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# Federal Register

Thursday
December 2, 1999

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**WHAT:** Free public briefings (approximately 3 hours) to present:

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**WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

### WASHINGTON, DC

**WHEN:** December 7, 1999 at 9:00 am.

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

**RESERVATIONS:** 202–523–4538

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 29

**[Docket No. TB–99–10]**

**RIN 0581–AB65**

### Tobacco Inspection; Subpart B—Regulations

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** The Agricultural Marketing Service (AMS) is amending the regulations governing permissive inspection of tobacco to provide for special tests and services requested by the industry. This regulatory change is based on a recommendation by the Burley Tobacco Advisory Committee to provide moisture testing for burley tobacco. The buying segment of the tobacco industry has requested that moisture testing be performed by AMS on all burley tobacco marketed during the 1999–2000 marketing season. These amendments will provide regulatory authority to conduct moisture testing and collect fees and charges for these services.

**DATES:** Effective December 3, 1999; comments received by January 31, 2000, will be considered prior to issuance of a final rule.

**ADDRESSES:** Send comments to John P. Duncan III, Deputy Administrator, Tobacco Programs, Agricultural Marketing Service (AMS), United States Department of Agriculture (USDA), Room 502 Annex Building, P.O. Box 96456, Washington, DC 20090–6456; or Fax: (202) 205–0235. Comments will be made available for public inspection at this location during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** John P. Duncan III, Deputy Administrator, Tobacco Programs, AMS, USDA, Room 502 Annex Building, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 205–0567, Fax: (202) 205–0235.

**SUPPLEMENTARY INFORMATION:** This rule will amend the regulations governing the permissive inspection of tobacco pursuant to the provisions of the Tobacco Inspection Act (49 stat. 741, 7 U.S.C. 511 *et seq.*).

The Burley Tobacco Advisory Committee made a recommendation on June 10, 1999, that AMS conduct moisture testing on all burley tobacco offered for sale at designated auction markets. The recommendation was contingent on successful price negotiations between the buying segment and burley tobacco warehouse operators. The committee further recommended that tobacco marketed in an experimental unitized package be turned 90 degrees within the row as a condition of the testing process.

During the 1998–1999 marketing season, approximately 60 million pounds of burley tobacco was sold in the experimental unitized package and tested for moisture content by the warehouse operators. The unitized bale is a new experimental package consisting of an even number of traditional burley bales with one additional bale opened and evenly arranged on top which is securely bound with metal wires to form a rectangular cube.

Due to integrity issues between the buying and warehouse segments of the industry, it was recommended that a third party entity perform the moisture testing. After three months of discussions and negotiations by the buying segment and the Burley Auction Warehouse Association, representing 95 percent of burley tobacco warehouse operators, a commitment was obtained from the four major tobacco companies purchasing burley tobacco to reimburse AMS $.0020 per pound for providing moisture testing services. These testing services would be conducted on all burley tobacco, including the traditional lot consisting of a maximum of eight bales and the experimental unitized package, offered for sale at designated markets.

Accordingly, this rule will provide regulatory authority to conduct special testing services for interested parties and charge fees to recover the costs of providing the service as determined by the Deputy Administrator, Tobacco Programs.

This rule has been determined to be ''non significant'' for purposes of Executive order 12866, and therefore, has not been reviewed by the Office of Management and Budget.

This rule has been reviewed under Executive Order 12866, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Additionally, in conformance with the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), full consideration has been given to the potential economic impact upon small business. All tobacco warehouses and producers fall within the confines of ''small business'' which are defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000 and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. There are approximately 190 tobacco warehouses and approximately 30,000 producers and most warehouses and producers may be classified as small entities. The Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

It is hereby found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 1999–2000 burley marketing season is scheduled to begin in November 1999 and this action is needed as soon as possible so that equipment may be acquired and grading personnel may be trained in its use; and (2) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

**Lists of Subjects in 7 CFR Part 29**

Administrative practice and procedure, Advisory committees, Government publications, Imports, Pesticides and pests, Reporting and recordkeeping requirements, Tobacco.

For the reasons set forth in the preamble, 7 CFR part 29 is amended as follows:

## PART 29—TOBACCO INSPECTION

### Subpart B—Regulations

1. The authority citation for part 29, subpart B continues to read as follows:

**Authority:** 7 U.S.C. 511m and 511r.

2. Section 29.56 is amended by adding a sentence at the end of the section to read as follows:

**§ 29.56 Permissive inspection.**

* * * Special tests and services may be performed for interested persons to the extent that available facilities will permit, subject to the payment of fees as determined by the Deputy Administrator, Tobacco Programs.

3. In § 29.123, a new paragraph (e) is added to read as follows:

**§ 29.123 Fee and charges.**

* * * * *

(e) Fees for special tests and services will be determined by the Deputy Administrator, Tobacco Programs.

Dated: November 26, 1999.

**Kathleen A. Merrigan,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 99–31302 Filed 12–1–99; 8:45 am]

**BILLING CODE 3410–02–P**

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## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

### 7 CFR Part 1407

**RIN 0560–AF47**

### Debarment and Suspension

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

**ACTION:** Final rule.

**SUMMARY:** This final rule will revise CCC's regulations setting forth its policies with regard to the debarment and suspension of individuals or firms from participation in Federal procurement and nonprocurement activities. The U.S. Department of Agriculture (USDA) has published USDA-wide nonprocurement debarment and suspension regulations, and CCC will proceed under such regulations in nonprocurement debarment and suspension actions. CCC will continue to proceed under this part in procurement debarment and suspension actions but will apply the provisions of the USDA procurement debarment and suspension regulations, with the exception of the specified debarring and suspending official, in such procurement actions.

**EFFECTIVE DATE:** January 3, 2000.

**FOR FURTHER INFORMATION CONTACT:** Sharon Hadder, Contract Management Branch, Farm Service Agency, telephone 202–720–3816, fax (202) 690–1809, or e-mail to Sharon__Hadder@wdc.fsa.usda.gov.

**SUPPLEMENTARY INFORMATION:**

**Executive Order 12866**

This 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).

**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).

**Executive Order 12988**

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. The final rule would have preemptive effect with respect to any state or local laws, regulations, or policies which conflict with its provisions or which otherwise impede their full implementation. The final rule does not have retroactive effect. The final rule does not require that administrative remedies be exhausted before suit may be filed.

**Regulatory Flexibility Act**

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act.

The Executive Vice President, CCC, has certified that this final rule will not have a significant economic impact on a substantial number of small entities. The principal regulatory change made by the final rule would be to provide that CCC will proceed under the USDA-wide regulations when taking action to debar or suspend participants or potential participants in CCC's nonprocurement activities. These USDA-wide regulations are similar to the government-wide common rule and would not impact on small businesses as a group, but only upon specific entities when necessary to protect the interests of CCC. A copy of this final rule has been submitted to the General Counsel, Small Business Administration.

**Paperwork Reduction Act**

These regulations do not contain information collections that require clearance by OMB under the provisions of 44 U.S.C. chapter 35.

**Discussion of Proposed Rule**

This final rule will revise existing CCC regulations to specify policies that CCC will follow in taking action to debar or suspend individuals or firms from participation in Federal procurement and nonprocurement activities. Currently the CCC debarment and suspension regulations at 7 CFR part 1407 provide that 48 CFR part 409, subpart 409.4 (§§ 409.403 *et seq.*) shall be applicable to all CCC debarment and suspension proceedings, except that the authority to debar and suspend shall be reserved to the Executive Vice President, CCC, or his designee. The regulations at 48 CFR part 409, subpart 409.4, are the procurement debarment and suspension regulations for USDA.

USDA has published USDA-wide nonprocurement debarment and suspension regulations at 7 CFR part 3017. Effective February 5, 1996, these regulations were amended to remove certain requirements that would have had a detrimental effect if they had been applied to certain CCC programs. Consequently, CCC is now proposing that, as a matter of policy, CCC will proceed under 7 CFR part 3017 when taking action to debar or suspend individuals or firms that are participants or potential participants in CCC's nonprocurement activities. CCC will continue to proceed under 7 CFR part 1407 when taking action to debar or suspend individuals or firms that are contractors with CCC or participants or potential participants in CCC's procurement activities. As a matter of policy, CCC will continue to apply the provisions of 48 CFR part 409, subpart 409.4, with the exception of the specified debarring and suspending official, in such procurement actions. This will foster uniformity and consistency with regard to USDA and CCC debarment and suspension procedures.

Under the current regulations at 7 CFR part 1407, the debarring and suspending official is the Executive Vice President, CCC, who is also the Administrator of the Farm Service Agency (FSA), or a designee. The Executive Vice President, CCC, or a designee, would continue to be the debarring and suspending official for

CCC procurement debarment and suspension actions.

The USDA-wide nonprocurement suspension and debarment regulations at 7 CFR part 3017 provide that the debarring and suspending official will be the head of the agency initiating the action and that this authority cannot be delegated to a designee. As a matter of policy, CCC has decided that, for nonprocurement debarment and suspension actions initiated by an agency on behalf of CCC under 7 CFR part 3017, the agency head will be the debarring and suspending official. Delegations to a designee would not be authorized.

**Public Comments**

On December 30, 1998, the Commodity Credit Corporation (CCC) issued a proposed rule at 63 FR 71796. No comments were received and the rule will be issued without change.

**List of Subjects in 7 CFR Part 1407**

Administrative practice and procedure, Government procurement, Grant programs.

Accordingly, 7 CFR Ch. XIV is amended as follows:

1. Part 1407 is revised to read as follows:

## PART 1407—DEBARMENT AND SUSPENSION

Sec.



**Authority:** 15 U.S.C. 714b.

### § 1407.1 Purpose.

This part specifies the policies that CCC will follow in taking action to debar or suspend individuals or firms from participation in Federal nonprocurement and procurement activities.

### § 1407.2 Nonprocurement debarment and suspension.

(a) CCC will proceed under 7 CFR part 3017 when taking action to debar or suspend participants or potential participants in CCC's nonprocurement activities.

(b) The debarring and suspending official for nonprocurement actions taken by CCC shall be as follows: For actions initiated on behalf of CCC by the Foreign Agricultural Service (FAS), the Food and Nutrition Service (FNS), or the Agricultural Marketing Service (AMS), the debarring and suspending official will be the Vice President, CCC, who is the Administrator FAS, FNS, or AMS, respectively. For actions initiated on behalf of CCC by the Natural Resources Conservation Service (NRCS), the official will be the Vice President, CCC, who is the Chief, NRCS.

