1 to its Application by adding the countries listed in Exhibit A–2, to the list of countries previously listed in Exhibit A of Delta's initial application.

Docket Number: OST–99–6323.

Date Filed: October 28, 1999

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: November 16, 1999.

Description Application of United Parcel Service Co. (''UPS'') pursuant to 49 U.S.C. Section 41102 and Subpart Q, applies for a Certificate of Public Convenience and Necessity to authorize it to engage in the scheduled foreign air transportation of property and mail between any point or points in the United States via intermediate points to a point or points in the People's Republic of China and to points beyond with full traffic rights between all points on the route. UPS requests that it be granted the fourth designation to serve China available on April 1, 2001, and that it be granted the ten weekly frequencies which also become available on that date. UPS further requests route integration authority enabling it to integrate services on the above-described route with services provided on other routes or under the various exemption authorities held by UPS.

Docket Number: OST–99–6425.

Date Filed: October 29, 1999.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: November 26, 1999.

Description: Application of Polar Air Cargo, Inc. (''Polar'') pursuant to 49 U.S.C. Section 41102 and Subpart Q, applies for a certificate of public convenience and necessity authorizing Polar to engage in scheduled foreign air transportation of property and mail between any point or points in the

United States, via intermediate point(s), and any point or points in Argentina and Chile, and beyond. Polar also requests authority to integrate its operations under this certificate with all the services Polar is otherwise authorized to conduct pursuant to its exemption and certificate authorities consistent with applicable international agreements.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 99–29229 Filed 11–8–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Joint RTCA Special Committee 180 and Eurocae Working Group 46 Meeting; Design Assurance Guidance for Airborne Electronic Hardware

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a joint RTCA Special Committee 180 and EUROCAE Working Group 46 meeting to be held January 11–13, 2000, starting at 8:30 a.m. on January 11. The meeting will be held at RTCA, 1140 Connecticut Avenue NW., Suite 1020, Washington, DC.

The agenda will be as follows: (1) Chairman's Introductory Remarks; (2) Review and Approval of Meeting Agenda; (3) Review and Approval of Minutes of Previous Joint Meeting; (4) Editorial Team Meeting Report; (5) Leadership Team Meeting Report; (6) Review Action Items; (7) Plenary Disposition of Document Comments; (8) Special Committee 190 Committee Activity Report; (9) Other Business; (10) Formal approval of text of documents; (11) Closing.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC, 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on November 4, 1999.

Jane P. Caldwell,

Designated Official.

[FR Doc. 99–29312 Filed 11–8–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Environmental Impact Statement: Daggett county, Utah

AGENCY: Federal Highway Administration (FHWA), DOT Bureau of Land Management, (BLM), DOI.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement and Amend the Diamond Mountain Resource Area Resource Management Plan.

SUMMARY: The FHWA and BLM are issuing this Notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for the proposed Browns Park Road Re-alignment and Paving Project proposed by Daggett County, Utah. This 26.9 km (16.8 miles) segment would connect from the currently paved portion of Browns Park Road that junctions with US Highway 191 in Utah to Colorado Route 318. The BLM, as a cooperating agency, under this Notice of Intent to Prepare an EIS, may amend the Diamond Mountain Resource Area Resource Management Plan (RMP) by adding a corridor for the proposed action.

AGENCY DECISIONS: In accordance with the National Environmental Policy Act of 1969, as amended, the FHWA must decide whether or not to proceed with the proposed project and under what terms, conditions, and stipulations. The BLM, which will assist in the preparation of the EIS, will decide whether to amend the RMP and provide a letter of consent to the FHWA under Interagency Agreement AA851–LA2–40.

FOR FURTHER INFORMATION CONTACT: Tom Allen, Environmental Engineer, Federal Highway Administration, 2520 West 4700 South, Suite 9A, Salt Lake City, Utah 84118–1847, Telephone: (801) 963–0078 Ext. 229; Greg Searle, Utah Department of Transportation, Region 3 (801) 227–8058 and Duane De Paepe, Bureau of Land Management, Vernal Field Office, (435) 781–4400.

SUPPLEMENTARY INFORMATION: FHWA as lead agency, in cooperation with the Utah Department of Transportation (UDOT) will prepare an EIS to re-align and pave the existing Browns Park Road. The Vernal Field Office of the Bureau of Land Management will serve as a cooperating agency and will assist in preparation of the EIS and direct preparation of the plan amendment for the Diamond Mountain Resource Area RMP. The plan amendment criteria would be the same as in the Diamond Mountain Resource Area RMP Record of Decision (Fall, 1994). The construction project would consist of upgrading and realigning portions of an existing county road that crosses 19.6 km of public land parcels administered by the BLM (12.2 miles), 6.9 km State of Utah lands (4.3 miles), as well as .5 km of land that is privately owned (.3 miles).

Currently, the Browns Park Road is unpaved, and characterized by rutted washboard surfaces and dust producing surface materials. Horizontal and vertical alignments on the existing roadway vary from good in the straight sections to poor on the steep and curving sections. Jesse Ewing Canyon has some extremely steep grades in the range of 14 to 17 percent. This makes travel very difficult during inclement weather and has proven to be very dangerous as evidenced by a traffic fatality in recent years. In addition to addressing these maintenance and safety concerns, Daggett County also considers it important to bring this road up to the standards of the adjoining highways.

The proposal is to pave the section of Daggett County road between Red Creek (T3N R23E Sec. 16) and the Colorado State line (T2N R25E Sec. 35), known as the Browns Park Road. This 26.9 km segment would be 9 m (29.5 feet) in width and have a design speed of 60 km/hr (38 mph). It would connect from the currently paved portion of Browns Park Road that junctions with US Highway 191 in Utah to Colorado Route 318, and provide improved access to recreational, agricultural, and commercial developments in the Green River and Flaming Gorge areas from Utah, Colorado and Wyoming.

The proposed project would generally follow the existing Browns Park Road alignment. However, there are two proposed courses around Jesse Ewing Canyon that would lengthen the road course to reduce grades and provide a safer route of travel.

The corridor width needed for construction would be expected to average about 30.5 m (100 feet). New disturbance associated with the realignment proposed in Jesse Ewing Canyon is expected to be approximately 12.1 hectares (30 acres). In addition, several construction equipment staging

(temporary use) areas and borrow sites would be required, and would be located along the road corridor (8.1 hectares [20 acres]). The overall disturbed area associated with this project is expected to be less than 60.7 hectares (150 acres).

The primary users of the Browns Park Road are agriculturists, recreationists, and residents in the area. The upgrade of the road would greatly improve travel conditions and safety, and would substantially reduce present maintenance costs for the road. It would also support the increased travel demands projected for the near future.

The alternative is no action which would leave the road in its present condition. Suggestions for other alternatives are welcome.

Letters describing the proposed project and soliciting comments will be sent to appropriate federal, state, and local agencies, and to private organizations and citizens who have previously expressed or are known to have an interest in this proposal.

Three public open house scoping meetings will be held, two in Utah (Dutch John and Vernal), and one in Craig, Colorado. The open houses will include displays explaining the project and a forum for commenting on the project. The meetings will be held as follows:

Craig, Colorado: December 1, 1999, 5:00 p.m. to 8:00 p.m., Craig City Hall, 300 West 4th Street, Council Meeting Room

Vernal, Utah: December 2, 1999, 5:00 p.m. to 8:00 p.m., Western Park, 302 East 200 South

Dutch John, Utah: December 3, 1999, 5:00 p.m. to 8:00 p.m., Dutch John Conference Hall

Written comments on the scope of this proposal will be accepted until December 27, 1999. Comments should be directed to Linda Matthews, JBR Environmental Consultants, Inc., 8160 South Highland Drive, Suite A–4, Sandy, Utah 84093. At least one public hearing will be held following release of the Draft EIS. Public notice will be given of the time and place of the hearing. The Draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed project is addressed and any significant impacts are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed project and the EIS should be directed to Tom Allen, Environmental Engineer, Federal Highway Administration, 2520 West 4700 South, Suite 9A, Salt Lake City, Utah 84118–1847, Telephone: (801) 963–0078 Ext. 229.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Comments, including names and street addresses of respondents will be available for public review at the Utah Division of FHWA and at the BLM Vernal Field Office and will be subject to disclosure under the Freedom of Information Act (FOIA). They may be published as part of the Environmental Impact Statement and other related documents. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review and disclosure under the FOIA, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Michael Ritchie,

Division Administrator, Utah Division, Federal Highway Administration, Salt Lake City, Utah.

Linda S. Colville,

BLM Acting Utah State Director, Salt Lake City, Utah.

[FR Doc. 99–28943 Filed 11–8–99; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The nature of the information collection is described as well as its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on July 8, 1999, at 64 FR 36831. Three respondents submitted comments pertaining to the collection. These are reviewed later in this notice.

DATES: Comments must be submitted on or before December 9, 1999.

FOR FURTHER INFORMATION CONTACT: Michael Hokana, Office of Ports and Domestic Shipping, Maritime Administration, 400 7th Street, SW, Washington, DC 20590, Telephone 202–366–0760, or FAX 202–366–6988. Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Maritime Administration (MARAD)

Title: Application for Waiver of the Coastwise Trade Laws for Small Passenger Vessels.

OMB Control Number: 2133–NEW.

Type of Request: Approval of a new request.

Affected Public: Small passenger vessel owners desirous of operating in the coastwise trade.

Form(s): None.

Abstract: Owners of ship vessels desiring waiver of the coastwise trade laws affecting small passenger vessels will be required to file a written application and justification for waiver to the Maritime Administration (MARAD). The agency will review the application and make a determination whether to grant the requested waiver.

Annual Estimated Burden Hours: 100 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Attention MARAD Desk Officer.

Comments Are Invited on

Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Comments Received in Response to 60-Day Comment Period

On July 8, 1999, a notice was published in the **Federal Register**, 64 FR

36831, requesting comments within 60 days on this information collection. Three respondents submitted comments. One concurred, indicating it appeared all interests have been served by the wording and thought behind this measure. The second respondent made three recommendations: (1) Eliminate the geographical region of intended operation and trade. MARAD's response—Non-concur, we find it necessary to require the geographical region in order to make the necessary determination of adverse affect of the requested waiver. (2) Eliminate the requirement to include impact on other commercial passenger vessel operators in the application for waiver. MARAD's response—Non-concur, the information on impact is needed to determine the adverse affect, if any, and is therefore retained in the application information collection requirements. (3) Eliminate the application fee. MARAD's response—Non-concur, the application fee will be retained as it is Federal policy to assess a ''user charge'' against each identifiable recipient for special benefits derived from Federal activities beyond those received by the general public (Office of Management and Budget Circular A–25, ''User Charges,'' July 8, 1993). Processing a waiver application would provide such a special benefit.

The third respondent proposed a number of changes to the proposed regulation. All comments are addressed in the preamble to the final rule. Here, we are concerned only with the four comments relevant to the information collection requirements: (1) Suggest that only the owner of the vessel should be able to submit a waiver application. MARAD's response—Concur, we have revised the rule to reflect this requirement. (2) Suggest the applicant be required to provide a statement explaining the duration of the applicant's ownership of the vessel, his cost of purchasing or otherwise obtaining the vessel, and the uses to which he has put the vessel since obtaining it. MARAD's response—We believe these questions are unnecessary for MARAD to effectively carry out its responsibilities under Title V of the Coast Guard Authorization Act of 1998. (3) The association supports the application fee of $300. (4) Require that no substantial change in employment of the vessel in the coastwise trade may be made without prior notice to MARAD. MARAD's response—Concur, we have added this requirement to the final rule, indicating that failure to provide advance notice may effect an immediate revocation of the waiver under section 388.5.

Issued in Washington, DC on November 3, 1999.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 99–29268 Filed 11–8–99; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 99–6207, Notice 1]

Bombardier Motor Corporation of America, Inc.; Receipt of Application for Determination of Inconsequential Noncompliance

Bombardier Motor Corporation of America, Inc. (''BMCA'') of Melbourne, Florida has applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301 ''Motor Vehicle Safety'' for a noncompliance with 49 CFR 571.209, Federal Motor Vehicle Safety Standard (FMVSS) No. 209, ''Seat Belt Assemblies,'' on the basis that the noncompliance is inconsequential to motor vehicle safety. BMCA has filed a report of noncompliance pursuant to 49 CFR part 573 ''Defects and Noncompliance Reports.''