### § 1407.3 Procurement debarment and suspension.

CCC will proceed under this part when taking action to debar or suspend contractors with CCC or participants or potential participants in CCC's procurement activities. CCC will apply the provisions of 48 CFR part 409, subpart 409.4, in such actions, with the exception that the debarring and suspending official will be the Executive Vice President, CCC, or a designee.

Signed at Washington, DC, on November 19, 1999.

**Keith Kelly,**

*Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 99–30949 Filed 12–1–99; 8:45 am]

BILLING CODE 3410–05–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 99–SW–59–AD; Amendment 39–11439; AD 99–22–01]**

**RIN 2120–AA64**

## Airworthiness Directives; Eurocopter Deutschland GmbH Model EC135 P1 and T1 Helicopters

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

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

**SUMMARY:** This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 99–22–01, which was sent previously to all known U.S. owners and operators of Eurocopter Deutschland GmbH (ECD) Model EC135 P1 and T1 helicopters by individual letters. This AD requires, before further flight and at specified time intervals until a modified tail boom connecting frame flange (frame flange) is installed, inspecting and replacing, if necessary, the frame flange. This AD also requires, within 7 days, installing an additional bearing support on the frame flange. Thereafter, this AD requires visually inspecting the frame flange for cracks or misalignment of the slippage marks at specified time intervals. This amendment is prompted by the discovery of a crack in the frame flange at the attachment points of the tail rotor drive shaft bearing support. The actions specified by this AD are intended to prevent a fracture of the bearing frame flange, failure of the tail rotor drive shaft, and subsequent loss of control of the helicopter.

**DATES:** Effective December 17, 1999, to all persons except those persons to whom it was made immediately effective by Emergency Priority Letter AD 99–22–01, issued on October 12, 1999, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 17, 1999.

Comments for inclusion in the Rules Docket must be received on or before January 31, 2000.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99–SW–59–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

The applicable service information may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Paul J. Madej, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5125, fax (817) 222–5961.

**SUPPLEMENTARY INFORMATION:** On October 12, 1999, the FAA issued Emergency Priority Letter AD 99–22–01, applicable to ECD Model EC135 P1 and T1 helicopters, which requires, before further flight and at specified time intervals until an additional bearing support bracket is installed on the frame flange, inspecting and replacing, if necessary, the frame flange. The AD also requires, within 7 days, adding the additional bearing support bracket to the frame flange. Thereafter, the AD requires visually inspecting the frame flange for cracks or misalignment of the slippage marks at specified time intervals. That action was prompted by the discovery of a crack in the frame flange at the attachment points of the tail rotor drive shaft bearing support. The crack, discovered during an inspection of an ECD Model EC135

helicopter, was caused by metal fatigue due to unanticipated loads at this location. This condition, if not corrected, could result in a fracture of the bearing frame flange, failure of the tail rotor drive shaft, and subsequent loss of control of the helicopter.

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for the Federal Republic of Germany, notified the FAA that an unsafe condition may exist on ECD Model EC135 P1 and T1 helicopters, serial numbers (S/N) 0005 through 0120. The LBA issued AD 1999–199/3, dated October 5, 1999, applicable to ECD Model EC135 helicopters, S/N 0005 through 0120. The LBA advises that during an inspection a crack was detected on the frame flange of the tail rotor drive shaft bearing support.

The FAA has reviewed ECD Alert Service Bulletins EC 135–53A–009, dated March 23, 1999, and EC 135–53A–010, Revision 2, dated July 22, 1999 (ASB). The ASB's describe procedures for conducting a dye-penetrant crack inspection before further flight and conducting repetitive inspections at intervals not to exceed 15 hours time-in-service (TIS) until the helicopters are fitted with an additional bearing support bracket at bearing location I as identified in the ASB's. ASB EC 135–53A–010, Revision 2, also defines the 50-hour repetitive inspection necessary after the modification is accomplished.

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

Since the unsafe condition described is likely to exist or develop on other ECD Model EC135 P1 and T1 helicopters of the same type design, the FAA issued Emergency Priority Letter AD 99–22–01 to prevent a fracture of the bearing frame flange, failure of the tail rotor drive shaft, and subsequent loss of control of the helicopter. The AD requires, before further flight, conducting a dye-penetrant inspection of the tail boom frame flange at the attachment points of the tail rotor drive shaft bearing as shown in location I in Figure 1 of the ASB's. If a crack is found, the AD requires replacing the tail boom frame flange before further flight. The dye-penetrant inspection of the frame flange is required at intervals not to exceed 15 hours TIS until an additional bearing support bracket has been installed. The AD also requires, within 7 days, modifying the frame flange by installing an additional bearing support bracket. After modifying the frame flange, a visual inspection for a crack or for misalignment of the slippage marks is to be conducted at intervals not to exceed 50 hours TIS. The actions must be accomplished in accordance with the ASB's described previously. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the structural integrity of the helicopter. Therefore, inspecting and replacing, if necessary, the frame flange is required before further flight; modifying the frame flange is required within 7 days; and inspecting the modified frame flange is required at 50 hour TIS intervals; and this AD must be issued immediately.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on October 12, 1999 to all known U.S. owners and operators of ECD Model EC135 P1 and T1 helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

The FAA estimates that 14 helicopters of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per helicopter to accomplish the dye-penetrant inspections, 48 work hours per helicopter to replace the frame flange, if necessary, and 3 work hours per helicopter to install the additional bearing support bracket on the frame flange. The average labor rate is $60 per work hour. The manufacturer has stated that required parts will be provided at no cost. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $24,360, assuming conducting one dye-penetrant inspection on each helicopter, replacing the frame flange in half the fleet, and modifying the frame flange in all the fleet.

**Comments Invited**

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 99–SW–59–AD.'' The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44

FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

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

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**AD 99–22–01 Eurocopter Deutschland GmbH:** Amendment 39–11439. Docket No. 99–SW–59–AD.

*Applicability:* Model EC135 P1 and T1 helicopters, serial numbers 0005 through 0120, inclusive, certificated in any category.

**Note 1:** This AD applies to each helicopter 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 helicopters 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 a fracture of the bearing connecting frame flange (frame flange), failure of the tail rotor drive shaft, and subsequent loss of control of the helicopter, accomplish the following:

(a) Before further flight, conduct a dye-penetrant inspection of the tail boom frame flange at the attachment points of the tail rotor drive shaft bearing (see location I in Figure 1 in Eurocopter Deutschland GmbH (ECD) Alert Service Bulletin (ASB) EC 135–53A–010, Revision 2, dated July 22, 1999) in accordance with the Accomplishment Instructions, paragraph 3.A., of ASB EC 135–53A–010, Revision 2, dated July 22, 1999, and Figure 1 of ASB 135–53A–009, dated March 23, 1999. If a crack is found, replace the unairworthy frame flange with an airworthy frame flange. Thereafter, conduct the dye-penetrant inspection at intervals not to exceed 15 hours time-in-service (TIS) until the requirements in paragraph (b) of this AD are accomplished.

(b) Within 7 days, install an additional bearing support bracket on the frame flange in accordance with the Accomplishment Instructions, paragraph 3.B., of ASB EC 135–53A–010, Revision 2 dated July 22, 1999. Thereafter, at intervals not to exceed 50 hours TIS, inspect for a crack or for misalignment of the slippage marks on the frame flange.

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

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

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

(e) The dye-penetrant inspections shall be done in accordance with the Accomplishment Instructions, paragraph 3.A., of Eurocopter Deutschland GmbH Alert Service Bulletin EC 135–53A–010, Revision 2, dated July 22, 1999, and Figure 1 of Eurocopter Deutschland GmbH Alert Service Bulletin 135–53A–009, dated March 23, 1999. The modification shall be done in accordance with the Accomplishment Instructions, paragraph 3.B., of Eurocopter Deutschland GmbH Alert Service Bulletin EC 135–53A–010, Revision 2, dated July 22, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on December 17, 1999, to all persons except those persons to whom it was made immediately effective by Emergency Priority Letter AD 99–22–01, issued October 12, 1999, which contained the requirements of this amendment.

Issued in Fort Worth, Texas, on November 17, 1999.

**Eric Bries,**

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

[FR Doc. 99–30623 Filed 12–1–99; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 97

**[Docket No. 29852; Amdt. No. 1963]**

## 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 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 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 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 26, 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:

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 30, 1999*

Valparaiso, IN, Porter County Muni, ILS RWY 27, Amdt 3
Valparaiso, IN, Porter County Muni, VOR/DME RNAV RWY 9, Amdt 4
Louisville, KY, Louisville Intl-Standiford Field, ILS RWY 29, Amdt 22A, CANCELLED
Adrian, MI, Lenawee County, NDB RWY 5, Amdt 7, CANCELLED
Adrian, MI, Lenawee County, NDB RWY 5, Orig
Adrian, MI, Lenawee County, GPS RWY 5, Amdt 1
Adrian, MI, Lenawee County, GPS RWY 23, Orig
Clarksburg, WV, Benedum, ILS RWY 21, Amdt 13, CANCELLED
Clarksburg, WV, Benedum, ILS RWY 21, Orig

** * * Effective January 27, 2000*

Shreveport, LA, Shreveport Regional, ILS RWY 14, Amdt 23
Marquette, MI, Sawyer Intl, GPS RWY 19, Orig
Lakewood, NJ, Lakewood, VOR RWY 6, Amdt 5
Manteo, NC, Dare County Regional, VOR RWY 17, Amdt 4
Delaware, OH, Delaware Muni, VOR RWY 28, Amdt 5, CANCELLED
Delaware, OH, Delaware Muni, VOR RWY 28, Orig
Delaware, OH, Delaware Muni, GPS RWY 10, Orig, CANCELLED
Delaware, OH, Delaware Muni, GPS RWY 10, Orig
Delaware, OH, Delaware Muni, GPS RWY 28, Orig, CANCELLED
Delaware, OH, Delaware Muni, GPS RWY 28, Orig
Indiana, PA, Indiana County/Jimmy Stewart Fld, GPS RWY 28, Amdt 1
San Juan, PR, Fernando Luis Ribas Dominicci, GPS RWY 9, Orig

** * * Effective February 24, 2000*

Sedona, AZ, Sedona, GPS RWY 3, Orig
North Little Rock, AR, North Little Rock Muni, VOR RWY 35, Amdt 1
North Little Rock, AR, North Little Rock Muni, GPS RWY 5, Amdt 1

North Little Rock, AR, North Little Rock Muni, GPS RWY 35, Orig
Valparaiso, IN, Porter County Muni, GPS RWY 9, Amdt 1
Grain Valley, MO, East Kansas City, VOR OR GPS RWY 23, Amdt 3
Grain Valley, MO, East Kansas City, VOR/DME RNAV RWY 27, Amdt 2
Grain Valley, MO, East Kansas City, GPS RWY 9, Orig
Grain Valley, MO, East Kansas City, GPS RWY 27, Orig
Hebron, NE, Hebron Muni, GPS RWY 12, Orig
Hebron, NE, Hebron Muni, GPS RWY 30, Orig
Hebron, NE, Hebron Muni, NDB RWY 12, Amdt 4
Vineland, NJ, Rudy's, VOR OR GPS–A, Amdt 7
Woodward, OK, West Woodward, GPS RWY 17, Orig
Woodward, OK, West Woodward, GPS RWY 35, Amdt 1
Castroville, TX, Castroville Muni, NDB RWY 33, Amdt 3
Georgetown, TX, Georgetown Muni, GPS RWY 11, Orig
Georgetown, TX, Georgetown Muni, GPS RWY 18, Orig
Georgetown, TX, Georgetown Muni, GPS RWY 29, Orig
Georgetown, TX, Georgetown Muni, GPS RWY 36, Orig

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 Upon Publication*

| FDC date | State | City | Airport | FDC No. | SIAP |
|---|---|---|---|---|---|
| 10/28/99 | OH | Toledo | Metcalf Field | 9/8434 | VOR/DME or GPS Rwy 4 Amdt 2... Corrects TL 99–25 |
| 11/01/99 | MI | Coldwater | Branch County Memorial | 9/8928 | VOR Rwy 24 Orig... Replaces 9/8561 |
| 11/09/99 | FL | Key West | Key West Intl | 9/8879 | GPS Rwy 9, Orig... |
| 11/09/99 | FL | Key West | Key West Intl | 9/8880 | GPS Rwy 27, Orig... |
| 11/09/99 | FL | Key West | Key West Intl | 9/8881 | NDB or GPS–A, Amdt 15... |
| 11/09/99 | MI | Pontiac | Oakland County Intl | 9/8895 | VOR or GPS Rwy 9R, Amdt 23... |
| 11/09/99 | MI | Pontiac | Oakland County Intl | 9/8896 | ILS Rwy 9R, Amdt 11... |
| 11/09/99 | NE | York | York Muni | 9/8872 | GPS Rwy 17, Orig–A... |
| 11/09/99 | NE | York | York Muni | 9/8874 | NDB Rwy 17, Amdt 4... |
| 11/09/99 | OK | Tulsa | Tulsa Intl | 9/8897 | ILS Rwy 18L, Amdt 13C... |
| 11/09/99 | TX | Houston | David Wayne Hooks Memorial | 9/8903 | NDB Rwy 17R, Amdt 10... |
| 11/10/99 | IN | Evansville | Evansville Regional | 9/8959 | RADAR–1, Amdt 5... |
| 11/10/99 | MT | Kalispell | Glacier Park Intl | 9/8958 | ILS Rwy 2, Amdt 4... |
| 11/10/99 | TN | Nashville | Nashville Intl | 9/8956 | ILS Rwy 31, Amdt 7... Replaces 9/8297 |
| 11/10/99 | TX | Houston | David Wayne Hooks Memorial | 9/9832 | LOC Rwy 17R, Orig... |
| 11/12/99 | TX | Bridgeport | Bridgeport Muni | 9/9009 | VOR/DME Rwy 17, Orig–A... |
| 11/12/99 | UT | Price | Carbon County | 9/9021 | VOR Rwy 36, Amdt 1... |
| 11/12/99 | VA | Manassas | Manassas Regional/Harry P. Davis Field. | 9/9004 | ILS Rwy 16L, Amdt 4... |
| 11/12/99 | VA | Manassas | Manassas Regional/Harry P. Davis Field. | 9/9005 | NDB or GPS–A Amdt 8A... |
| 11/12/99 | VA | Manassas | Manassas Regional/Harry P. Davis Field. | 9/9006 | VOR/DME RNAV Rwy 16R Amdt 7... |
| 11/16/99 | MT | Butte | Bert Mooney | 9/9074 | ILS Rwy 15, Amdt 5... |
| 11/17/99 | AZ | Kingman | Kingman | 9/9093 | VOR/DME or GPS Rwy 21, Amdt 6... |
| 11/17/99 | GA | Atlanta | Peachtree City-Falcon Field | 9/9098 | VOR/DME RNAV or GPS Rwy 31, Orig–C... |
| 11/17/99 | GA | Atlanta | Peachtree City-Falcon Field | 9/9099 | NDB Rwy 31, Amdt 1A... |
| 11/17/99 | GA | Atlanta | Peachtree City-Falcon Field | 9/9103 | LOC Rwy 31, Amdt 1A... |
| 11/17/99 | NJ | Woodbine | Woodbine Muni | 9/9105 | GPS Rwy 1 Orig... |
| 11/18/99 | GA | Atlanta | Peachtree City-Falcon Field | 9/9122 | LOC BC Rwy 13, Amdt 2A... |
| 11/18/99 | GA | Vidalia | Vidalia Muni | 9/9139 | LOC Rwy 24, Amdt 2A... |
| 11/18/99 | TX | Longview | Gregg County | 9/9131 | VOR/DME or TACAN Rwy 31, Amdt 6... |
| 11/18/99 | WI | Milwaukee | General Mitchell Intl | 9/9144 | LOC Rwy 25L, Amdt 4... |
| 11/18/99 | WV | Clarksville | Benedum | 9/9140 | VOR or GPS Rwy 3, Amdt 15... |
| 11/19/99 | AL | Montgomery | Montgomery Regional (Dannelly Field) | 9/9191 | ILS Rwy 10, Amdt 23B... |
| 11/19/99 | IL | Belleville | Scott AFB/Midamerica | 9/9171 | ILS/DME Rwy 14L Orig... |
| 11/19/99 | IL | Belleville | Scott AFB/Midamerica | 9/9172 | ILS Rwy 32R Orig... |
| 11/19/99 | IL | Belleville | Scott AFB/Midamerica | 9/9173 | GPS Rwy 14L Orig... |
| 11/19/99 | IL | Belleville | Scott AFB/Midamerica | 9/9174 | GPS Rwy 32R Orig... |
| 11/19/99 | IL | Belleville | Scott AFB/Midamerica | 9/9175 | NDB Rwy 32R Orig... |
| 11/19/99 | LA | Lake Charles | Lake Charles Regional | 9/9207 | LOC BC Rwy 33, Amdt 18... |
| 11/19/99 | LA | New Iberia | Acadiana Regional | 9/9206 | VOR or TACAN or GPS Rwy 16, Orig... |
| 11/19/99 | LA | New Orleans | New Orleans Intl (Moisant Field) | 9/9203 | VOR/DME Rwy 10, Orig... |
| 11/19/99 | LA | Shreveport | Shreveport Downtown | 9/9204 | VOR or GPS Rwy 14, Amdt 14B... |
| 11/19/99 | LA | Shreveport | Shreveport Downtown | 9/9205 | LOC Rwy 14, Amdt 4B... |
| 11/19/99 | PA | Franklin | Venango Regional | 9/9194 | VOR or GPS Rwy 2, Amdt 3B... |
| 11/19/99 | PA | Franklin | Venango Regional | 9/9195 | ILS Rwy 20 Amdt 4A... |
| 11/19/99 | PA | Franklin | Venango Regional | 9/9196 | VOR or GPS Rwy 20, Amdt 6... |
| 11/22/99 | BR | Sarasota | Sarasota/Bradenton Intl | 9/9256 | Denton, FL. VOR or GPS Rwy 22, Amdt 10A... |

| FDC date | State | City | Airport | FDC No. | SIAP |
|---|---|---|---|---|---|
| 11/22/99 ..... | AK | Cold Bay ..... | Cold Bay ..... | 9/9247 | VOR/DME or Tacan-A, Amdt 2... |
| 11/22/99 ..... | AK | Cold Bay ..... | Cold Bay ..... | 9/9248 | LOC/DME BC Rwy 32, Amdt 7A... |
| 11/22/99 ..... | CA | Modesto ..... | Modesto City-County-Harry Sham Field. | 9/9241 | GPS Rwy 28R Orig–A... |
| 11/22/99 ..... | MI | Coldwater ..... | Branch County Memorial ..... | 9/9260 | VOR or GPS Rwy 6, Amdt 4... Replaces 9/8560 |
| 11/22/99 ..... | MI | Pontiac ..... | Oakland County Intl ..... | 9/9250 | VOR or GPS Rwy 27L, Amdt 14... |
| 11/22/99 ..... | WV | Lewisburg ..... | Greenbrier Valley ..... | 9/9254 | VOR Rwy 22 Orig... |
| 11/22/99 ..... | WV | Lewisburg ..... | Greenbrier Valley ..... | 9/9257 | VOR Rwy 4 Orig... Replaces 9/8911 |
| 11/22/99 ..... | WV | Lewisburg ..... | Greenbrier Valley ..... | 9/9259 | GPS Rwy 22, Amdt 1... |
| 11/22/99 ..... | WY | Big Piney ..... | Big Piney-Marbleton ..... | 9/9255 | VOR Rwy 31, Amdt 3A... |
| 11/23/99 ..... | GA | Vidalia ..... | Vidalia Muni ..... | 9/9168 | NDB or GPS Rwy 24, Amdt 2... |

[FR Doc. 99–31285 Filed 12–1–99; 8:45 am]
**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 97

**[Docket No. 29851; Amdt. No. 1962]**

## 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 impractical 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 November 26, 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:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TQCAN; § 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 30, 1999*

Valparaiso, IN, Porter County Muni, ILS RWY 27, Amdt 3
Valparaiso, IN, Porter County Muni, VOR/DME RNAV RWY 9, Amdt 4
Louisville, KY, Louisville Intl-Standiford Field, ILS RWY 29, Amdt 22A, CANCELLED
Adrian, MI, Lenawee County, NDB RWY 5, Amdt 7, CANCELLED
Adrian, MI, Lenawee County, NDB RWY 5, Orig
Adrian, MI, Lenawee County, GPS RWY 5, Amdt 1
Adrian, MI, Lenawee County, GPS RWY 23, Orig.
Clarksburg, WV, Benedum, ILS RWY 21, Amdt 13, CANCELLED
Clarksburg, WV, Benedum, ILS RWY 21, Orig