Notice of receipt of the application is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgement concerning the merits of the application.

Description of the Noncompliance

S4.1(j) of FMVSS No. 209 requires that each seat belt assembly be permanently and legibly marked or labeled with the year of manufacture, and the model and name or trademark of the manufacturer or distributor. The seat belt assemblies, manufactured by Good Success Corporation, model AB401 (309), and were installed in the Bombardier NVs sold between June 17, 1998 and April 9, 1999, do not contain the requisite marking or labeling. With the exception of the marking, the seat belt assemblies in question fully comply with all NHTSA safety requirements.

Bombardier Arguments

Bombardier argues that this noncompliance is inconsequential for the following reasons: ''Under the National Traffic and Motor Vehicle Safety Act (the ''Act''), 49 U.S.C. 30101 *et seq.*, each FMVSS that is promulgated is required to be ''practicable, meet the need for motor vehicle, and be stated in objective terms.'' 49 U.S.C. 30111(a). The definition of ''motor vehicle safety'' is as follows:

''Motor vehicle safety'' means the performance of a motor vehicle or motor vehicle equipment in a way that protects the public against *unreasonable risk of accidents* occurring because of the design, construction or performance of a motor vehicle, and against *unreasonable risk of death or injury* in an accident, and includes nonoperational safety of a motor vehicle.

Section 30118(d) of the Act exempts manufacturers from the Act's notice and remedy requirements when the Secretary determines that a defect or noncompliance is inconsequential as it relates to motor vehicle safety. Section 30118(d) of the Act demonstrates Congress' acknowledgment that there are cases where a manufacturer has failed to comply with a FMVSS and yet the impact on motor vehicle safety is so slight that an exemption from the notice and remedy requirements of the Act is justified.

FMVSS No. 209 provides the requirements for seatbelt assemblies. 49 CFR 571.209 S1 (1998). The purpose for seat belt assemblies is to provide occupant restraint. *Id* at S4.1(b). Although not discussed in regulations, common sense dictates that when a seat belt assembly is properly installed, the marking or labeling requirements at FMVSS No. 209 S4.1(j) play no role in the performance of such seatbelt assembly.''

The seat belt assembly labeling requirement at FMVSS No. 209 S4.1(j) provides in pertinent part:

Each seatbelt assembly shall be permanently and legibly marked or labeled with year of manufacture, model, and make or trademark of manufacturer or distributor, or of importer if manufactured outside the United States.

Because this standard does not address seatbelt assembly materials or performance requirements, the purpose of FMVSS No. 209 S4.1(j) appears to assure that the correct seat belt assemblies are installed in a given vehicle—either as original equipment manufacturer, or as replacement equipment. BMCA's noncompliance with FMVSS No. 209 S4.1(j) thus raises two questions:

(1) Could the labeling noncompliance have caused the seat belt assemblies to have been installed improperly by BMCA?

(2) Would the labeling noncompliance interfere with the proper acquisition and installation of a replacement seat belt assembly?

BMCA is confident that all noncompliant seat belt assemblies were properly installed at its manufacturing facility. Because BMCA only manufactures one motor vehicle subject to FMVSS, there can be little confusion regarding which belt goes in which vehicle. BMCA is also confident that the labeling noncompliance will not interfere with acquisition and installation of a replacement seat belt assembly should there even be one. The seat belt marking also assists should there be a recall regarding the seat belt, and would identify the belt by year and manufacturer. As BMCA has been selling NV for a short period, the chance of confusion over the year or seat belt manufacturer is remote.

Because of the design of the seat belt assemblies found in Bombardier NVs, it

would be very difficult to inadvertently install any of the seat belt assemblies in question in anyplace other than the seat belt assemblies' intended location in the Bombardier NV.

BMCA is unaware of any owner complaints, field reports or allegations of hazardous circumstances relating to either the lack of the requisite seat belt assembly label, or of the improper installation of seat belt assemblies in any of its NVs. Furthermore, BMCA has found no instance where a seat belt assembly (regardless of labeling compliance) was improperly installed in any Bombardier NV. In fact Bombardier is unaware of any complaints from consumers regarding the seat belts.

Seat belt assemblies for the Bombardier NV are not distributed through the general automotive aftermarket; they are only sold by Bombardier NV dealers. The part number for the Bombardier NV seat belt assembly is 00078. This is the only seat belt part number for the vehicles in question so there can be no confusion. Because seat belt assemblies for the Bombardier NV are presently only available through dealers, and that the Bombardier parts numbering system will assure proper replacement seat belt assemblies, BMCA is confident that the labeling noncompliance will not interfere with the proper acquisition and installation of a replacement seat belt assembly.

NHTSA has granted similar petitions for noncompliance with seatbelt assembly labeling standards. *See, generally, TRW, Inc.*, Docket. No. 92–67; Notice 2, 58 FR 7171 (1993) *Chrysler Corporation*, Docket. No. 92–94; Notice 2, 57 FR 45,865 (1992). In both of these cases the petitioners demonstrated that the noncompliant seat belt assemblies were properly installed, and that due to their respective replacement parts ordering systems, improper replacement seat belt assembly selection and installation would unlikely occur.

BMCA believes that because the labeling noncompliance has no bearing on the materials or performance standards articulated in FMVSS No. 209, that [S16] all the seat belt assemblies in question were properly installed as original equipment, and that BMCA's replacement part system would preclude the purchase and installation of an improper replacement seat belt assembly for a Bombardier NV, the noncompliance poses no motor vehicle risk.

Interested persons are invited to submit written data, views and arguments on the petition of BMCA, described above. Comments should refer to the Docket Number and be submitted to: Docket Management, National Highway Traffic Safety Administration, Room PL 401, 400 Seventh Street, SW., Washington DC 20590. It is requested that two copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent practicable. When the application is granted or denied, the Notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: December 9, 1999.

(49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: November 3, 1999.

Stephen R. Kratzke,

Acting Associate Administrator for Safety Performance Standards.

[FR Doc. 99–29269 Filed 11–8–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 2, 1999.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before December 9, 1999 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1029.

Form Number: IRS Form 8693.

Type of Review: Revision.

Title: Low-Income Housing Credit Disposition Bond or Treasury Direct Account Application.

Description: Form 8693 is needed per Internal Revenue Code (IRC) section 42(j)(6) to post bond or establish a Treasury Direct Account and waive the recapture requirement under section 42(j) for certain dispositions of a building on which the low-income housing credit was claimed. Internal Revenue regulations section 301.7101–1 requires that the posting of a bond must be done on the appropriate form as determined by the Internal Revenue Service.

Respondents: Business or other for-profit, individuals or households.

Estimated Number of Respondents/ Recordkeepers: 1,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—13 min.

Learning about the law or the form—14 min.

Preparing the form—20 min.

Copying, assembling, and sending the form to the IRS—20 min.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 1,130 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports Management Officer.

[FR Doc. 99–29297 Filed 11–8–99; 8:45 am]

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November 9, 1999

Part II

Environmental Protection Agency

40 CFR Part 131

Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants; States' Compliance—Revision of Polychlorinated Biphenyls (PCBs) Criteria; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 131

[FRL–6450–5]

RIN 2040–AD27

Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants; States' Compliance—Revision of Polychlorinated Biphenyls (PCBs) Criteria

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Clean Water Act (CWA) requires States to adopt numeric criteria for priority toxic pollutants for which EPA has published criteria guidance if the discharge or presence of such pollutants could reasonably be expected to interfere with the designated uses of the State's waters. In 1992, EPA promulgated the National Toxics Rule (NTR) establishing numeric water quality criteria for toxic pollutants in fourteen States and jurisdictions to protect human health and aquatic life. These States and jurisdictions had not adopted sufficient chemical-specific, numeric criteria for toxic pollutants necessary to comply with the Clean Water Act.

Among the criteria promulgated in the NTR were human health and aquatic life water quality criteria for polychlorinated biphenyls (PCBs). Today, EPA is issuing revisions to the human health water quality criteria for PCBs in the NTR, based on the Agency's reassessment of the cancer potency of PCBs. The revised criteria will apply in: Alaska, District of Columbia, Kansas, Michigan, Nevada, New Jersey, Puerto Rico, Rhode Island, Vermont and Washington.

EFFECTIVE DATE: This rule shall be effective December 9, 1999.

ADDRESSES: The public may inspect the administrative record for this rulemaking and all public comments received on the proposed rule at the Water Docket, East Tower Basement, USEPA, 401 M St., S.W., Washington, D.C. The record is available for inspection from 9:00 to 4:00 p.m., Monday through Friday, excluding legal holidays. Please call (202) 260–3027 to schedule an appointment.

FOR FURTHER INFORMATION CONTACT: Cindy Roberts, Health and Ecological Criteria Division (4304), Office of Science and Technology, Office of Water, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 260–2787.

SUPPLEMENTARY INFORMATION:

A. Who is potentially affected by the National Toxics Rule?
B. What is the National Toxics Rule?
C. Why is EPA revising the National Toxics Rule?
D. Why did EPA change the human health criteria for PCBs?
E. Can an NTR State develop site-specific criteria?
F. Response to Public Comments
G. References
H. Regulatory Assessment Requirements

A. Who Is Potentially Affected by the National Toxics Rule?

Dischargers of PCBs to waters of the United States in States and jurisdictions subject to the National Toxics Rule (NTR) could be affected by this rule. National Toxics Rule States include: Alaska, District of Columbia, Kansas, Michigan, Nevada, New Jersey, Puerto Rico, Rhode Island, Vermont and Washington. These dischargers may be affected since water quality criteria are part of water quality standards that, in turn, are used in developing National Pollutant Discharge Elimination System (NPDES) permit limits. Categories of pollutant dischargers that may ultimately be affected include:

Category	Examples of potentially affected entities
Industry	Industries discharging to waters of NTR States and jurisdictions.
Municipalities	Publicly-owned treatment works discharging to waters of NTR States and jurisdictions.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not listed in the table could also be affected if PCBs are found in their pollutant discharges. To determine whether your facility, company, business, or organization may be affected by this action, you should carefully examine the applicability criteria in § 131.36 (d) of title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. What Is the National Toxics Rule?

The Clean Water Act (CWA) requires States to adopt numeric criteria for priority toxic pollutants if EPA has published criteria guidance and if the discharge or presence of these pollutants could reasonably be expected to interfere with the designated uses of the State's waters. In 1992, EPA ''promulgated'' or put into force of law, the National Toxics Rule (NTR) establishing numeric water quality criteria for toxic pollutants in fourteen States and jurisdictions to protect human health and aquatic life (57 FR 60848, December 22, 1992, incorporated in the Code of Federal Regulations at 40 CFR 131.36). These States and jurisdictions had not adopted adequate numeric criteria for pollutants necessary to comply with the Clean Water Act.

C. Why Is EPA Revising the National Toxics Rule?

Among the criteria promulgated in the NTR were PCB criteria to protect human health. These criteria were based on procedures issued in 1980 (''Guidelines and Methodology Used in the Preparation of Health Effects Assessment Chapters of the Consent Decree Water Criteria Documents,'' 45 FR 79347, November 28, 1980 or ''Human Health Guidelines'').

General Electric Company (GE) and the American Forest and Paper Association, Inc. challenged a number of aspects of the NTR, including the human health water quality criteria for PCBs. (*American Forest and Paper Ass'n. Inc. et al.* v. *U.S. EPA* (Consolidated Case No. 93–0694 (RMU) D.D.C.). In particular, the plaintiffs objected to EPA's application of its cancer risk assessment methodology to its evaluation of the carcinogenicity of PCBs and the Agency's evaluation of various scientific studies relevant to the cancer risk posed by PCBs. EPA had a number of activities underway that could have led to a revision of the criteria, including reassessment of the cancer potency of PCBs (the ''cancer reassessment''), revision of the methodology to derive human health water quality criteria, and revision of the cancer guidelines. EPA and the plaintiffs entered into a partial settlement agreement in which EPA agreed, among other things, to a schedule for completing the cancer reassessment. See ''Partial Settlement Agreement,'' Consolidated Case No. 93–0694 RMU, D.D.C, signed November 7, 1995.