** * * Effective January 27, 2000*

Shreveport, LA, Shreveport Regional, ILS RWY 14, Amdt 23
Marquette, MI, Sawyer Intl, GPS RWY 19, Orig
Lakewood, NJ, Lakewood, VOR RWY 6, Amdt 5
Manteo, NC, Dare County Regional, VOR RWY 17, Amdt 4
Delaware, OH, Delaware Muni, VOR RWY 28, Amdt 5, CANCELLED
Delaware, OH, Delaware Muni, VOR RWY 28, Orig
Delaware, OH, Delaware Muni, GPS RWY 10, Orig. CANCELLED
Delaware, OH, Delaware Muni, GPS RWY 10, Orig
Delaware, OH, Delaware Muni, GPS RWY 28, Orig, CANCELLED
Delaware, OH, Delaware Muni, GPS RWY 28, Orig
Indiana, PA, Indiana County/Jimmy Stewart Fld, GPS RWY 28, Amdt 1
San Juan, PR, Fernando Luis Ribas Dominicci, GPS RWY 9, Orig

** * * Effective February 24, 2000*

Sedona, AZ, Sedona, GPS RWY 3, Orig
North Little Rock, AR, North Little Rock Muni, VOR RWY 35, Amdt 1
North Little Rock, AR, North Little Rock Muni, GPS RWY 5, Amdt 1
North Little Rock, AR, North Little Rock Muni, GPS RWY 35, Orig
Valparaiso, IN, Porter County Muni, GPS RWY 9, Amdt 1
Grain Valley, MO, East Kansas City, VOR OR GPS RWY 23, Amdt 3
Grain Valley, MO, East Kansas City, VOR/DME RNAV RWY 27, Amdt 2
Grain Valley, MO, East Kansas City, GPS RWY 9, Orig
Grain Valley, MO, East Kansas City, GPS RWY 27, Orig
Hebron, NE, Nebron Muni, GPS RWY 12, Orig
Hebron, NE, Nebron Muni, GPS RWY 30, Orig
Hebron, NE, Nebron Muni, NDB RWY 12, Amdt 4
Vineland, NJ, Rudy's, VOR OR GPS–A, Amdt 7
Woodward, OK, West Woodword, GPS RWY 17, Orig
Woodward, OK, West Woodword, GPS RWY 35, Amdt 1
Castroville, TX, Castroville Muni, NDB RWY 33, Amdt 3
Georgetown, TX, Georgetown Muni, GPS RWY 11, Orig
Georgetown, TX, Georgetown Muni, GPS RWY 18, Orig
Georgetown, TX, Georgetown Muni, GPS RWY 29, Orig
Georgetown, TX, Georgetown Muni, GPS RWY 36, Orig

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 Upon Publication*

| FDC date | State | City | Airport | FDC No. | SIAP |
|---|---|---|---|---|---|
| 10/28/99 | OH | Toledo | Metcalf Field | 9/8434 | VOR/DME or GPS Rwy 4 Amdt 2... Corrects TL 99–25 |
| 11/01/99 | MI | Coldwater | Branch County Memorial | 9/8928 | VOR Rwy 24 Orig... Replaces 9/8561 |
| 11/09/99 | FL | Key West | Key West Intl | 9/8879 | GPS Rwy 9, Orig... |
| 11/09/99 | FL | Key West | Key West Intl | 9/8880 | GPS Rwy 27, Orig... |
| 11/09/99 | FL | Key West | Key West Intl | 9/8881 | NDB or GPS–A, Amdt 15... |
| 11/09/99 | MI | Pontiac | Oakland County Intl | 9/8895 | VOR or GPS Rwy 9R, Amdt 23... |
| 11/09/99 | MI | Pontiac | Oakland County Intl | 9/8896 | ILS Rwy 9R, Amdt 11... |
| 11/09/99 | NE | York | York Muni | 9/8872 | GPS Rwy 17, Orig–A... |
| 11/09/99 | NE | York | York Muni | 9/8874 | NDB Rwy 17, Amdt 4... |
| 11/09/99 | OK | Tulsa | Tulsa Intl | 9/8897 | ILS Rwy 18L, Amdt 13C... |
| 11/09/99 | TX | Houston | David Wayne Hooks Memorial | 9/8903 | NDB Rwy 17R, Amdt 10... |
| 11/10/99 | IN | Evansville | Evansville Regional | 9/8959 | RADAR–1, Amdt 5... |
| 11/10/99 | MT | Kalispell | Glacier Park Intl | 9/8958 | ILS Rwy 2, Amdt 4... |
| 11/10/99 | TN | Nashville | Nashville Intl | 9/8956 | ILS Rwy 31, Amdt 7... Replaces 9/8297 |
| 11/10/99 | TX | Houston | David Wayne Hooks Memorial | 9/8932 | LOC Rwy 17R, Orig... |

| FDC date | State | City | Airport | FDC No. | SIAP |
|---|---|---|---|---|---|
| 11/12/99 | TX | Bridgeport | Bridgeport Muni | 9/9009 | VOR/DME Rwy 17, Orig–A... |
| 11/12/99 | UT | Price | Carbon County | 9/9021 | VOR Rwy 36 Amdt 1... |
| 11/12/99 | VA | Manassas | Manassas Regional/Harry P. Davis Field. | 9/9004 | ILS Rwy 16L Amdt 4... |
| 11/12/99 | VA | Manassas | Manassas Regional/Harry P. Davis Field. | 9/9005 | NDB or GPS–A Amdt 8A... |
| 11/12/99 | VA | Manassas | Manassas Regional/Harry P. Davis Field. | 9/9006 | VOR/DME RNAV Rwy 16R Amdt 7... |
| 11/16/99 | MT | Butte | Bert Mooney | 9/9074 | ILS Rwy 15, Amdt 5... |
| 11/17/99 | AZ | Kingman | Kingman | 9/9093 | VOR/DME or GPS Rwy 21 Amdt 6... |
| 11/17/99 | GA | Atlanta | Peachtree City-Falcon Field | 9/9098 | VOR/DME RNAV or GPS Rwy 31, Orig-C... |
| 11/17/99 | GA | Atlanta | Peachtree City-Falcon Field | 9/9099 | NDB Rwy 31, Amdt 1A... |
| 11/17/99 | GA | Atlanta | Peacetree City-Falcon Field | 9/9103 | LOC Rwy 31, Amdt 1A... |
| 11/17/99 | NJ | Woodbine | Woodbine Muni | 9/9105 | GPS Rwy 1 Orig... |
| 11/18/99 | GA | Atlanta | Peachtree City-Falcon Field | 9/9122 | LOC BC Rwy 13 Amdt 2A... |
| 11/18/99 | GA | Vidalia | Vidalia Muni | 9/9139 | LOC Rwy 24, Amdt 2A... |
| 11/18/99 | TX | Longview | Gregg County | 9/9131 | VOR/DME or TACAN Rwy 31, Amdt 6... |
| 11/18/99 | WI | Milwaukee | General Mitchell Intl | 9/9144 | LOC Rwy 25L, Amdt 4... |
| 11/18/99 | WV | Clarksburg | Benedum | 9/9140 | VOR or GPS Rwy 3 Amdt 15... |
| 11/19/99 | AL | Montgomery | Montgomery Regional (Dannelly Field) | 9/9191 | ILS Rwy 10, Amdt 23B... |
| 11/19/99 | IL | Belleville | Scott AFB/Midamerica | 9/9171 | ILS/DME Rwy 14L Orig... |
| 11/19/99 | IL | Belleville | Scott AFB/Midamerica | 9/9172 | ILS Rwy 32R Orig... |
| 11/19/99 | IL | Belleville | Scott AFB/Midamerica | 9/9173 | GPS Rwy 14L Orig... |
| 11/19/99 | IL | Belleville | Scott AFB/Midamerica | 9/9174 | GPS Rwy 32R Orig... |
| 11/19/99 | IL | Belleville | Scott AFB/Midamerica | 9/9175 | NDB Rwy 32R Orig... |
| 11/19/99 | LA | Lake Charles | Lake Charles Regional | 9/9207 | LOC BC Rwy 33, Amdt 18... |
| 11/19/99 | LA | New Iberia | Acadiana Regional | 9/9206 | VOR or TACAN or GPS Rwy 16, Orig... |
| 11/19/99 | LA | New Orleans | New Orleans Intl (Moisant Field) | 9/9203 | VOR/DME Rwy 10, Orig... |
| 11/19/99 | LA | Shreveport | Shreveport Downtown | 9/9204 | VOR or GPS Rwy 14, Amdt 14B... |
| 11/19/99 | LA | Shreveport | Shreveport Downtown | 9/9205 | LOC Rwy 14, Amdt 4B... |
| 11/19/99 | PA | Franklin | Venango Regional | 9/9194 | VOR or GPS Rwy 2 Amdt 3B... |
| 11/19/99 | PA | Franklin | Venango Regional | 9/9195 | ILS Rwy 20 Amdt 4A... |
| 11/19/99 | PA | Franklin | Venango Regional | 9/9196 | VOR or GPS Rwy 20 Amdt 6... |
| 11/22/99 | FL | Sarasota | Sarasota/Bradenton Intl | 9/9256 | VOR or GPS Rwy 22, Amdt 10A... |
| 11/22/99 | AK | Cold Bay | Cold Bay | 9/9247 | VOR/DME or TACAN–A, Amdt 2... |
| 11/22/99 | AK | Cold Bay | Cold Bay | 9/9248 | LOC/DME BC Rwy 32, Amdt 7A... |
| 11/22/99 | CA | Modesto | Modesto City-County-Harry Sham Field. | 9/9241 | GPS Rwy 28R Orig-A... |
| 11/22/99 | MI | Coldwater | Branch County Memorial | 9/9260 | VOR or GPS Rwy 6, Amdt 4... Replaces 9/8560 |
| 11/22/99 | MI | Pontiac | Oakland County Intl | 9/9250 | VOR or GPS Rwy 27L, Amdt 14... |
| 11/22/99 | WV | Lewisburg | Greenbrier Valley | 9/9254 | VOR Rwy 22 Orig... |
| 11/22/99 | WV | Lewisburg | Greenbrier Valley | 9/9257 | VOR Rwy 4 Orig... Replaces 9/8911 |
| 11/22/99 | WV | Lewisburg | Greenbrier Valley | 9/9259 | GPS Rwy 22 Amdt 1... |
| 11/22/99 | WY | Big Piney | Big Piney-Marbleton | 9/9255 | VOR Rwy 31, Amdt 3A... |
| 11/23/99 | GA | Vidalia | Vidalia Muni | 9/9168 | NDB or GPS Rwy 24, Amdt 2... |

[FR Doc. 99–31284 Filed 12–1–99 8:45 am]

**BILLING CODE 4910–13–M**

**DEPARTMENT OF THE TREASURY**

**Customs Service**

**19 CFR PART 12**

**[T.D. 99–88]**

**RIN 1515–AC52**

## Import Restrictions Imposed on Certain Khmer Stone Archaeological Material of the Kingdom of Cambodia

**AGENCY:** U.S. Customs Service, Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Customs Regulations by imposing emergency import restrictions on certain Khmer stone archaeological material of the Kingdom of Cambodia of the 6th century through the 16th century A.D. These restrictions are being imposed pursuant to a determination of the United States Information Agency issued under the terms of the Convention on Cultural Property Implementation Act in accordance with the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. The document contains the Designated List describing the Khmer stone archaeological material of the Kingdom of Cambodia to which the restrictions apply.

**EFFECTIVE DATE:** December 2, 1999.

**FOR FURTHER INFORMATION CONTACT:** (Legal Aspects) Michael L. Smith, Intellectual Property Rights Branch (202) 927–1996; (Operational Aspects) Joan E. Sebenaler, Trade Programs (202) 927–0402.

**SUPPLEMENTARY INFORMATION:**

### Background

The value of cultural property, whether archaeological or ethnological in nature, is immeasurable. Such items often constitute the very essence of a society and convey important information concerning a people's origin, history, and traditional setting. The importance and popularity of such items regrettably makes them targets of theft, encourages clandestine looting of archaeological sites, and results in their illegal export and import.

The U.S. shares in the international concern for the need to protect endangered cultural property. The appearance in the U.S. of stolen or illegally exported artifacts from other countries where there has been pillage has, on occasion, strained our foreign and cultural relations. This situation, combined with the concerns of museum, archaeological, and scholarly communities, was recognized by the President and Congress. It became apparent that it was in the national interest for the U.S. to join with other countries to control illegal trafficking of such articles in international commerce.

The U.S. joined international efforts and actively participated in deliberations resulting in the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (823 U.N.T.S. 231 (1972)). U.S. acceptance of the 1970 UNESCO Convention was codified into U.S. law as the ''Convention on Cultural Property Implementation Act'' (Pub. L. 97–446, 19 U.S.C. 2601 *et seq.*) (''the Act''). This was done to promote U.S. leadership in achieving greater international cooperation towards preserving cultural treasures that are of importance to the nations from where they originate and to achieving greater international understanding of mankind's common heritage.

During the past several years, import restrictions have been imposed on archaeological and ethnological artifacts of a number of signatory nations. These restrictions have been imposed as a result of requests received from those nations under Article 9 of the 1970 Convention and pursuant to provisions of the Convention on Cultural Property Implementation Act that allow for emergency action and bilateral agreements between the United States and other countries.

This document amends the regulations by imposing emergency import restrictions on certain archaeological artifacts from Cambodia as described below.

### Cambodia

Under § 303(a)(3) of the Cultural Property Implementation Act (19 U.S.C. 2602(a)(3)), Cambodia, a State Party to the 1970 UNESCO Convention, asked the U.S. Government to impose import restrictions on certain categories of archaeological and/or ethnological material the pillage of which, it was alleged, jeopardizes the national cultural patrimony of Cambodia. Notice of receipt of this request was published by the United States Information Agency (USIA) in the **Federal Register** (64 FR 28873) on May 27, 1999.

The request was forwarded to the Cultural Property Advisory Committee, which conducted a review and investigation and submitted its report in accordance with the provisions of 19 U.S.C. 2605(f) to the Associate Director for Educational and Cultural Affairs, USIA. Pursuant to the provisions of 19 U.S.C. 2603(a)(3), the Committee found, with respect to a certain category of archaeological material, the situation in Cambodia to be an emergency, and recommended that emergency import restrictions be imposed on certain Khmer stone archaeological material from Cambodia. The Associate Director, pursuant to the authority vested in him under Executive Order 12555 and USIA Delegation Order 99–4, considered the Committee's recommendations and on September 29, 1999, the Associate Director made the determination that emergency import restrictions be applied.

The Commissioner of Customs, in consultation with the Associate Director of the USIA, has developed a list of types of covered Khmer stone archaeological material of the 6th century through the 16th century A.D. from Cambodia. The materials on this list are subject to § 12.104a(b), Customs Regulations (19 CFR 12.104a(b)). As provided in 19 U.S.C. 2601 *et seq.*, and § 12.104a(b), Customs Regulations, listed materials from this area may not be imported into the U.S. unless accompanied by documentation certifying that the material left Cambodia legally and not in violation of the laws of Cambodia.

In the event an importer cannot produce the certificate, documentation, or other evidence required by § 12.104c, Customs Regulations (19 CFR 12.104c) at the time of making entry, § 12.104d, Customs Regulations (19 CFR 12.104d) provides that the port director shall take custody of the material until the certificate, documentation, or evidence is presented. Section 12.104e provides that if the importer states in writing that he will not attempt to secure the required certificate, documentation, or evidence, or the importer does not present the required certificate, documentation, or evidence to Customs within the time provided, the material shall be seized and summarily forfeited to the U.S. in accordance with the provisions of Part 162, Customs Regulations (19 CFR Part 162).

The list of archaeological material from Cambodia for which import restrictions apply is set forth below.

**List of Khmer Stone Archaeological Material of the 6th Century Through the 16th Century A.D. From Cambodia**

Khmer stone archaeological material of the 6th century through the 16th century A.D. from Cambodia, includes the categories listed below. The following list is representative only.

**Stone**

This category consists largely of materials made of sandstone, including many color shades (grey to greenish to black, pink to red and violet, some yellowish tones) and varying granulosity. Due to oxidation and iron content, the stone surface can become hard and take on a different color than the stone core. These surface colors range from yellowish to brownish to different shades of grey. This dense surface can be polished. Some statues and reliefs are coated with a kind of clear shellac or lacquer of different colors (black, red, gold, yellow, and/or brown). The surface of sandstone pieces can also, however, be quite rough. Chipped surfaces can be white in color. In the absence of any systematic technical analysis of ancient Khmer stonework, no exact description of other stone types can be provided. It is clear, however, that other types of stone were also used (some volcanic rock, rhyolite and schist, etc.), but these are nonetheless exceptional. Some quartz objects are also known. Precious and semi-precious stones were also used as applied decor or in jewelry settings.

Different types of stone degradation can be noted. Eroded surfaces result from sanding (loss of surface grains), contour scaling (detachment of surface plaques along contour lines), flaking and exfoliation. The stone can also split along sedimentation layers. Chipping or fragmentation of sculpted stone is also common.

Stone objects included here come under three historical periods: pre-Angkorian (6th–9th century), Angkorian (9th–14th century) and post-Angkorian (14th–16th century). Many stone objects can be firmly assigned to one of these three periods; some, notably architectural elements and statues, can be further assigned a specific style and a more precise date within the given period.

A. Sculpture

1. Architectural Elements

Stone was used for religious architecture in the pre-Angkorian and Angkorian periods. The majority of ancient Khmer temples were built almost entirely in stone. Even for those temples built primarily in brick, numerous decorative elements in stone were also employed. Only small portions of early post-Angkorian edifices were built in stone. The architectural elements that follow are, therefore, characteristic of pre-Angkorian and Angkorian times. The state of the material varies greatly, some objects being well preserved, others severely eroded or fragmented. The sculpture of some pieces remains unfinished.

a. *Pediments.* Pediments are large decorative stone fixtures placed above temple doorways. They are triangular in shape, and are composed of two or more separate blocks, fitted together and sculpted with decorative motifs. The ensemble can range from approximately 1–3 meters in width and 1–3 meters in height. Motifs include floral scrolls, medallions, human figures and animals. A whole scene from a well-known story can also be represented.

b. *Lintels.* Lintels are rectangular monoliths placed directly above temple entrance gates or doorways, below the pediments described above. They are decorated with motifs similar to those of pediments. They can reach up to nearly one meter in height and one and a half meters in width.

c. *False doors.* Three of the four doorways of a temple sanctuary are frequently ''false doors''; that is, though they are sculpted to look like doors, they do not open. They bear graphic and floral motifs, sometimes integrating human and animal figures. These doors can reach up to more than two meters in height and more than one meter in width. They can be monolithic, or composed of separate blocks fitted together.

d. *Columnettes.* Columnettes are decorative columns placed on either side of a temple door entrance. They can be sculpted in deep relief out of a temple doorway and, therefore, remain attached to the doorway on their back side. The earliest columnettes are round, sculpted with bands themselves sculpted with decorative motifs. Later in the Angkorian period, the columnettes are octagonal in shape, and bear more complex and abundant sculpted decor on the concentric bands. This decor includes graphic designs (pearls, diamond shapes, flowers, etc.) repeated at regular intervals along the length of the column. The base of the column is square and is also sculpted with diverse motifs and figures. The columnettes can reach around 25 centimeters in diameter and more than two meters in height.

e. *Pilasters.* Pilasters are decorative rectangular supports projecting partially from the wall on either side of a temple doorway. They are treated architecturally as columns, with base, shaft and capital. Motifs include floral scrolls and graphic designs of pearls, diamond shapes, etc., as well as human or animal figures. They range in width from approximately 20–30 centimeters and can reach a height of more than two meters.

f. *Antefixes.* Antefixes are decorative elements placed around the exterior of each level of a temple tower. They are small free-standing sculptures and can take multiple forms, including but not limited to graphic designs, animal figures, human figures in niches and miniature models of temples.

g. *Balustrade finials.* Long balustrades in the form of mythical serpents are found in many Angkorian temples. Often, these line either side of the entrance causeways to temples. The ends of the balustrade take the form of the serpent's multiple cobra-like heads.

h. *Wall reliefs.* Much of the surface area of most temples is sculpted with decorative reliefs. This decor includes graphic designs and floral motifs as well as human or animal figures. The figures can range in size from just a few centimeters to more than one meter in height. They can be integrated into the decor or set off in niches. Narrative scenes can also be represented.

i. *Other decorative items.* Other decorative items include wall spikes, roof tile finials, sculpted steps, and other architectural decorations.