EPA also agreed that within 18 months of the issuance of the final cancer reassessment, the Agency would

propose a revision to the NTR human health criteria for PCBs, or publish a **Federal Register** notice explaining why it was not revising the NTR criteria. EPA completed the cancer reassessment in September 1996, (''PCBs: Cancer Dose-Response Assessment and Applications to Environmental Mixtures'' (EPA 600/P–96/001F). This report shows how information on toxicity, tendencies and environmental processes can be used together to evaluate health risks from PCBs in the environment. EPA also considered several issues identified by the plaintiffs. In accordance with the terms outlined in the partial settlement agreement, EPA proposed revisions to the NTR human health criteria for PCBs on March 27, 1998 (63 FR 16182, April 2, 1998). In today's document, EPA is amending the PCBs human health criteria in the NTR.

D. Why Did EPA Change the Human Health Criteria for PCBs?

What Are PCBs and Why are They a Problem in the Environment?

Polychlorinated biphenyls or PCBs are a group of chemicals that contain 209 individual compounds known as ''congeners.'' Commercial PCBs are mixtures of congeners that differ in their chlorine content. Different mixtures can take on forms ranging from oily liquids to waxy solids. Although their chemical properties vary widely, different mixtures have many common PCB congeners. Because of their flame retardant properties, chemical stability, and insulating properties, commercial PCB mixtures were used in many industrial applications. These chemical properties also contribute to the slow degradation of PCBs after they are released into the environment. Because of evidence of persistence and harmful effects, domestic manufacture of commercial mixtures was stopped in 1977; existing PCBs continue in use, primarily in electrical capacitors and transformers.

In the environment, PCBs occur as mixtures of congeners, but their composition differs from the commercial mixtures. This is because after release into the environment, the composition of PCB mixtures changes over time through partitioning, chemical transformation and preferential bioaccumulation of certain congeners. Partitioning is the separation of a chemical into different environmental media, such as fish tissue or sediments. Preferential bioaccumulation is the affinity for a congener to accumulate in one type of environmental media over another. Some PCB congeners can accumulate in living organisms. PCBs are widespread in the environment because of past contamination, and humans are exposed through multiple pathways including ambient air, drinking water, and diet.

How Were the Criteria for PCBs Developed?

The PCBs criteria included in the NTR were based on a single dose-response slope factor (7.7 per mg/kg-d average lifetime exposure); this was the value included in EPA's Integrated Risk Information System (IRIS, www.epa.gov/ngispgm3/iris/irisdat) at that time. A slope factor is a means of indicating the relevant potency of a cancer causing chemical. This slope factor value was derived from a rat feeding study by Norback and Weltman (1985), one of several studies of a commercial mixture called Aroclor 1260. Because there was no agreed-upon basis for reflecting differences among environmental mixtures, the 7.7 per mg/kg-d slope factor was used for all PCBs and PCB mixtures. As noted above, GE challenged the PCB criteria, disagreeing with EPA's use of this slope factor to calculate the NTR human health criteria for PCBs on several grounds, including that the Norback and Weltman study had been reevaluated. GE argued that if the reevaluated results had been used, the cancer potency factor would have been significantly lower. EPA agreed to complete a reassessment of the cancer potency factor for PCBs .

What's Different About the New Cancer Reassessment?

EPA considered a number of different approaches for its reassessment, and adopted an approach that distinguishes among PCB mixtures by using information on environmental processes that can decrease or increase toxic potency of an environmental mixture. EPA's new assessment considered all cancer studies (which used commercial mixtures only) including a new study of four different commercial mixtures (Aroclors) that strengthens the case that all PCBs mixtures can cause cancer. EPA used this information to develop a range of dose response slopes, changing the single-dose cancer potency factor of 7.7 per mg/kg-d to a range from 0.07 per mg/kg-d (lowest risk and persistence) to 2.0 per mg/kg-d (high risk and persistence). It is noteworthy that bioaccumulated PCBs appear to be more toxic than commercial PCBs and appear to be more persistent in the body. The reassessment uses information on environmental processes to provide guidance on choosing an appropriate slope for representative classes of environmental mixtures and different exposure pathways.

The guidance matches slope values from the range to exposure pathway (*e.g.*, food chain) by using a ''tiered approach'' which attributes higher risk to exposure through the food chain compared to other exposures. Bioaccumulation through the food chain tends to concentrate certain highly chlorinated congeners which are often among the most toxic and persistent. Persistence in the body can enhance the opportunity for PCB congeners to express toxicity (Safe, 1994). Studies indicate that the major pathway of exposure to persistent toxic substances such as PCBs is through food (*i.e.*, contaminated fish and shellfish consumption). Because it considers consumption of contaminated fish to be the dominant source of PCB exposure, EPA proposed and has decided to use a cancer potency factor of 2 per mg/kg-d, the ''upper bound'' potency factor reflecting high risk and persistence, to calculate the revised human health criteria for PCBs. This upper bound slope factor of 2 per mg/kg-d is also used to assess increased cancer risks associated with early life exposure to PCBs.

The cancer reassessment was subject to peer review by a group of experts from outside the Agency. See ''Report on Peer Review Workshop on PCBs: Cancer-Dose Response Assessment and Application to Environmental Mixtures,'' May 1996.

How Are Today's Human Health Criteria for PCBs Calculated?

Using the cancer potency factor of 2 per mg/kg-d the human health criterion (HHC) for organism and water consumption is as follows:

$$HHC = \frac{RF \times BW \times (1{,}000\ \mu g/mg)}{q1^* \times [WC + (FC \times BCF)]}$$

Where:
RF = Risk Factor = $1 \times 10 (-6)$
BW = Body Weight = 70 kg
q1* = Cancer slope factor = 2 per mg/kg-d
WC = Water Consumption = 2 L/day
FC = Fish and Shellfish Consumption = 0.0065 kg/day
BCF = Bioconcentration Factor = 31,200
the HHC (µg/l) = 0.00017 µg/L (rounded to two significant digits).

Following is the calculation of the human health criterion for organism only consumption:

$$HHC = \frac{RF \times BW \times (1{,}000\ \mu g/mg)}{q1^* \times FC \times BCF}$$

Where:
RF = Risk Factor = $1 \times 10 (-6)$
BW = Body Weight = 70 kg
q1* = Cancer slope factor = 2 per mg/kg-d
FC = Total Fish and Shellfish Consumption per Day = 0.0065 kg/day
BCF = Bioconcentration Factor = 31,200
the HHC (µg/l) = 0.00017 µg/L (rounded to two significant digits).

The criteria are both equal to 0.00017 µg/l and apply to total PCBs. See ''PCBs: Cancer Dose Response Assessment and Application to Environmental Mixtures'' (EPA 600/9–96–001F). The body weight and water consumption factors are discussed in the Human Health Guidelines (''Guidelines and Methodology Used in the Preparation of Health Effects Assessment Chapters of the Consent Decree Water Criteria Documents,'' 45 FR 79347, November 28, 1980). The BCF is discussed in the 304(a) criteria guidance document for PCBs (''Ambient Water Quality Criteria for Polychlorinated Biphenyls,'' EPA 440/5–80–068) (1980).

In developing today's criteria EPA relied on the currently available Human Health Guidelines (45 FR 79347, November 28, 1980). However, EPA recently proposed revisions to the methodology it uses to derive water quality criteria for human health (63 FR 43755, August 14, 1998). When the proposed revisions are finalized, EPA expects to recommend the use of bioaccumulation factors (BAFs) in place of bioconcentration factors (BCFs). For certain chemicals including PCBs, the revised methodology would emphasize the assessment of bioaccumulation (*i.e.*, uptake from water, food, sediments) over bioconcentration (*i.e.*, uptake from water only). The change outlined above may result in a significant numeric change in the ambient water quality criteria for PCBs. For PCBs and other bioaccumulative chemicals, BAFs may be developed which are orders of magnitude greater than the BCFs developed in 1980. This would likely result in a criterion which is orders of magnitude more stringent, if all other parameters (such as q1*s) remain constant.

Why Are the Criteria Now Expressed as Total PCBs?

In its 1998 proposal, EPA offered a different approach for expressing human health criteria for PCBs. Human health criteria would no longer be based on individual Aroclors, but rather on total PCBs concentrations. In the environment, PCBs occur as mixtures of congeners but these are different in composition than commercial mixtures (Aroclors). This is because PCB mixtures can change over time through partitioning among different environmental media (*e.g.*, water, sediment), by chemically transforming or preferentially bioaccumulating. Therefore, it can be imprecise and inappropriate to characterize environmental mixtures in terms of Aroclors (EPA, 1996). It is the Agency's view that expressing the criteria in terms of total PCBs rather than individual Aroclors better reflects current scientific thought (See: ''PCBs: Cancer Dose Response Assessment and Application to Environmental Mixtures,'' ''Assessing the cancer risks from environmental PCBs'' (Cogliano, 1998) and the proposed PCBs criteria in the California Toxics Rule, 62 FR 42160, August 5, 1997).

E. Can an NTR State Develop Site-Specific Criteria

EPA prefers that States maintain primacy, revise their own standards, and achieve full compliance, but in order to achieve primacy, States must first be removed from the NTR. Removal of a State from the NTR requires rulemaking by EPA according to the requirements of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*). For example, both Rhode Island and Vermont have adopted criteria, including criteria for PCBs, required by CWA 303(c)(2)(b). EPA approved the state adoptions and will be initiating action to remove both Rhode Island and Vermont from the NTR in the near future. Pending completion of this action, nothing in this rule preempts these States' authority to implement any more stringent State criteria for PCBs. (See section 510 of CWA).

A State cannot derive site-specific criteria for pollutants for which EPA has established standards in the National Toxics Rule. Promulgation of the NTR removed most of the flexibility available to the affected States for modifying their standards on a discharger-specific or stream-specific basis. For example, site-specific criteria for human health are precluded for NTR States unless there is a Federal rulemaking in that State to change the Federal rule for that State, or unless the State adopts a more stringent criteria pursuant to CWA section 510, which as a practical matter would override the less stringent NTR criteria.

EPA will withdraw the promulgated criteria in the NTR by rule without a notice and comment, when a State adopts standards no less stringent than the NTR (*i.e.*, standards which provide, at least, equivalent environmental protection). However, if a State adopts standards for toxics which are less stringent than the Federal rule but, in the Agency's judgment fully meet the requirements of the Act, EPA will propose to withdraw the NTR criteria with a notice of proposed rulemaking and provide for public participation. Thereafter the Agency will issue a final rule.

A State may want to develop site-specific human health criteria for PCBs when exposure information indicates that an alternate cancer slope factor is appropriate. As mentioned above, EPA's 1996 cancer assessment for PCBs uses information on environmental processes to provide guidance on choosing an appropriate cancer slope factor from a range of slope factors. An ''upper bound'' potency factor, such as the 2 per mg/kg-d used in this rule, is appropriate for food chain exposure, sediment or soil ingestion, and dust or aerosol inhalation pathways. These are exposure pathways where environmental processes tend to increase risk. Lower potencies are appropriate for ingestion of water-soluble congeners or inhalation of evaporated congeners. These are pathways where environmental processes tend to decrease risk (EPA, 1996).

F. Response to Public Comments

As noted above, EPA published proposed revisions of the PCB human health criteria in 1998. EPA received several comments from the public and significant comments are addressed in this section.

1. One commenter asked for more time in which to prepare additional materials for submission.

Response: EPA did not agree that revisions of the PCB criteria should be delayed based upon the expectations of future analyses of epidemiological data. EPA realizes that scientific information is constantly evolving. Additional research is always being done and test

methods and theories improve. There can be a long lag time between conducting the research, analyzing data, issuing a criteria or risk assessment for peer review, incorporating peer review comments and working through the State or Federal administrative processes to adopt water quality standards. There comes a point in this process, where the administering agencies, both EPA and the States, have to act using the existing criteria recommendations based on the methodology by which they are derived, and put standards into place to assist the implementation of control programs to protect the health of the public and the environment.

In this instance, EPA has completed a cancer reassessment for PCBs and has subjected that analysis to extensive scientific analysis and debate, including an external peer review. EPA believes this reassessment provides a strong scientific basis for revision of the PCBs human health criteria. Commenters have not provided EPA with epidemiological data or other information sufficiently compelling for EPA to delay amending the NTR to incorporate the revised criteria. Accordingly, it is EPA's view that the promulgation process should go forward.

2. Two commenters did not agree that the proposed rule results in ambient water quality criteria for human health that are less stringent than those currently in the NTR.

Response: The Agency does not believe that the new criteria based on total PCBs are more stringent. As discussed above, and in the 1998 proposed rule, the new human health criteria specify concentration limits of 0.00017 μg/L for total PCBs, in contrast to the old criterion of 0.000044 μg/L for each of seven different Aroclors. The old criteria would, in theory, have allowed 0.000308 μg/L total PCBs if each of the seven Aroclors were at its limit. EPA does not believe this is a reasonable assumption. The new criterion is not more stringent than the old because several of the Aroclors are not prevalent in commerce or in the environment. Aroclor 1242 alone accounted for 52 percent of U.S. PCB production, and Aroclors 1016, 1242, 1254, and 1260 together accounted for over 90 percent. Thus, it is highly unlikely that all seven Aroclors would be present in similar concentrations. Further, from what we know about how PCBs degrade and partition into different environmental media and bioaccumulate in living organisms, environmental PCBs do not look like the seven industrial Aroclors at their limits. For example, PCBs in fish or sediment would contain PCB congeners of high chlorine content and be characterized as ''like'' Aroclor 1254 or 1260. PCBs in water would contain PCB congeners of lower chlorine content and be characterized as ''like'' one or two Aroclors of lower chlorine content. This conclusion is confirmed when environmental samples are characterized in terms of Aroclor mixtures; experience shows that no more than two or three Aroclors are used. Accordingly, it is unlikely that an environmental sample could be characterized in terms of similar concentrations of the seven different Aroclors.

3. Several commenters prefer criteria for individual Aroclors stating that the proposed criteria based on total PCBs were inappropriate. Their objections include:

(a) Only one slope factor and one BCF were used to derive the criteria rather than different slope factors and BCFs for each individual Aroclor;

(b) Environmental samples are likely to contain the four most common Aroclors and the proposed criterion is equal to the sum of these four most common Aroclors;

(c) Criteria based on total Aroclors are inaccurate because formulations in different lots can differ by 2–5 fold for many PCB congeners, making even Aroclor estimated PCB levels inconsistent with each other if different lots of a formulation are used in different labs;

(d) Differences between environmental samples and commercial mixtures make accurate summations of Aroclors difficult and therefore it is unlikely that an accurate estimation can be made of total PCBs (*i.e.*, total Aroclors);

(e) Criteria based on sum of PCBs are too stringent because monitoring programs and analytical labs quantify PCBs as multiple Aroclor formulations, and the sum of PCBs would exceed the proposed total criteria;

(f) PCB congeners are shared by several Aroclors, thus, measuring total Aroclors could double or triple count some congeners leading to inaccurately high total PCB levels;

(g) It is not possible to characterize PCB congeners as ''like'' Aroclors and it is unlikely that an accurate estimate can be made of total PCBs; and

(h) It is not appropriate to develop a single criterion because the Agency does not expect to find all seven Aroclors in significant quantities in samples.

Response: The Agency does not agree that individual criteria for each Aroclor should be maintained. The revised PCB criteria were derived using a single cancer potency factor and a single bioconcentration factor (BCF) because as discussed below, in the Agency's view, this approach protects against the major exposure pathway of concern, consumption of contaminated fish and shellfish.

The Agency adopted an approach in its new cancer reassessment, ''PCBs: Cancer Dose-Response Assessment and Application to Environmental Mixtures'' (EPA, 1996) (EPA 600/P–96/001F), that distinguishes among PCB mixtures by using information on environmental processes to provide guidance in choosing appropriate slope factors for representative classes of environmental mixtures and different exposure pathways. In this methodology, exposure through the food chain is associated with higher risks than other exposures. Preferential bioaccumulation through the food chain tends to concentrate certain highly chlorinated congeners which are often among the most toxic and persistent. Thus, EPA chose a cancer potency factor of 2 per mg/kg-d, the upper bound slope factor, to calculate the revised human health criteria. Humans can be exposed to PCBs through the food chain which is an exposure pathway where environmental processes are likely to increase risk.

EPA uses a single bioconcentration factor (BCF), from the 1980 criteria guidance document, ''Ambient Water Quality Criteria for Polychlorinated Biphenyls,'' (EPA 440/5–80–068), to derive the criteria for today's rule. This BCF, 31,200 L/kg, was derived from data from 21 studies of several different Aroclors and two specific congeners and in the Agency's view represents an average bioaccumulation factor for PCBs in all freshwater fish and shellfish.

EPA recently proposed revisions to the methodology it uses to derive water quality criteria for human health (63 FR 43755, August 14, 1998). In the revised human health methodology, EPA expects to recommend the use of bioaccumulation factors (BAFs) in place of BCFs. However, until the proposed changes to the human health methodology are finalized, EPA will continue to rely on existing criteria or components (*e.g.*, BCFs or q1*s) of existing criteria as the basis for regulatory and non-regulatory decisions. Until EPA revises and reissues the criteria or component using the revised human health methodology the existing criteria or components are viewed as scientifically acceptable by EPA.

The fact that the Agency changed its approach from one where each Aroclor had its own criterion to one where a single criterion applies to total PCBs does not stem from the fact that not all Aroclors are likely to be present in the environment at significant concentrations as a commenter would suggest. As mentioned above, the Agency changed its approach for regulating PCBs because PCBs degrade, partition, transform and selectively bioaccumulate in living organisms. The Agency agrees it is unlikely that an environmental sample characterized in terms of Aroclors would resemble an original Aroclor mixture in any definable way. This is why the Agency stated that if an environmental sample was characterized in terms of Arolors it could only be characterized as ''like'' a particular Aroclor. It is difficult to characterize environmental samples in terms of Aroclors.

The Agency agrees that characterizing environmental samples in terms of Aroclors can result in under or overestimating PCBs. In measuring PCB concentrations in terms of Aroclors, certain ratios of characteristic congeners are considered representative of a particular Aroclor. When these characteristic congeners are detected in appropriate ratios, they are quantified as a certain Aroclor. Because some congeners are present in more than one Aroclor, there is a possibility of double (or triple) counting a particular congener in quantifying an Aroclor. There are techniques available to minimize double counting though, such as use of two different gas chromatograph (GC) columns or adjusting instrument conditions to get sufficient separation of peaks. These techniques allow an analyst to view samples on different chromatographs at slightly different retention times in order to minimize interference from overlapping peaks. Analysts also exercise ''Best Professional Judgment'' in selecting the appropriate peaks for use in quantifying samples in order to minimize quantification errors.

The possibility of underestimating total PCB concentrations using Aroclor analyses also exists. In cases where congeners are detected in environmentally altered mixtures but not in characteristic ratios, the congeners detected may not be quantified because they do not resemble a particular Aroclor. In this case Aroclor measurements would underestimate concentrations of total PCBs present.

EPA agrees that Aroclor formulations may vary substantially by lot (*e.g.*, percent of a particular congener present). Measuring congener concentrations rather than Aroclor concentrations eliminates problems associated with congener weight percent variations between different lots of a particular Aroclor formulation. Congener analyses are not impacted by variations between formulations. Aroclor analyses can be influenced by lot-to-lot variations due to the difference in using specific congeners as calibration standards versus using Aroclors for calibration standards.

4. One commenter states that EPA bases the new PCB criteria on only one or a couple of unspecified, highly chlorinated Aroclors, and not all Aroclors. The commenter believes that EPA should apply the criteria to individual Aroclors or the combination most like that which is found in the samples.

Response: The Agency does not agree that the new PCB criteria are based on only one or a couple of unspecified, highly chlorinated Aroclors. The risk-assessment used as the basis for this rulemaking, ''PCBs: Cancer Dose-Response Assessment and Application to Environmental Mixtures,'' is based on a range of potency estimates, developed using studies for a range of mixtures (commercial mixtures only), instead of focusing only on the highest-potency mixture. Section 2 of the risk assessment provides brief summaries on the studies used in developing the dose-response assessment.

Again, as discussed above in Response #3, it is the Agency's view that human health water quality criteria for PCBs should be expressed in terms of total PCBs rather than on individual Aroclors.

5. One commenter disagrees with EPA's statement that, ''Some PCBs congeners can accumulate selectively in living organisms'' (63 FR 16184.) The commenter considers this statement an unfair generalization and asks EPA to identify the specific congeners that selectively accumulate in various classes of living organisms and those that do not.

Response: Accumulation patterns can vary by species and location. One compilation of bioaccumulation information cited in the reassessment was done by McFarland and Clarke (1989). EPA's reassessment also cites other studies that show retention and bioaccumulation of specific congeners.

6. The commenter asks EPA to clarify its use of the term ''toxic'' in the statement, ''It is noteworthy that bioaccumulated PCBs appear to be more toxic than commercial PCBs . . .'' (63 FR 16184). If the reference is to carcinogenicity, the commenter states that this statement is speculation and has not been scientifically demonstrated in human or animal studies.

Response: Recent animal studies (Mayes, 1998) with commercial mixtures have demonstrated that every PCB mixture tested poses a risk of cancer. The commercial mixtures tested by Brunner *et al.*, (1996, later published by Mayes (1998)), Aroclor 1016, 1242, 1254 and 1260, together accounted for over 90 percent of the U.S. PCB production. These four commercial mixtures contain overlapping groups of congeners that, together span the range of congeners most often found in environmental mixtures (Cogliano, 1998). Commercial mixtures of PCBs can cause cancer and environmental mixtures contain subsets of congeners from commercial mixtures.

Preferential bioaccumulation of PCBs can occur in humans, fish and wildlife. PCBs are highly soluble in lipids and are absorbed by organisms. Different species in the food chain retain persistent congeners that prove resistant to metabolism and elimination (Oliver and Niimi, 1988). While persistence is not synonymous with toxicity, in the absence of testing on most congeners, it is reasonable to suppose some correlation between persistence and toxicity (EPA, 1996), because persistence of PCBs in the body can enhance the opportunity for congeners to express tumor promoting activity (Safe, 1994).

7. A commenter disagrees with Dr. Wiltse's (EPA) statement that ''cancer risk assessment for PCBs is beyond the scope of this rulemaking.''

Response: The actual statement Dr. Wiltse made in replying to a request for an extension to the comment period for this rulemaking (see comment #1 above), based on the expectation of the future availability of an analysis of epidemiological data was:

> Revisions to the cancer risk assessment used as the basis for this proposed rule (''PCBs: Cancer Dose-Response Assessment and Application to Environmental Mixtures,'' September 1996) may be considered in the future based on the epidemiological data provided by The General Electric Company or other new data on PCBs. However, revising the entire cancer risk assessment for PCBs is beyond the scope of this rulemaking action and is not feasible prior to

promulgation of this specific action on the NTR.

As noted in its response to comment #1 above, the Agency recently completed a major reassessment of all the available data for PCBs (EPA 1996) which was satisfactory to independent peer reviewers. The Agency believes this reassessment provides a strong scientific basis for revising the human health criteria for PCBs. In this rulemaking, EPA is amending the NTR to include the revised criteria as provided in the Settlement Agreement discussed above. A commenter has suggested that EPA should defer this promulgation pending analyses of new scientific information concerning risk to human health from occupational exposure to PCBs. The commenter informed the Agency that they are in the process of analyzing epidemiological data for capacitor workers exposed to PCBs and expected to have that analyses available in the near term.