2. Free-Standing Sculpture

The pre-Angkorian and Angkorian periods are characterized by extensive production of statuary in stone. Some stone statuary was also produced during the post-Angkorian period. This statuary is relatively diverse, including human figures ranging from less than a half meter to nearly three meters in height, as well as animal figures. Some figures, representations of Indian gods, have multiple arms and heads. Figures can be represented alone, or in groups of two or three. When male and female figures are presented together as an ensemble, the female figures are disproportionately smaller than their male counterparts. Some are part-human, part-animal. Figures can be standing or sitting, or riding animal mounts. Many figures are represented wearing crowns or special headdresses, and holding attributes such as a baton or a conch shell. Clothing and sometimes jewelry are sculpted onto the body. Though statues are generally monolithic, later post-Angkorian statues of the Buddha can have separate arms, sculpted in wood and attached to the stone body. Many statues were once lacquered in black or dark brown, red or gold colors, and

retain lacquer traces. Some yellow lacquer is also found.

a. *Human and hybrid (part-human, part-animal) figures.* Examples include a statue of the eight-armed god, four-armed god, representations of Buddha in various attitudes or stances, and female and male figures or deities, including parts (heads, hands, crowns or decorative elements) of statuary, and groups of figures.

b. *Animal figures.* Examples include bulls, elephants, lions, and small mammals such as squirrels.

c. *Votive objects.* A number of more abstract sculptures were also the object of religious representation from pre-Angkorian to post-Angkorian times. Examples include ritual phallic symbols and sculpted footprints of Buddha.

d. *Pedestals.* Pedestals for statues can be square, rectangular or round. They vary greatly in size, and can be decorated with graphic and floral decor, as well as animal or human figures. They are usually made of numerous components fitted together, including a base and a top section into which the statue is set.

e. *Foundation deposit stones.* Sacred deposits were placed under statues, as well as under temple foundations and in temple roof vaults, from pre-Angkorian to post-Angkorian times. Marks on these stones indicate sacred configurations, which could contain deposits such as gold or precious stones.

3. Stela

a. *Sculpted stela.* Free standing stela sculpted with shallow or deep reliefs served as objects of worship and sometimes as boundary stones from pre-Angkorian to post-Angkorian times. Examples include stele with relief images of gods and goddesses, Buddhas, figures in niches, and other symbols.

b. *Inscriptions.* Texts recording temple foundations or other information were inscribed on stone stela from pre-Angkorian to post-Angkorian times. Such texts can also be found on temple doorjambs, pillars and walls. The stela are found in a number of different shapes and sizes, and can also bear decorative reliefs, for example a bull seated on a lotus flower.

**Regulatory Amendment**

This document amends § 12.104g(b), Customs Regulations (19 CFR 12.104g(b)) to incorporate by reference the above list of archaeological material from Cambodia for which emergency import restrictions are imposed.

**Inapplicability of Notice and Delayed Effective Date**

This amendment is being made without notice or public procedure, pursuant to 5 U.S.C. 553(b)(B), because the action being taken is of an emergency nature and such notice or public procedure would be impracticable and contrary to the public interest. For the same reasons, pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required.

**Regulatory Flexibility Act**

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

**Executive Order 12866**

This amendment does not meet the criteria of a ''significant regulatory action'' as described in E.O. 12866.

Drafting information. The principal author of this document was Keith B. Rudich, Esq., Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

**List of Subjects in 19 CFR Part 12**

Cultural property, Customs duties and inspections, Imports.

**Amendment to the Regulations**

Accordingly, Part 12 of the Customs Regulations (19 CFR Part 12) is amended as set forth below:

## PART 12—SPECIAL CLASSES OF MERCHANDISE

1. The general authority and specific authority citation for Part 12, in part, continue to read as follows:

**Authority:** 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

* * * * *

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

* * * * *

2. In § 12.104g(b) the list of emergency actions imposing import restrictions on described articles of cultural property of State Parties is amended by adding Cambodia in appropriate alphabetical order as follows:

**§ 12.104g Specific items or categories designated by agreements or emergency actions.**

* * * * *

(b) * * *

| State party | Cultural property | T.D. No. |
|---|---|---|
| * * | * * * * | * |
| Cambodia | Khmer stone archaeological material from Cambodia | T.D. 99—88 |
| * * | * * * * | * |

**Raymond W. Kelly,**

*Commissioner of Customs.*

Approved: November 9, 1999.

**John P. Simpson,**

*Deputy Assistant Secretary of the Treasury.*

[FR Doc. 99–31276 Filed 12–1–99; 8:45 am]

BILLING CODE 4820–02–P

## DEPARTMENT OF THE TREASURY

## Customs Service

## 19 CFR Parts 132 and 163

**[T.D. 99–87]**

**RIN 1515–AC54**

## Export Certificates for Lamb Meat Subject to Tariff-Rate Quota

**AGENCY:** U.S. Customs Service, Department of the Treasury.

**ACTION:** Interim rule; solicitation of comments.

**SUMMARY:** This document amends the Customs Regulations on an interim basis to set forth the form and manner by which an importer establishes that a valid export certificate is in effect for certain fresh, chilled or frozen lamb meat that is the subject of a tariff-rate quota, and the product of a participating country, as defined in interim regulations of the United States Trade Representative (USTR). The export certificate is necessary in this regard in

order to enable the importer to claim the in-quota rate of duty on the lamb meat.

**DATES:** Interim rule effective December 2, 1999. This interim rule is applicable to all products entered or withdrawn from warehouse for consumption on or after December 2, 1999. Comments must be received on or before January 31, 2000.

**ADDRESSES:** Written comments may be addressed to and inspected at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC 20229.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Porter, Office of Field Operations, (202–927–5399).

**SUPPLEMENTARY INFORMATION:**

**Background**

By Presidential Proclamation No. 7208 dated July 7, 1999, as modified by Presidential Proclamation No. 7214 of July 30, 1999, the President, acting under the authority of section 203 of the Trade Act of 1974 (19 U.S.C. 2253), established a tariff-rate quota with respect to certain fresh, chilled or frozen lamb meat exported to the United States on or after July 22, 1999.

Under a tariff-rate quota, the United States applies one tariff rate, known as the in-quota tariff rate, to imports of a product up to a particular amount, known as the in-quota quantity, and another, higher rate, known as the over-quota rate, to imports of a product in excess of the given amount. The preferential, in-quota tariff rate would be applicable only to the extent that the aggregate in-quota quantity of a product allocated to a country had not been exceeded.

It is noted that the tariff-rate quota on lamb meat was established in response to a determination by the U.S. International Trade Commission under section 202 of the Trade Act of 1974 (19 U.S.C. 2252) that lamb meat was being imported into the United States in such increased quantities as to substantially threaten serious injury to the domestic lamb meat industry. The tariff-rate quota is temporary in duration, being established for a period of three years and one day. It is intended to help facilitate efforts during this period by the domestic lamb meat industry to adjust to the increased import competition.

Specifically, the lamb meat covered by the tariff-rate quota consists of fresh, chilled or frozen lamb meat that is classified in subheading 0204.10.00, 0204.22.20, 0204.23.20, 0204.30.00, 0204.42.20, or 0204.43.20 of the Harmonized Tariff Schedule of the United States (HTSUS). In order to implement the tariff-rate quota for the described lamb meat, Presidential Proclamation No. 7208 amended subchapter III of Chapter 99, HTSUS, so as to list the in-quota quantities of lamb meat allocated to those countries covered by the tariff-rate quota, together with the in-quota and over-quota rates of duty applicable to the lamb meat.

Under Presidential Proclamation No. 7214, the United States Trade Representative (USTR) was given authority to administer the tariff-rate quota on the imported lamb meat.

As part of the implementation of this tariff-rate quota, the USTR is offering exporting countries that have an allocation of the in-quota quantity the opportunity to use export certificates for their lamb meat exports to the United States. While a country does not need to participate in the export-certificate program in order to receive the in-quota tariff rate for its share of the in-quota quantity, using export certificates assures an exporting country that only those exports that it intends for the United States market are counted against its in-quota allocation, and it helps ensure that such imports do not disrupt the orderly marketing of lamb meat in the United States.

The USTR has issued an interim rule establishing regulations for this export-certificate program (15 CFR part 2014) (64 FR 56429; October 20, 1999). To this end, an exporting country wishing to participate in the export-certificate program must notify the USTR and provide the necessary supporting information. As defined in the USTR interim regulations (15 CFR 2014.2(c)), a participating country is a country that has received an allocation of the in-quota quantity of the tariff-rate quota, and that the USTR has determined, and has so informed Customs, is eligible to use export certificates for their lamb meat products exported to the United States. The USTR has stated that it intends to publish a notice in the **Federal Register** whenever a country becomes, or ceases to be, a participating country. In this connection, Australia and New Zealand have already requested, and have been approved by USTR, to use export certificates for their lamb meat that is exported to the United States, as noted in the USTR interim rule.

In accordance with the interim rulemaking of the USTR, Customs is issuing this interim rule in order to set forth a new § 132.16, Customs Regulations (19 CFR 132.16), that prescribes the form and manner by which an importer establishes that a valid export certificate exists, including a unique number for the certificate that must be referenced on the entry or withdrawal from warehouse for consumption. This will ensure that no imports of the specified lamb meat products of a participating country are counted against the country's in-quota allocation unless the products are covered by a proper export certificate. The export certificate is necessary in this regard in order to enable the importer to claim the in-quota rate of duty on the lamb meat.

In addition, the Interim (a)(1)(A) List set forth as an Appendix to part 163, Customs Regulations (19 CFR part 163, Appendix), that lists the records required for the entry of merchandise, is revised to make reference to the requirement in § 132.15, Customs Regulations (19 CFR 132.15) and in new § 132.16, Customs Regulations (19 CFR 132.16), that an importer possess a valid export certificate, respectively, for beef or lamb meat subject to a tariff-rate quota and that is a product of a participating country, in order for the importer to be able to claim the applicable in-quota rate of duty.

**Comments**

Before adopting this interim regulation as a final rule, consideration will be given to any written comments that are timely submitted to Customs. Customs specifically requests comments on the clarity of this interim rule and how it may be made easier to understand. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington DC.