EPA believes its cancer risk assessment provides a strong scientific basis for the revised PCB human health criteria. The Agency must make decisions based on the available, scientifically defensible, data. EPA does not agree that revisions of the PCB criteria should be delayed based upon the expectations of future analyses of epidemiological data.

Scientific information is constantly evolving and there can be a long lag time from conducting research and analyzing data, to preparing risk assessments and obtaining peer review, and developing human health criteria. When the commenter's analysis has been made available to the Agency, EPA will of course consider this information and any other new information. Indeed, EPA anticipates that its next assessment of PCB risks will again examine closely whether the current criteria are sufficiently protective of children given continuing research by the Agency for Toxic Substance and Disease Registry.

8. Several comments were received regarding the use of epidemiological data to generate a cancer potency factor for PCBs. The comments include the following:

(a) Cancer slope factors from epidemiological studies can be used to establish environmental standards. A cancer slope factor is calculated using the negative results of Taylor (1988), the positive results of Brown (1987), the measured cancer incidence rate, and the 95% upper confidence limit on the incremental risk rate. This results in cancer slope factors ranging from 7.7E–4 (measure, Taylor) to 1.9E–2 (95% UCL, Brown). The cancer slope factor for the Taylor study (7.7E–4) is conservatively assumed to equal the cancer slope factor for Aroclor 1242 (workers were exposed to Aroclor 1242, 1254 and 1016). Using an animal study of cancer risk (Mayes 1998) which concluded that Aroclor 1260 is 5 times as potent as 1242, the suggested environmental standard would be 3.8E–3 per mg/kg/day (5 * 7.7E–4). This standard is 519 times greater than the proposed value.

(b) Any cancer slope factor calculated from epidemiological studies which reported air concentrations would overestimate cancer risk of PCBs. Air concentrations would significantly underestimate exposure since dermal exposure and incidental ingestion also form significant exposure routes. Dermal exposure studies, despite uncertainty in quantifying dermal absorption of PCBs, can be used to estimate PCB exposure if conservative assumptions are used as in the Terra (1993) analysis.

(c) EPA has not thoroughly reviewed the epidemiological studies performed to date or considered how they can be used in risk assessment. Specifically, EPA should consider the numerous epidemiological studies performed on populations with extensive workplace exposure to PCBs which do not support the proposition that PCBs cause cancer in humans or lead to increased mortality from cancer. Also, given the uncertainty in cancer dose response modeling, the Agency should reexamine the evidence for carcinogenic risk that can be derived from human epidemiological studies.

(d) It has been stated that epidemiological studies are not as statistically robust as animal studies, however, the commenter states, in many cases human epidemiological data should be used to validate, confirm, or set upper bound estimates of carcinogenic potency. In general when epidemiological data are available, it is not appropriate to accept only the result of mathematical models that analyze rodent data without serious consideration to the human experience (Cook, 1982; Dinman and Sussman, 1983; Layard and Silvers, 1989). Animal studies (rat feeding studies) may indicate cancer in rats, but there may not be a direct transfer of cancer incidence in humans, particularly at environmental or occupational exposure levels. Many instances exist of chemicals that are potent rodent carcinogens but do not pose an equivalent cancer hazard in humans.

Response: The commenters' arguments and studies they cite were available at the time EPA drafted its reassessment. EPA as well as the external panel that reviewed EPA's reassessment concluded that epidemiological data are inadequate for use in a quantitative risk assessment. The external panel strongly recommended that EPA base its reassessment on the Brunner *et. al.*, (1996) study, that was later published by Mayes (1998). EPA's quantitative assessment reflects the advice of the external panel in this regard. (See: ''Report on Peer Review Workshop on PCBs: Cancer-Dose Response Assessment and Application to Environmental Mixtures,'' May 1996.)

9. The commenter suggests that EPA use state-of-the-art methodology for interpreting the results of epidemiological studies, particularly a weight-of-the-evidence test and ''causation analysis.'' Additionally, the commenter notes that studies which have larger cohorts and numbers of cancer deaths are inherently more important than are studies with smaller cohorts and fewer deaths when applying the weight-of-the-evidence test.

Response: The Agency uses the weight-of-evidence approach for interpreting the results of the epidemiological studies. The epidemiological studies have been found to provide limited (IARC, 1987) to inadequate (EPA, 1988) evidence of carcinogenicity. The overall conclusion, however, uses the weight-of-evidence approach on the entire data base, human and animal. Recent animal tests, Mayes (1998), have demonstrated that every PCB mixture tested poses a risk of cancer.

The Agency does note that cohort size is one of the many factors that goes into a weight-of-evidence analysis. Weight-of-evidence analyses also include exposure factors such as exposure level, exposure duration and lack of confounding exposure.

10. The commenter notes that it is unclear how the inclusion of noncarcinogenic Aroclors (1016 and 1254) in the total PCB criteria affects compliance determinations as human health criteria are based on cancer potential. The commenter suggests that their inclusion would over-estimate the risk to human health. This issue supports the argument for the development of individual criteria for individual Aroclors rather than for total PCBs.

Response: The Agency does not agree with the commenter that Aroclors 1016 and 1254 are non-carcinogenic. The 1996 cancer dose-response assessment for PCBs includes new data from Brunner *et al.*, (1996) in which rats fed

diets containing Aroclors 1260, 1254, 1242 or 1016 were found to have statistically significant, dose-related, increased incidences of liver tumors from each mixture. The Mayes (1998) data indicate that Aroclor 1254 was the most potent of the four mixtures tested.

As previously discussed, the 1996 cancer dose-response assessment does acknowledge that overall, human studies are considered to provide limited (IARC, 1987) to inadequate (EPA, 1988) evidence of carcinogenicity. This notwithstanding, animal studies are considered to provide sufficient evidence of carcinogenicity and thus some commercial PCB mixtures have been characterized as probably carcinogenic to humans based on these findings (IARC, 1987; EPA, 1988) (EPA, 1996). The Agency does not agree that inclusion of Aroclors 1016 and 1256 in the total PCB determinations over-estimates the risk posed to humans.

Although there is sufficient evidence of carcinogenicity for Aroclor 1016 and 1254, Aroclor 1016 was found to have a several-fold lower potency compared to Aroclor 1242 (Brunner *et al.*, 1996). The approach adopted in the 1996 cancer reassessment for PCBs does account for differences in potency by establishing a range of dose-response slopes. Information on environmental processes is then used to provide guidance on choosing the appropriate slope factor to apply. Likewise, the Agency recognizes that not all environmental mixtures are regarded as equally potent; environmental mixtures differ from commercial mixtures and from each other (EPA, 1996).

11. EPA acknowledges that the mode of action of PCBs is promotional. Therefore, PCBs should be considered as epigenetic carcinogens and assessed with a margin of exposure approach rather than by the linear 95th%ile carcinogenicity modeling appropriate for genetic toxins.

Response: Although genetic activity testing for PCBs is generally negative, the mode of action of PCBs has not been established. In such a case, it is appropriate to use a linear extrapolation under EPA's existing 1986 cancer guidelines. This would also be the case under the Agency's 1996 proposed cancer guidelines. Moreover, at low doses, some PCB congeners add to the considerable background of human exposure to dioxin-like compounds and augment processes associated with dioxin toxicity, providing an expected linear component to the dose-response curve. There is also considerable background exposure to nondioxin-like congeners, so additional PCB exposure can augment other carcinogenic processes that may be operating.

12. The commenter believes that the linear method for estimating the carcinogenic potency of PCBs is likely to overestimate the low-dose carcinogenic risk of PCBs. The commenter refers to a study by Ottobonni (1984) which suggests that genotoxic agents may exhibit thresholds at low doses, thus there is considerable uncertainty in the assumption of low dose linearity for carcinogens. EPA's proposed cancer guidelines (EPA, 1996) allow for non linear low dose extrapolation in cases where the available data support a nonlinear mode of action.

Response: Linear low-dose extrapolation does, indeed, yield an upper bound on the potential risk, albeit a plausible upper bound. As discussed in the response to comment #11, there is not sufficient information available at this time to support a non linear extrapolation under the existing 1986 cancer guidelines, nor would there be under the 1996 proposed cancer guidelines.

13. The mode of action data for PCBs as tumor promoters and not initiators was not given appropriate considerations, thus EPA's reassessment completed in September 1996 was not consistent with the proposed cancer risk assessment guidelines. EPA should delete its statements claiming that the 1996 reassessment was consistent with proposed EPA cancer risk assessment guidelines.

Response: As discussed in the responses to comment #11 above, EPA did consider the mode-of-action data, concluding that there was not sufficient information available at this time to support non linear extrapolation. Moreover, several features of the 1996 reassessment were clearly motivated by the 1996 proposed cancer guidelines: developing a range of potency estimates instead of focusing on the highest-potency mixture, using the LED10/ED10 approach instead of the linearized multistage procedure, and using the cross-species scaling factor based on the ¾ power of relative body weight. Most important, however, is the reassessment's emphasis on discussing circumstances that affect cancer risks, in this case, how environmental processes alter the composition and toxicity of PCB mixtures.

14. The commenter notes difficulties in estimating human cancer risks from rodent bioassays, particularly that tumor promoters often produce rodent liver tumors in long term bioassays, but are not generally known to cause cancer in humans. Tumor promoters like PCBs selectively increase the growth of cancerous cells but do not interact to cause the initial heritable change which begins the multi-stage process of cancer.

Response: Although noting that there are uncertainties in estimating human cancer risks from any animal study, it is not correct to suggest that EPA is concerned only about substances that cause the initial heritable genetic change in cancer development. Because cancer development is a multistage process, any substance that brings about or accelerates any of these stages can increase the risk of ultimately developing cancer.

15. EPA's statement that the major pathway of exposure to PCBs is through food (63 FR 16184) is not supported by human epidemiological studies which show very similar burdens of total PCBs and congener profiles between consumers and nonconsumers of fish. Other major sources for PCBs exist and, additionally, fish consumption may not be the primary route of exposure. EPA's statement should be revised or deleted.

Response: EPA notes in its cancer risk assessment for PCBs, that PCBs are widespread in the environment and that humans are exposed to PCBs through multiple pathways. Nonetheless, recent multimedia studies indicate that the major exposure pathway to persistent toxic substances such as PCBs is through food (*i.e.*, contaminated fish and shellfish consumption). Birmingham *et al.*, (1989), Newhook (1988) and Fitzgerald *et al.*, (1996) found that fish consumption appears to be the major pathway of exposure for PCBs. The majority of peer reviewers for the PCB Cancer Dose-Response Assessment agreed that consumption of contaminated fish is considered to be the predominant source of PCB contamination for humans. Exposure to PCBs through fish consumption is associated with high risk in the revised cancer assessment for PCBs.

16. EPA's statement (63 FR 16184) that ''all PCBs cause cancer'' implies a fact that has not yet been demonstrated. EPA considered all cancer studies which used commercial mixtures only. There is still no strong supporting evidence of carcinogenicity in humans and the PCBs tested in animals were commercial formulations, but that is not conclusive evidence that all PCB congeners are cancer-causing. Many PCB congeners are unlikely to cause cancer. The suggested revision of the statement would be ''all commercial Aroclor formulations can cause cancer in animals.''

Response: EPA's new assessment considered all cancer studies (which used commercial mixtures only) including a new study (Brunner, 1996) of four Aroclor's that strengthen the case that all PCBs cause cancer. The four mixtures used in the Brunner study contain overlapping groups of congeners that, together, span the range of congeners most often found in environmental mixtures (Cogliano, 1998). EPA used this information to develop a range of dose response slopes, changing from a single dose-response cancer potency factor to a range of slope factors. Even though the Agency developed a range of slope factors in its reassessment, a single slope factor is selected from the range, based on the likely exposure pathway, to develop a criterion.

Although animal feeding studies demonstrate the carcinogenicity of commercial PCB preparations, as discussed previously, it is not known which of the PCB congeners in such preparations are responsible for these effects, or if decomposition products, contaminants or metabolites are involved in the toxic response. In the absence of information ruling out the possibility that certain PCB isomers are not carcinogenic EPA believes it is a prudent public health policy to be conservative and regulate as if all PCBs are carcinogenic.

17. The use of a risk factor of 10^{-6} may be overly stringent. Virginia has sufficiently protective human health standards that use a risk factor of EPA 10^{-5}.

Response: EPA recognizes the primary authority of States to adopt water quality standards; and Agency policy generally allows States to select an appropriate risk level within the general range of 10^{-4} to 10^{-6}. EPA uses a 10^{-6} risk level in setting its human health water quality criteria. In order for the human health criteria to be implemented in water quality programs, a single risk level must be chosen so that a specific numeric limit is established for a pollutant. Some States use a different risk factor, and in the NTR, EPA applied the State's risk factor in calculating the criteria promulgated for that State.

Any State adopting its own standards that meet the requirements of the Act may adopt a risk level other than that used by EPA. The ability of a State to select an alternative risk level is one of the reasons EPA encourages each State to adopt its own water quality standards rather than rely on Federal promulgations.

18. EPA is using a database dated 1980 or earlier for items such as bioconcentration factor and fish consumption rate. As the revised criteria will serve as the basis for regulatory actions, the criteria should reflect the current state-of-the-science.

Response: In this rulemaking, EPA did rely on existing bioconcentration and fish consumption data. Until proposed revisions to the methodology the Agency used to derive human health criteria is finalized, the Agency will continue to rely on the existing criteria or components which are still scientifically defensible. As discussed in #1, scientific information is always evolving and EPA believes it is not in the public interest to defer action on criteria awaiting new methodology or data.

19. The proposed water quality standards for human health protection are in the part per quadrillion range and proposed aquatic standards are 14 part per trillion (ppt), but the lowest detectable concentration which the ''best'' technique has been able to measure is 40 ppt. EPA must refrain from establishing restrictive limits without providing the analytical methodology capable of achieving these levels.

Response: EPA's water quality standards regulation at 40 CFR 131.11 requires that criteria be adopted by States at concentrations necessary to protect designated uses. EPA has determined that consideration of analytical detect ability would not be an appropriate factor to consider when calculating the water quality criteria component of water quality standards. EPA's human health criteria are developed from protocols generally using toxicity studies on laboratory animals such as mice and rats. Thus, EPA criteria are effect-based without regard to chemical analytical methods or techniques. This has been the Agency's position since the inception of the water quality standards' program in 1965.

Because water quality standards developed pursuant to section 303(c) of the Clean Water Act are not self-enforcing, the measurement of these chemicals in a regulatory sense is generally in the context of an NPDES permit limitation. Although the sensitivity of analytical methods is not an appropriate basis for setting water quality criteria or water quality-based effluent limitations, analytical methods are needed for monitoring and assessing compliance with water quality-based permit limits. The permit issuing authority, either a State or EPA, establishes the analytical methodology to be used in assessing compliance with the permit limit.

20. Fin fish must be exposed to PCBs in the water column for extended periods of time to attain the levels of bioconcentration represented by the BCFs used to calculate human health criteria. Exceedance of criteria values in the water column will only result in human health impact if the tissue of the fish being consumed has reached equilibrium with the water column PCBs. Species traveling in and out of waters believed to exceed the criteria may actually contain little or no PCBs.

Response: EPA agrees that for certain highly hydrophobic congeners of PCBs, extended exposure periods are required to achieve steady-state between fish and the water column. However, the Agency does not agree that human health impacts can only occur in cases where the criteria were exceeded and fish tissue reached equilibrium with the water column. Specifically, bioaccumulation of a chemical to harmful levels in aquatic organisms can occur even if steady-state conditions have not been reached. For high log K_{OW} compounds such as certain PCB congeners, chemical concentrations in fish and other higher trophic level aquatic organisms are a function of the long-term average concentration in their environment (water exposure in the case of bioconcentration factor-based criteria). Therefore, achieving unacceptable tissue concentrations can result under non-steady conditions if the long-term average exceeds the human health criterion, which would occur if the exposures above the criterion level are not completely offset by exposures below the criterion.

In cases where chemicals and organisms require relatively long time periods to reach steady-state (such as for certain highly hydrophobic PCB congeners), the Agency would agree that migrating organisms may not be

exposed to pollutant concentrations in the water column for sufficient periods of time for tissues to reach equilibrium conditions. Under some circumstances, migration of fish in and out of marginally contaminated areas (*i.e.*, defined as those areas with water concentrations at or slightly above criteria levels) may result in tissue levels of certain highly hydrophobic PCB congeners that are below levels represented by the BCF in the human health criterion. However, this circumstance may not hold true for all organisms, PCB congeners, and exposure conditions that can exist in the United States. Moreover, in cases where organisms accumulate highly hydrophobic compounds (*i.e.*, high log K_{OW} compounds), pollutants may be retained after organisms leave an exposure area due to slow depuration. In this case, an organism could travel out of an exposure area, but retain a contaminant in its tissue.

Specifically, EPA's ambient human health water quality criteria are national in scope, they are designed to be protective of the vast majority of exposure conditions that can occur in U.S. waters. These conditions include exposure via consumption of aquatic organisms that are sedentary and do not migrate (*e.g.*, clams, oysters, mussels) in addition to consumption of other shellfish and finfish which may reside for long periods of time at a specific site (*e.g.*, bottom dwelling finfish such as flounder and catfish). Furthermore, EPA's national criteria must be protective of both open (*e.g.*, riverine) and closed (*e.g.*, reservoirs, lakes) aquatic ecosystems. In relatively closed systems such as lakes and reservoirs, migration of fish from a contaminant-influenced site may be restricted such that even highly mobile organisms can achieve unacceptable tissue burdens of PCBs as a result of marginal exceedences of EPA's PCB criteria. Finally, EPA notes that its PCB criteria apply to total PCBs which represents a mixture of PCB congeners with K_{OW}s that vary up to three orders of magnitude. Thus, some moderately hydrophobic PCB congeners can reach steady state in substantially shorter exposure periods than other highly hydrophobic congeners. Thus, the commenters' assumption that long time periods are required to reach steady state does not apply to all PCB congeners to which EPA's PCB criteria apply. Therefore, EPA believes that its national ambient water quality criteria for PCBs are set at an appropriate level of protection considering the variety of exposure conditions which may arise in U.S. waters.

21. Criteria expressed solely as fish tissue concentrations only examine the after-effects of pollution rather than ensure that designated uses are adequately protected from pollution.

Response: When proposed revisions to the human health methodology (63 FR 43756, August 14, 1998) are finalized, the Agency expects to allow ambient water quality criteria to be expressed in terms of fish tissue concentrations as an alternative to water concentrations in some cases. Particularly for substances that are expected to exhibit substantial bioaccumulation, the water quality criteria may be a very low value. Consequently, it may be more practical and meaningful in these cases to focus on the concentration of those substances in fish tissue, since fish ingestion would be the predominant source of exposure for substances that bioaccumulate. Even so, these fish tissue criteria would still correspond to an ambient water quality criteria (AWQC), expressed as a water concentration, calculated by multiplying the AWQC (water concentration) by the bioaccumulation factor (BAF) used to develop the AWQC. Whether concentration limits are based on a fish tissue concentration or water column concentrations will therefore make little or no difference. It could be argued that either a fish tissue concentration or water column concentration is derived to be protective, or only examines the after-effects of pollution. Both water column concentrations and fish tissue concentrations are intended to prevent harmful accumulations from occurring.

EPA may allow ambient water quality criteria for certain compounds to be expressed in terms of fish tissue concentrations when the proposed human health methodology is finalized. However, no final decisions will be made by the Agency regarding the expression of criteria in terms of fish tissue concentrations until the proposed revisions to the human health methodology are finalized.

22. The commenter suggests the use of fish tissue concentrations together with ambient criteria. While it is true that some criteria are below levels which can be reliably measured, such criteria serve a valuable purpose to prevent build-up of pollutants in fish tissues.

Response: As stated above, the Agency expects to allow ambient water quality criteria for protection of human health to be expressed in terms of fish tissue concentrations as an alternative to water concentrations when it finalizes the proposed human health methodology revisions. Expressing criteria in terms of fish tissue concentrations would allow for measurements of pollutants that would otherwise be difficult. The Agency's approach does not include both a water concentration and a fish tissue concentration, but rather, relates the water concentration to an appropriate fish tissue concentration as outlined in the proposed revisions to the human health methodology (63 FR 43756, August 14, 1998).

Again, as mentioned above, EPA may allow ambient water quality criteria for certain compounds to be expressed in terms of fish tissue concentrations when the proposed human health methodology is finalized. However, no final decisions will be made by the Agency regarding the expression of criteria in terms of fish tissue concentrations until the proposed revisions to the human health methodology are finalized.

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H. Regulatory Assessment Requirements

1. Executive Order (E.O.) 12866, Regulatory Planning and Review

Under Executive Order 12866, (58 Federal Register 51,735 (October 4, 1993)) the Agency must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The 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 obligations 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 a ''significant regulatory action'' within the meaning of the Executive Order. As such this action was submitted to OMB for review. No changes were made as a result of OMB review.

2. The 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, 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 to State, local, and Tribal governments, in the aggregate, or to 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 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 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 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.

Today's rule contains no federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local or Tribal governments or the private sector. The rule imposes no enforceable duty on any State, local or Tribal governments or the private sector; rather, this rule establishes ambient water quality criteria which, when combined with State-adopted designated uses, will create water quality standards for those water bodies with such adopted uses. The State may use the resulting water quality standards in implementing their water quality control programs and in issuing National Pollutant Discharge Elimination System Permits. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. As stated above, the rule imposes no enforceable requirements on any party, including small governments. Moreover, any water

quality standards, including those promulgated here, apply broadly to those dischargers and are not uniquely applicable to small governments. Thus, this rule is not subject to the requirements of section 203 of UMRA.

3. Executive Orders on Federalism

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, 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.''

For the same reasons as stated above in section H.2, EPA has determined this rule does not impose federal mandates on State, local or Tribal governments. Thus, today's rule is not subject to E.O. 12875.

On August 4, 1999, President Clinton issued a new executive order on federalism, Executive Order 13132, (64 FR 43255 (August 10, 1999) which will take effect on November 2, 1999. In the interim, the current Executive Order 12612 (52 FR 41685 (October 30, 1987) on federalism still applies. This rule will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 12612.

This final rule amends the National Toxic Rule (NTR) to revise the human health water quality criteria for PCBs. EPA adopted the NTR in 1992 for those States and jurisdictions that had not established adequate numeric water quality criteria to comply with the Clean Water Act. States that adopt their own criteria will no longer be subject to the federal regulation.

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

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provided 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 nor does it impose substantial direct compliance costs on them. No Indian tribal governments are subject to the NTR and therefore are not affected by this rule. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

5. The Regulatory Flexibility Act (RFA) as Amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act, EPA generally is required to conduct a regulatory flexibility analysis (RFA) describing the impact of the regulatory action on small entities as part of rulemaking. However, under section 605(b) of the RFA, if the Administrator certifies that the rule will not have a significant economic impact on a substantial number of small entities, EPA is not required to prepare a regulatory flexibility analysis. The Administrator is today certifying, pursuant to section 605(b) of the RFA, that this rule will not have a significant economic impact on a substantial number of small entities. Therefore, the Agency did not prepare a regulatory flexibility analysis.

The RFA requires analysis of the impacts of a rule on the small entities *subject to the rules' requirements. See United States Distribution Companies* v. *FERC*, 88 F.3d 1105, 1170 (D.C. Cir. 1996). Today's rule establishes no requirements applicable to small entities, and so is not susceptible to regulatory flexibility analysis as prescribed by the RFA. (''[N]o [regulatory flexibility] analysis is necessary when an agency determines that the rule will not have a significant economic impact on a substantial number of small entities *that are subject to the requirements of the rule*,'' *United Distribution* at 1170, quoting *Mid-Tex Elec. Co-op* v. *FERC*, 773 F.2d 327, 342 (D.C. Cir. 1985) (emphasis added by *United Distribution* court).) The Agency is thus certifying that today's rule will not have a significant economic impact on a substantial number of small entities, within the meaning of the RFA.