**Inapplicability of Notice and Delayed Effective Date Requirements, the Regulatory Flexibility Act, and Executive Order 12866**

Pursuant to the provisions of 5 U.S.C. 553(a), public notice is inapplicable to this interim rule because it is within the foreign affairs function of the United States. Also, for the above reason, there is no need for a delayed effective date under 5 U.S.C. 553(d). Because no notice of proposed rulemaking is required for interim regulations, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply; and because this document involves a foreign affairs function of the United States, it is not subject to the provisions of E.O. 12866.

**Paperwork Reduction Act**

The collections of information involved in this interim rule have already been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and assigned OMB Control Numbers 1515–0065 (Entry summary and continuation sheet) and 1515–0214 (General recordkeeping and record production requirements). This rule does not propose any substantive changes to the existing approved information collections.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB.

**List of Subjects**

*19 CFR Part 132*

Agriculture and agricultural products, Customs duties and inspection, Quotas, Reporting and recordkeeping requirements.

*19 CFR Part 163*

Administrative practice and procedure, Customs duties and inspection, Imports, Reporting and recordkeeping requirements.

**Amendment to the Regulations**

Accordingly, parts 132 and 163, Customs Regulations (19 CFR parts 132 and 163), are amended as set forth below.

## PART 132—QUOTAS

1. The general authority citation for part 132 continues to read as follows, and the specific sectional authority under this part is revised to read as follows:

**Authority:** 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1623, 1624.

§§ 132.15 and 132.16 also issued under 19 U.S.C. 1202 (additional U.S. Note 3 to Chapter 2, HTSUS; and subchapter III of Chapter 99, HTSUS, respectively), 1484, 1508.

**§ 132.15 [Amended]**

2. Section 132.15 is amended by removing from paragraph (c)(1) the parenthetical, ''(see § 162.1c of this chapter)'', and by adding, in its place, the parenthetical, ''(see § 163.4(a) of this chapter)''.

3. Part 132 is amended by adding a new § 132.16 to read as follows:

**§ 132.16 Export certificate for lamb meat subject to tariff-rate quota.**

(a) *Requirement.* For fresh, chilled or frozen lamb meat classified in HTSUS subheading 0204.10.00, 0204.22.20, 0204.23.20, 0204.30.00, 0204.42.20, or 0204.43.20, that is the subject of a tariff-rate quota as provided in subchapter III of Chapter 99, HTSUS, and that is the product of a participating country, as defined in 15 CFR 2014.2(c), the importer must possess a valid export certificate in order to claim the in-quota tariff rate of duty on the lamb meat at the time it is entered or withdrawn from warehouse for consumption. The importer must record the distinct and unique identifying number of the export certificate for the lamb meat on the entry summary or warehouse withdrawal for consumption (Customs Form 7501, column 34), or its electronic equivalent.

(b) *Validity of export certificate.* To be valid, the export certificate must meet the requirements of 15 CFR 2014.3(b), and with respect to the requirement of 15 CFR 2014.3(b)(3), the export certificate covering the lamb meat must have a distinctly and uniquely identifiable number.

(c) *Retention and production of certificate to Customs.* The export certificate is subject to the recordkeeping requirements of part 163 of this chapter (19 CFR part 163). Specifically, the certificate must be retained for a period of 5 years in accordance with § 163.4(a) of this chapter, and must be made available to Customs upon request in accordance with § 163.6(a) of this chapter.

## PART 163—RECORDKEEPING

1. The authority citation for part 163 continues to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1484, 1508, 1509, 1510, 1624.

**Appendix to Part 163 [Amended]**

2. In the Appendix to part 163, under heading ''IV.'', the list of documents/records or information required for entry of special categories of merchandise is amended by adding the following in appropriate numerical order:

§§ 132.15, 132.16 Export certificates, respectively, for beef or lamb meat subject to tariff-rate quota.

Approved: November 18, 1999.

**Raymond W. Kelly,**

*Commissioner of Customs.*

**John P. Simpson,**

*Deputy Assistant Secretary of the Treasury.*

[FR Doc. 99–31275 Filed 12–1–99; 8:45 am]

BILLING CODE 4820–02–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 178

**[Docket No. 95F–0150]**

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

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

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 7-oxa-3,20-diazadispiro-[5.1.11.2]-heneicosan-21-one,2,2,4,4-tetramethyl-,hydrochloride, reaction products with epichlorohydrin, hydrolyzed, polymerized (CAS Reg. No. 202483–55–4) as an antioxidant and/or stabilizer for polyolefins intended for contact with food. This action is in response to a petition filed by Hoechst Aktiengesellschaft.

**DATES:** The regulation is effective December 2, 1999. Submit written objections and requests for a hearing by January 3, 2000.

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

**FOR FURTHER INFORMATION CONTACT:** Vivian M. Gilliam, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3094.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

In a notice published in the **Federal Register** of July 12, 1995 (60 FR 35914), FDA announced that a food additive petition (FAP 5B4461) had been filed by Hoechst Aktiengesellschaft, c/o 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposed that the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of polymeric 2,2,4,4-tetramethyl-7-oxa-3,20-diaza-20-(2,3-epoxypropyl)-dispiro-[5.1.11.2]-heneicosane-21-one (CAS Reg. No. 78301–43–6) as an antioxidant and/or stabilizer for polyolefins intended for contact with food.

Subsequent to the filing of the petition, Hoechst Aktiengesellschaft sold its speciality business, including food additive petition 5B4461, to

Clariant AG, Switzerland. The petitioner also obtained a new Chemical Abstracts Service (CAS) Registry number for the additive under the following name: 7-oxa-3,20-diazadispiro-[5.1.11.2]-heneicosan-21-one,2,2,4,4-tetramethyl-,hydrochloride, reaction products with epichlorohydrin, hydrolyzed, polymerized (CAS Reg. No. 202483–55–4).

In FDA's evaluation of the safety of 7-oxa-3,20-diazadispiro-[5.1.11.2]-heneicosan-21-one,2,2,4,4-tetramethyl-,hydrochloride, reaction products with epichlorohydrin, hydrolyzed, polymerized the agency reviewed the safety of the additive itself and the chemical impurities that may be present in the additive resulting from its manufacturing process. Although the additive itself has not been shown to cause cancer, it has been found to contain minute amounts of epichlorohydrin, a carcinogenic impurity resulting from the manufacture of the additive. Residual amounts of impurities are commonly found as constituents of chemical products, including food additives.

## II. Determination of Safety

Under the general safety standard of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(c)(3)(A)), a food additive cannot be approved for a particular use unless a fair evaluation of the data available to FDA establishes that the additive is safe for that use. FDA's food additive regulations (21 CFR 170.3(i)) define safe as ''a reasonable certainty in the minds of competent scientists that the substance is not harmful under the intended conditions of use.''

The food additives anticancer, or Delaney, clause of the act (21 U.S.C. 348(c)(3)(A)) provides that no food additive shall be deemed safe if it is found to induce cancer when ingested by man or animal. Importantly, however, the Delaney clause applies to the additive itself and not to impurities in the additive. That is, where an additive itself has not been shown to cause cancer, but contains a carcinogenic impurity, the additive is properly evaluated under the general safety standard using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the intended use of the additive. *Scott* v. *FDA*, 728 F.2d 322 (6th Cir. 1984).

## III. Safety of the Petitioned Use of the Additive

FDA estimates that the petitioned use of the additive, 7-oxa-3,20-diazadispiro-[5.1.11.2]-heneicosan-21-one,2,2,4,4-tetramethyl-,hydrochloride, reaction products with epichlorohydrin, hydrolyzed, polymerized, will result in exposure to no greater than 224 parts per billion (ppb) of the additive in the daily diet (3 kilogram (kg)) or an estimated daily intake of 0.67 milligram per person per day (mg/p/d) (Ref.1).

FDA does not ordinarily consider chronic toxicological studies to be necessary to determine the safety of an additive whose use will result in such low exposure levels (Ref. 2), and the agency has not required such testing here. However, the agency has reviewed the available toxicological data on the additive and concludes that the estimated small dietary exposure resulting from the petitioned use of this additive is safe.

FDA has evaluated the safety of this additive under the general safety standard, considering all available data and using risk assessment procedures to estimate the upper-bound limit of lifetime human risk presented by epichlorohydrin, the carcinogenic chemical that may be present as an impurity in the additive. The risk evaluation of epichlorohydrin has two aspects: (1) Assessment of exposure to the impurity from the petitioned use of the additive, and (2) extrapolation of the risk observed in the animal bioassays to the conditions of exposure to humans.

### *A. Epichlorohydrin*

FDA has estimated the exposure to epichlorohydrin from the petitioned use of the additive as an antioxidant and/or stabilizer for polyolefins to be no more than 0.011 ppb in the daily diet (3 kg) or 33 nanograms (ng)/p/d (Ref.1). The agency used data from a carcinogenesis bioassay on epichlorohydrin conducted by Konishi et al. (Ref. 4), to estimate the upper-bound limit of lifetime human risk from exposure to this chemical resulting from the petitioned use of the additive. The authors reported that the test material caused significantly increased incidence of stomach papillomas and carcinomas in male rats.

Based on the agency's estimate that exposure to epichlorohydrin will not exceed 33 ng/p/d, FDA estimates that the upper-bound limit of lifetime human risk from the petitioned use of the subject additive is $1.5 \times 10^{-9}$ or 1.5 in a billion (Ref. 3). Because of the numerous conservative assumptions used in calculating the exposure estimate, the actual lifetime-averaged individual exposure to epichlorohydrin is likely to be substantially less than the estimated exposure, and therefore, the probable lifetime human risk would be less than the upper-bound limit of lifetime human risk. Thus, the agency concludes that there is reasonable certainty that no harm from exposure to epichlorohydrin would result from the petitioned use of the additive.

### *B. Need for Specifications*

The agency has also considered whether specifications are necessary to control the amount of epichlorohydrin as an impurity in the additive. The agency finds that specifications are not necessary for the following reasons: (1) Because of the low level at which epichlorohydrin may be expected to remain as an impurity following production of the additive, the agency would not expect this impurity to become a component of food at other than extremely low levels; and (2) the upper-bound limit of lifetime human risk from exposure to epichlorohydrin is very low, 1.5 in a billion.

## IV. Conclusion

FDA has evaluated data in the petition and other relevant material. Based on this information, the agency concludes that the proposed use of the additive as an antioxidant and/or stabilizer for polyolefins intended for contact with food is safe, and that the additive will achieve its intended technical effect. Therefore, the agency concludes that the regulations in § 178.2010 should be amended as set forth below.