Under the Clean Water Act, EPA has authority to promulgate criteria or standards in any case where the Administrator determines that a revised or new standard is necessary to meet the requirements of the Act. EPA-promulgated standards are implemented through various water quality control programs, including the National Pollutant Discharge Elimination System (NPDES) program, that limits discharges to navigable waters except in compliance with an EPA permit or permit issued under an approved State program. The CWA requires that all NPDES permits include any limits on discharges that are necessary to meet State water quality standards. The States have discretion in deciding how to meet the water quality standards and in developing discharge limits as needed to meet the standards. While State implementation of federally-promulgated water quality criteria or standards may result in new or revised discharge limits being placed on small entities, the criteria or standards themselves do not apply to any discharger, including small entities.

Today's rule imposes obligations on States included in the NTR but, as explained above, does not itself establish any requirements that are directly applicable to small entities. As a result of this action, the States will need to ensure that permits they issue include any limitations on dischargers necessary to comply with the water quality standards established by the criteria in today's rule. In so doing, States will have a number of discretionary choices associated with permit writing. While implementation

of today's rule may ultimately result in some new or revised permit conditions for some dischargers, including small entities, EPA's action today does not impose any of these as yet unknown requirements on small entities.

Furthermore, today's rule results in ambient water quality criteria for human health that are not more stringent than those formerly promulgated in the NTR. Therefore, application of today's criteria on dischargers should not impose any adverse economic impact on small entities.

6. The Paperwork Reduction Act

The final rule includes no new or additional information collection activities, therefore, no information collection request was submitted to OMB for review under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

7. National Technology Transfer and Advancement Act (NTTAA)

As noted in the proposed rule, Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Pub. L. No. 104–113 § 12 (d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

8. E.O. 13045—Protection of Children From Environmental Health Risks and Safety Risks

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 reasonablely feasible alternatives considered by the Agency.

This final rule is not subject to the Executive Order because it is not economically significant as defined in E.O. 12866. Further, the Agency does not have reason to believe the environmental health risks or safety risks addressed by this action present a disproportionate risk to children. We have evaluated current data regarding the environmental health effects of PCBs on children. While there are no available data showing that children have an increased risk of cancer from PCBs, the Agency did consider the fact that children are a highly exposed population in the risk assessment used as the basis for this rule. Based on estimates of average daily intake for nursing infants, an average daily intake of PCBs for a 5-kg nursing infant would be about triple the average adult intake and approximately 50-fold higher when adjusted for body weight. Thus, the Agency considers nursing infants to be an important potentially highly exposed population. However, since the Agency considers carcinogenicity a function of total dose over a lifetime of 70 years the increased intake for nursing infants should not result in a disproportionate lifetime risk. Furthermore, the final water quality criteria in this rule are based on an upper bound cancer potency factor to be protective of sensitive subpopulations, including children.

Peer reviewed data on the developmental toxicity of PCBs to Rhesus monkeys is available in EPA's Integrated Risk Information System (IRIS) (available at: www.epa.gov/ngispgm3/iris/irisdat). Reference doses (RfDs) for non-cancer effects for particular Aroclors are available on IRIS, but criteria based on these RFDs would be less stringent than those promulgated today based on carcinogenicity.

The Agency is also aware of other human studies concerning the effects of PCBs on child development in locations where the mothers are consumers of fish contaminated with PCBs. However, the currently available data on children's risks to PCBs have not to date been sufficient to make full quantitative assessments of risk and preliminary analyses have not shown effects at levels that would suggest that the criteria in this rule are not protective. (Johnson *et. al., 1*999).

9. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective December 9, 1999.

List of Subjects in 40 CFR Part 131

Environmental protection, Toxic pollutants, Water pollution control, Water quality standards.

Dated: September 27, 1999.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble title 40, chapter I, part 131 of the Code of Federal Regulations is amended as follows:

PART 131—WATER QUALITY STANDARDS

1. The authority citation for part 131 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

2. Section 131.36 is amended as follows:

a. By revising paragraph (b)(1):

b. Paragraph (d)(3)(ii) is amended by revising entries ''B2'' and ''C2'' under the heading ''Applicable Criteria'' as set forth below; and

c. Paragraph (d)(9)(ii) is amended by revising entry ''B2'' under the heading ''Applicable Criteria'' as set forth below.

The revisions read as follows:

§ 131.36 Toxics criteria for those States not complying with Clean Water Act Section 303(c)(2)(B).

* * * * *

(b)(1) EPA's Section 304(a) criteria for Priority Toxic Pollutants.

A			B Freshwater		C Saltwater		D Human Health (10^{-6} risk for carcinogens) For consumption of:	
	(#) Compound	CAS Number	Criterion Maximum Conc.[d] (µg/L)	Criterion Continuous Conc.[d] (µg/L)	Criterion Maximum Conc.[d] (µg/L)	Criterion Continuous Conc.[d] (µg/L)	Water & Organisms (µg/L)	Organisms Only (µg/L)
			B1	B2	C1	C2	D1	D2
1	Antimony	7440360					14 a	4300 a
2	Arsenic	7440382	360 m	190 m	69 m	36 m	0.018 abc	0.14 abc
3	Beryllium	7440417					n	n
4	Cadmium	7440439	3.7 e	1.0 e	42 m	9.3 m	n	n
5a	Chromium (III)	16065831	550 e	180 e			n	n
b	Chromium (VI)	18540299	15 m	10 m	1100 m	50 m	n	n
6	Copper	7440508	17 e	11 e	2.4 m	2.4 m		
7	Lead	7439921	65 e	2.5 e	210 m	8.1 m	n	n
8	Mercury	7439976	2.1 m	0.012 ip	1.8 m	0.025 ip	0.14	0.15
9	Nickel	7440020	1400 e	160 e	74 m	8.2 m	610 a	4600 a
10	Selenium	7782492	20 p	5 p	290 m	71 m	n	n
11	Silver	7440224	3.4 e		1.9 m			
12	Thallium	7440280					1.7 a	6.3 a
13	Zinc	7440666	110 e	100 e	90 m	81 m		
14	Cyanide	57125	22	5.2	1	1	700 a	220000 aj
15	Asbestos	1332214					7,000,000 fibers/L k	
16	2,3,7,8-TCDD (Dioxin)	1746016					0.000000013 c	0.000000014 c
17	Acrolein	107028					320	780
18	Acrylonitrile	107131					0.059 ac	0.66 ac
19	Benzene	71432					1.2 ac	71 ac
20	Bromoform	75252					4.3 ac	360 ac
21	Carbon Tetrachloride	56235					0.25 ac	4.4 ac
22	Chlorobenzene	108907					680 a	21000 aj
23	Chlorodibromomethane	124481					0.41 ac	34 ac
24	Chloroethane	75003						
25	2-Chloroethylvinyl Ether	110758						
26	Chloroform	67663					5.7 ac	470 ac
27	Dichlorobromomethane	75274					0.27 ac	22 ac
28	1,1-Dichloroethane	75343						
29	1,2-Dichloroethane	107062					0.38 ac	99 ac
30	1,1-Dichloroethylene	75354					0.057 ac	3.2 ac
31	1,2-Dichloropropane	78875						
32	1,3-Dichloropropylene	542756					10 a	1700 a
33	Ethylbenzene	100414					3100 a	29000 a
34	Methyl Bromide	74839					48 a	4000 a
35	Methyl Chloride	74873					n	n
36	Methylene Chloride	75092					4.7 ac	1600 ac
37	1,1,2,2-Tetrachloroethane	79345					0.17 ac	11 ac
38	Tetrachloroethylene	127184					0.8 c	8.85 c
39	Toluene	108883					6800 a	200000 a
40	1,2-Trans-Dichloroethylene	156605						
41	1,1,1-Trichloroethane	71556					n	n
42	1,1,2-Trichloroethane	79005					0.60 ac	42 ac
43	Trichloroethylene	79016					2.7 c	81 c
44	Vinyl Chloride	75014					2 c	525 c
45	2-Chlorophenol	95578						
46	2,4-Dichlorophenol	120832					93 a	790 aj
47	2,4-Dimethylphenol	105679						
48	2-Methyl-4,6-Dinitrophenol	534521					13.4	765
49	2,4-Dinitrophenol	51285					70 a	14000 a
50	2-Nitrophenol	88755						
51	4-Nitrophenol	100027						
52	3-Methyl-4-Chlorophenol	59507						
53	Pentachlorophenol	87865	20 f	13 f	13	7.9	0.28 ac	8.2 acj
54	Phenol	108952					21000 a	4600000 aj
55	2,4,6-Trichlorophenol	88062					2.1 ac	6.5 ac
56	Acenaphthene	83329						
57	Acenaphthylene	208968						
58	Anthracene	120127					9600 a	110000 a
59	Benzidine	92875					0.00012 ac	0.00054 ac
60	Benzo(a)Anthracene	56553					0.0028 c	0.031 c
61	Benzo(a)Pyrene	50328					0.0028 c	0.031 c
62	Benzo(b)Fluoranthene	205992					0.0028 c	0.031 c
63	Benzo(ghi)Perylene	191242						
64	Benzo(k)Fluoranthene	207089					0.0028 c	0.031 c
65	Bis(2-Chloroethoxy)Methane	111911						
66	Bis(2-Chloroethyl)Ether	111444					0.031 ac	1.4 ac
67	Bis(2-Chloroisopropyl)Ether	108601					1400 a	170000 a
68	Bis(2-Ethylhexyl)Phthalate	117817					1.8 ac	5.9 ac
69	4-Bromophenyl Phenyl Ether	101553						
70	Butylbenzyl Phthalate	85687						
71	2-Chloronaphthalene	91587						
72	4-Chlorophenyl Phenyl Ether	7005723						
73	Chrysene	218019					0.0028 c	0.031 c

A		B Freshwater		C Saltwater		D Human Health (10^{-6} risk for carcinogens) For consumption of:	
(#) Compound	CAS Number	Criterion Maximum Conc.[d] (µg/L) B1	Criterion Continuous Conc.[d] (µg/L) B2	Criterion Maximum Conc.[d] (µg/L) C1	Criterion Continuous Conc.[d] (µg/L) C2	Water & Organisms (µg/L) D1	Organisms Only (µg/L) D2
74 Dibenzo(ah)Anthracene	53703					0.0028 c	0.031 c
75 1,2-Dichlorobenzene	95501					2700 a	17000 a
76 1,3-Dichlorobenzene	541731					400	2600
77 1,4-Dichlorobenzene	106467					400	2600
78 3,3′-Dichlorobenzidine	91941					0.04 ac	0.077 ac
79 Diethyl Phthalate	84662					23000 a	120000 a
80 Dimethyl Phthalate	131113					313000	2900000
81 Di-n-Butyl Phthalate	84742					2700 a	12000 a
82 2,4-Dinitrotoluene	121142					0.11 c	9.1 c
83 2,6-Dinitrotoluene	606202						
84 Di-n-Octyl Phthalate	117840						
85 1,2-Diphenylhydrazine	122667					0.040 ac	0.54 ac
86 Fluoranthene	206440					300 a	370 a
87 Fluorene	86737					1300 a	14000 a
88 Hexachlorobenzene	118741					0.00075 ac	0.00077 ac
89 Hexachlorobutadiene	87683					0.44 ac	50 ac
90 Hexachlorocyclopentadiene	77474					240 a	17000 aj
91 Hexachloroethane	67721					1.9 ac	8.9 ac
92 Indeno(1,2,3-cd)Pyrene	193395					0.0028 c	0.031 c
93 Isophorone	78591					8.4 ac	600 ac
94 Naphthalene	91203						
95 Nitrobenzene	98953					17 a	1900 aj
96 N-Nitrosodimethylamine	62759					0.00069 ac	8.1 ac
97 N-Nitrosodi-n-Propylamine	621647						
98 N-Nitrosodiphenylamine	86306					5.0 ac	16 ac
99 Phenanthrene	85018						
100 Pyrene	129000					960 a	11000 a
101 1,2,4-Trichlorobenzene	120821						
102 Aldrin	309002	3 g		1.3 g		0.00013 ac	0.00014 ac
103 alpha-BHC	319846					0.0039 ac	0.013 ac
104 beta-BHC	319857					0.014 ac	0.046 ac
105 gamma-BHC	58899	2 g	0.08 g	0.16 g		0.019 c	0.063 c
106 delta-BHC	319868						
107 Chlordane	57749	2.4 g	0.0043 g	0.09 g	0.004 g	0.00057 ac	0.00059 ac
108 4-4′-DDT	50293	1.1 g	0.001 g	0.13 g	0.001 g	0.00059 ac	0.00059 ac
109 4,4′-DDE	72559					0.00059 ac	0.00059 ac
110 4,4′-DDD	72548					0.00083 ac	0.00084 ac
111 Dieldrin	60571	2.5 g	0.0019 g	0.71 g	0.0019 g	0.00014 ac	0.00014 ac
112 alpha-Endosulfan	959988	0.22 g	0.056 g	0.034 g	0.0087 g	0.93 a	2.0 a
113 beta-Endosulfan	33213659	0.22 g	0.056 g	0.034 g	0.0087 g	0.93 a	2.0 a
114 Endosulfan Sulfate	1031078					0.93 a	2.0 a
115 Endrin	72208	0.18 g	0.0023 g	0.037 g	0.0023 g	0.76 a	0.81 aj
116 Endrin Aldehyde	7421934					0.76 a	0.81 aj
117 Heptachlor	76448	0.52 g	0.0038 g	0.053 g	0.0036 g	0.00021 ac	0.00021 ac
118 Heptachlor Epoxide	1024573	0.52 g	0.0038 g	0.053 g	0.0036 g	0.00010 ac	0.00011 ac
119 PCB–1242	53469219		0.014 g		0.03 g		
120 PCB–1254	11097691		0.014 g		0.03 g		
121 PCB–1221	11104282		0.014 g		0.03 g		
122 PCB–1232	11141165		0.014 g		0.03 g		
123 PCB–1248	12672296		0.014 g		0.03 g		
124 PCB–1260	11096825		0.014 g		0.03 g		
125a PCB–1016	12674112		0.014 g		0.03 g		
125b Polychlorinated biphenyls (PCBs)						0.00017 q	0.00017 q
126 Toxaphene	8001352	0.73	0.0002	0.21	0.0002	0.00073 ac	0.00075 ac
Total Number of Criteria (h) =		24	29	23	27	85	84

Footnotes

a. Criteria revised to reflect current agency q_1* or RfD, as contained in the Integrated Risk Information System (IRIS). The fish tissue bioconcentration factor (BCF) from the 1980 criteria documents was retained in all cases.

b. The criteria refers to the inorganic form only.

c. Criteria in the matrix based on carcinogenicity (10^{-6} risk). For a risk level of 10^{-5}, move the decimal point in the matrix value one place to the right.

d. Criteria Maximum Concentration (CMC) = the highest concentration of a pollutant to which aquatic life can be exposed for a short period of time (1-hour average) without deleterious effects. Criteria Continuous Concentration (CCC) = the highest concentration of a pollutant to which aquatic life can be exposed for an extended period of time (4 days) without deleterious effects. µg/L = micrograms per liter.

e. Freshwater aquatic life criteria for these metals are expressed as a function of total hardness (mg/L as $CaCO_3$), the pollutant's water effect ratio (WER) as defined in § 131.36(c) and multiplied by an appropriate dissolved conversion factor as defined in § 131.36(b)(2).

For comparative purposes, the values displayed in this matrix are shown as dissolved metal and correspond to a total hardness of 100 mg/L and a water effect ratio of 1.0.

f. Freshwater aquatic life criteria for pentachlorophenol are expressed as a function of pH, and are calculated as follows. Values displayed above in the matrix correspond to a pH of 7.8.

$$CMC = \exp(1.005(pH) - 4.830)$$
$$CCC = \exp(1.005(pH) - 5.290)$$

g. Aquatic life criteria for these compounds were issued in 1980 utilizing the 1980 Guidelines for criteria development. The acute values shown are final acute values (FAV) which by the 1980 Guidelines are instantaneous values as contrasted with a CMC which is a one-hour average.

h. These totals simply sum the criteria in each column. For aquatic life, there are 31 priority toxic pollutants with some type of freshwater or saltwater, acute or chronic criteria. For human health, there are 85 priority toxic pollutants with either ''water + fish'' or ''fish only'' criteria. Note that these totals count chromium as one pollutant even though EPA has developed criteria based on two valence states. In the matrix, EPA has assigned numbers 5a and 5b to the criteria for chromium to reflect the fact that the list of 126 priority toxic pollutants includes only a single listing for chromium.

i. If the CCC for total mercury exceeds 0.012 µg/l more than once in a 3-year period in the ambient water, the edible portion of aquatic species of concern must be analyzed to determine whether the concentration of methyl mercury exceeds the FDA action level (1.0 mg/kg). If the FDA action level is exceeded, the State must notify the appropriate EPA Regional Administrator, initiate a revision of its mercury criterion in its water quality standards so as to protect designated uses, and take other appropriate action such as issuance of a fish consumption advisory for the affected area.

j. No criteria for protection of human health from consumption of aquatic organisms (excluding water) was presented in the 1980 criteria document or in the 1986 Quality Criteria for Water. Nevertheless, sufficient information was presented in the 1980 document to allow a calculation of a criterion, even though the results of such a calculation were not shown in the document.

k. The criterion for asbestos is the MCL (56 FR 3526, January 30, 1991).

l. [Reserved: This letter not used as a footnote.]

m. Criteria for these metals are expressed as a function of the water effect ratio, WER, as defined in 40 CFR 131.36(c).

$$CMC = \text{column B1 or C1 value} \times WER$$
$$CCC = \text{column B2 or C2 value} \times WER$$

n. EPA is not promulgating human health criteria for this contaminant. However, permit authorities should address this contaminant in NPDES permit actions using the State's existing narrative criteria for toxics.

o. [Reserved: This letter not used as a footnote.]

p. Criterion expressed as total recoverable.

q. This criterion applies to total PCBs (*e.g.*, the sum of all congener or isomer or homolog or Aroclor analyses).

General Notes

1. This chart lists all of EPA's priority toxic pollutants whether or not criteria recommendations are available. Blank spaces indicate the absence of criteria recommendations. Because of variations in chemical nomenclature systems, this listing of toxic pollutants does not duplicate the listing in Appendix A of 40 CFR Part 423. EPA has added the Chemical Abstracts Service (CAS) registry numbers, which provide a unique identification for each chemical.

2. The following chemicals have organoleptic based criteria recommendations that are not included on this chart (for reasons which are discussed in the preamble): copper, zinc, chlorobenzene, 2-chlorophenol, 2,4-dichlorophenol, acenaphthene, 2,4-dimethylphenol, 3-methyl-4-chlorophenol, hexachlorocyclopentadiene, pentachlorophenol, phenol.

3. For purposes of this rulemaking, freshwater criteria and saltwater criteria apply as specified in 40 CFR 131.36(c).

Note to paragraph (b)(1): On April 14, 1995, the Environmental Protection Agency issued a stay of certain criteria in paragraph (b)(1) of this section as follows: the criteria in columns B and C for arsenic, cadmium, chromium (VI), copper, lead, nickel, silver, and zinc; the criteria in B1 and C1 for mercury; the criteria in column B for chromium (III); and the criteria in column C for selenium. The stay remains in effect until further notice.

* * * * * * *

(d) * * *

(3) * * *

(ii) * * *

Use classification	Applicable criteria
* * *	* * * *
	Column B2—all except #105, 107, 108, 111, 112, 113, 115, 117, 118, 119, 120, 121, 122, 123, 124, and 125a.
* * *	* * * *
	Column C2—all except #105, 107, 108, 111, 112, 113, 115, 117, 118, 119, 120, 121, 122, 123, 124, and 125a.
* * *	* * * *

* * * * * * *

(9) * * *

(ii) * * *

Use classification	Applicable criteria
* * *	* * * *
	Column B2—all except #9, 13, 105, 107, 108, 111–113, 115, 117, 119–125a and 126; and
* * *	* * * *

[FR Doc. 99–25559 Filed 11–8–99; 8:45 am]

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Federal Register

Tuesday
November 9, 1999

Part III

Department of Education

Office of Educational Research and Improvement; Field-Initiated Studies (FIS) Education Research Grant Program; to Inviting Applications for New Awards for Fiscal Year (FY) 2000; Notice

DEPARTMENT OF EDUCATION

[CFDA No.: 84.305T]

Office of Educational Research and Improvement; Field-Initiated Studies (FIS) Education Research Grant Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2000.

PURPOSE OF PROGRAM: The Field-Initiated Studies Education Research Grant Program awards grants to conduct education research in which topics and methods of study are generated by investigators.

ELIGIBLE APPLICANTS: Institutions of higher education; State and local education agencies; public and private organizations, institutions, and agencies; and individuals.

APPLICATIONS AVAILABLE: December 9, 1999.

Application packages will be available by mail and electronically on the World Wide Web at the following sites: http://www.ed.gov/offices/OERI/FIS/ www.ed.gov/GrantApps/

DEADLINE FOR RECEIPT OF APPLICATIONS: February 16, 2000.

Note: We must receive all applications on or before this date. This requirement takes exception to the Education Department General Administrative Regulations (EDGAR), 34 CFR 75.102. Under the Administrative Procedure Act (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed regulations. However, this exception to EDGAR makes procedural changes only and does not establish new substantive policy. Therefore, under 5 U.S.C. 553(b)(A), the Assistant Secretary for the Office of Educational Research and Improvement has determined that proposed rulemaking is not required.

TENTATIVE AWARD DATE: May 31, 2000.

AVAILABLE FUNDS: $10 million.

The estimated amount of funds available for new awards is based on the Administration's request for this program for FY 2000. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process before the end of the fiscal year, if Congress appropriates funds for this program.

ESTIMATED RANGE OF AWARDS: The size of the awards will be commensurate with the nature and scope of the work proposed.

BUDGET PERIOD: 12-month period.

PROJECT PERIOD: 12 to 36 months.

Note: Contingent upon the availability of funds, the Department intends to award another cycle of grants under this program, early in the next fiscal year. (Anticipated application availability date: June 9, 2000. Anticipated closing date: September 18, 2000. Anticipated award date: December 15, 2000. Estimated funds available: $10 million.)

Note: The Department is not bound by any estimates in this notice.

APPLICABLE REGULATIONS: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 85, 86 (part 86 applies to IHEs only), 97; and (b) the regulations in 34 CFR part 700.

SUPPLEMENTARY INFORMATION: The Field-Initiated Studies Education Research Grant Program is highly competitive. In its last competition, OERI funded about 1 award for every 25 eligible applications. Strong applications for FIS grants clearly address each of the applicable selection criteria.

Strong applications make a reasoned and compelling case for the national significance of the problems or issues that will be the subject of the proposed research. Strong applications present a research design which is complete and clearly delineated, incorporating sound research methods. The personnel descriptions included in strong applications make it apparent that the project director, principal investigator and other key personnel possess training and experience commensurate with their duties.

The project period of the grant may be from one to three years. In the application, the project period should be divided into 12-month budget periods. Each 12-month budget should be clearly delineated and justified in terms of the proposed activities.

Collaboration: The Secretary encourages collaboration in the conduct of research. For example, major research universities and institutions may collaborate with historically underrepresented institutions, such as Historically Black Colleges and Universities, Hispanic-Serving Institutions, and Tribal Colleges and Universities.

FOR FURTHER INFORMATION CONTACT: Delores Monroe, Field-Initiated Studies Education Research Grants Program, Office of Educational Research and Improvement, U.S. Department of Education, 555 New Jersey Avenue, NW., room 627, Washington, DC 20208–5531. Telephone: (202) 219–2229. E-Mail: Delores__Monroe@ed.gov If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

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C. Kent McGuire,

Assistant Secretary for Educational Research and Improvement.

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H.J. Res. 75/P.L. 106–88

Making further continuing appropriations for the fiscal year 2000, and for other purposes. (Nov. 5, 1999; 113 Stat. 1304)

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