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

## V. Paperwork Reduction Act of 1995

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

## VI. Environmental Impact

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen

in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

## VII. Objections

Any person who will be adversely affected by this regulation may at any time on or before January 3, 2000, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

## VIII. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Memorandum from A. B. Bailey, Chemistry and Environmental Review Team, to D. Harrison, Division of Petition Control, dated August 6, 1998.

2. Kokoski, C. J., ''Regulatory Food Additive Toxicology,'' in Chemical Safety Regulation and Compliance, edited by F. Homburger, and J. K. Marquis, New York, NY, pp. 24–33, 1985.

3. Memo from Division of Petition Control (HFS–215) to Sara H. Henry, Quantitative Risk Assessment Committee (HFS–308), ''Verification of upper bound risk calculation for epichlorohydrin (ECH) for petition No. FAP 5B4461,'' dated February 10, 1998.

4. Konishi, Y. et al., ''Forestomach Tumors Induced by Orally Administered Epichlorohydin in Male Wistar Rats,'' *Gann*, 71:922–923, 1980.

## List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 178 is amended as follows:

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

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

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

2. Section 178.2010 is amended in the table in paragraph (b) by alphabetically adding a new entry under the headings ''Substances'' and ''Limitations'' to read as follows:

### § 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

| Substances | Limitations |
|---|---|
| * * * | * * * * |
| 7-Oxa-3,20-diazadispiro-[5.1.11.2]-heneicosan-21-one,2,2,4,4-tetramethyl-,hydrochloride, reaction products with epichlorohydrin, hydrolyzed, polymerized (CAS Reg. No. 202483–55–4). | For use only:<br>1. At levels not to exceed 0.5 percent by weight of olefin polymers complying with § 177.1520 of this chapter, items 1.1, 3.1, and 3.2, where the copolymers complying with items 3.1 and 3.2 contain not less than 85 weight percent of polymer units derived from propylene; in contact with all types of food described in Table 1 of § 176.170 of this chapter, provided that the finished food-contact article will have a capacity of at least 18.9 liters (5 gallons) when in contact with food of types III, IV–A, V, VII–A, and IX, described in Table 1 of § 176.170 of this chapter.<br>2. At levels not to exceed 0.5 percent by weight of olefin polymers complying with § 177.1520 of this chapter, items 2.1, 2.2, 3.1, and 3.2, having a density of not less than 0.94 gram/milliliter, where the copolymers complying with items 3.1 and 3.2 contain not less than 85 weight percent of polymer units derived from ethylene; in contact with food only under conditions of use C, D, E, F, and G, described in Table 2 of § 176.170 of this chapter, provided that the finished food-contact article will have a capacity of at least 18.9 liters (5 gallons) when in contact with food of types III, IV–A, V, VII–A, and IX, described in Table 1 of § 176.170 of this chapter.<br>3. At levels not to exceed 0.3 percent by weight of olefin polymers complying with § 177.1520 of this chapter, items 2.1, 2.2, 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, and 4.0, having a density of less than 0.94 gram/milliliter, in contact with food only under conditions of use D, E, F, and G, described in Table 2 of § 176.170 of this chapter, provided that the finished food-contact article will have a capacity of at least 18.9 liters (5 gallons) except that, films and molded articles containing not more than 0.2 percent by weight of the stabilizer may contact aqueous food of types I, II, IV–B, VI, and VIII, described in Table 1 of § 176.170 of this chapter with no restrictions on the amount of food contacted. |
| * * * | * * * * |

Dated: November 23, 1999.

**Margaret M. Dotzel,**

*Acting Associate Commissioner for Policy.*

[FR Doc. 99–31228 Filed 12–1–99; 8:45 am]

**BILLING CODE 4160–01–F**

## DEPARTMENT OF COMMERCE

## Patent and Trademark Office

## 37 CFR Parts 1 and 2

**[Docket No. 99–1020282–9282–01]**

**RIN 0651–AB08**

## Clarification of Patent and Trademark Copy Fees

**AGENCY:** Patent and Trademark Office, Commerce.

**ACTION:** Final rule.

**SUMMARY:** The Patent and Trademark Office (PTO) is amending the rules of practice regarding fees for black and white patent and trademark copies by clarifying the meaning of the term ''regular service.'' For black and white patent copies, the term ''regular service'' includes preparation of copies by the PTO normally within 2–3 business days of receipt and delivery by United States Postal Service (USPS), or delivery to a PTO Box. ''Regular service'' also includes preparation of copies within one business day of receipt and delivery to customers by electronic means (e.g., fax, electronic mail). Expedited service for receipt of black and white patent copies by fax is eliminated since this is now done routinely as ''regular service.'' For patent copies, ''expedited service'' is clarified to read preparation of copies by the PTO within one business day and delivery by commercial delivery service within the next business day. For trademark copies, ''regular service'' includes preparation of copies by the PTO within 2–3 business days of receipt and delivery by USPS, fax, or to a PTO Box. The term ''overnight delivery'' is being changed to ''delivery on the next business day'' for clarity.

**EFFECTIVE DATE:** The effective date for the rules is December 2, 1999.

**FOR FURTHER INFORMATION CONTACT:** Wesley H. Gewehr by mail addressed to him at Administrator for Information Dissemination, U.S. Patent and Trademark Office, PK3–451, Washington, DC 20231, by telephone at (703) 305–9110, by facsimile at (703) 305–3878, or by e-mail at ''wesley.gewehr@uspto.gov.''

**SUPPLEMENTARY INFORMATION:** This final rule clarifies PTO fees for providing black and white copies of patents and trademarks.

### Background

Patent fees are authorized by 35 U.S.C. 41. Trademark fees are authorized by 15 U.S.C. 1113. Both statutes provide that the Commissioner shall establish fees for processing, services, or materials relating to patents or trademarks to recover the estimated average cost to the Office of such processing, services, or materials. Automated image stores of patent copies and automated system capabilities for electronic delivery are now available for delivery of black and white patent copies under regular service. Full-page images of trademark registrations are not yet available via automated image stores. Therefore, trademark copies cannot yet be delivered electronically, other than by fax.

This final rule clarifies what services are encompassed by the term ''regular service'' for patent copies set forth in 37 CFR 1.19(a)(1), and for trademark copies set forth in 37 CFR 2.6(b)(1).

### Other Considerations

This final rule contains no information collection within the meaning of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* This final rule has been determined to be not significant for purposes of Executive Order 12866.

The PTO for good cause finds that the notice and comment provisions of the Administrative Procedure Act are not required. The notice and public procedure thereon are unnecessary since the PTO is only clarifying the term ''regular service,'' and eliminating as a separate category the delivery of patent copies by fax. 5 U.S.C. 553(b)(B). These are minor technical changes with no substantive effect on the public. 5 U.S.C. 553(b)(B). Prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 (or any other law); therefore, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

### List of Subjects

*37 CFR Part 1*

Administrative practice and procedures, Inventions and patents, Reporting and recordkeeping requirements, Small businesses.

*37 CFR Part 2*

Administrative practice and procedures, Trademarks.

Accordingly, for the reasons set forth in the preamble, 37 CFR parts 1 and 2 are amended as follows:

## PART 1—[AMENDED]

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

**Authority:** 35 U.S.C. 6, unless otherwise noted.

2. Section 1.19 is amended by revising paragraphs (a)(1)(i) through (iii) to read as follows:

**§ 1.19 Document supply fees.**

* * * * *

(a) * * *

(1) * * *

(i) Regular service, which includes preparation of copies by the PTO within 2–3 business days and delivery by United States Postal Service or to a PTO Box; and preparation of copies by the PTO within one business day of receipt and delivery by electronic means (e.g., fax, electronic mail)—$3.00.

(ii) Next business day delivery to PTO Box—$6.00.

(iii) Expedited delivery by commercial delivery service—$25.00.

* * * * *

## PART 2—[AMENDED]

3. The authority citation for part 2 continues to read as follows:

**Authority:** 15 U.S.C. 1123; 35 U.S.C. 6, unless otherwise noted.

4. Section 2.6 is amended by revising paragraphs (b)(1)(i) through (iii) to read as follows:

**§ 2.6 Trademark fees.**

* * * * *

(b) * * *

(1) * * *

(i) Regular service, which includes preparation of copies by the PTO within 2–3 business days of receipt and delivery by United States Postal Service, fax, or to a PTO Box—$3.00.

(ii) Delivery on next business day to PTO Box or fax delivery within one business day to U.S./Canada/Mexico—$6.00.

(iii) Expedited delivery by commercial delivery service—$25.00.

* * * * *

Dated: November 22, 1999.

**Q. Todd Dickinson,**

*Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.*

[FR Doc. 99–30880 Filed 12–1–99; 8:45 am]

**BILLING CODE 3510–16–M**

## POSTAL RATE COMMISSION

### 39 CFR Part 3001

**[Docket No. RM98–2; Order No. 1273]**

### Revisions to Library Reference Rule

**AGENCY:** Postal Rate Commission.

**ACTION:** Final rule.

**SUMMARY:** This document adopts final changes to rules on the use of library references. The changes clarify and improve administrative aspects of this practice.

**DATES:** Effective December 2, 1999.

**ADDRESSES:** Send correspondence concerning this document to the attention of Margaret P. Crenshaw, Secretary, Postal Rate Commission, 1333 H Street NW., Suite 300, Washington, DC 20268–0001.

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, General Counsel, Postal Rate Commission, 1333 H Street NW., Washington, DC 20268–0001, 202–789–6820.

**SUPPLEMENTARY INFORMATION:**

#### Regulatory History

The Commission published an initial proposal to revise the library reference in order no. 1219 (63 FR 47456, Sept. 8, 1998). Further proposed revisions were published in order No. 1223 (63 FR 71251, Dec. 24, 1998) and order No. 1263 (64 FR 52725, Sept. 30, 1999).

#### Introduction

The Commission initiated this rulemaking to improve the administration of the library reference practice. In particular, it has sought to clarify the role of library references in formal proceedings, to address the responsibilities of those who file library references, and to assist those who wish to review them. The scope of the docket, the rationale for specific proposals, and commenters' suggestions have been discussed extensively in the course of several previous orders. See order No. 1219 (63 FR 47456, Sept. 8, 1998); order No. 1223 (63 FR 71251, Dec. 24, 1998); and order No. 1263 (64 FR 52725, Sept. 30, 1999). At this point, the Commission finds that remaining concerns about the wording or effect of certain provisions can be resolved through clarification in the ensuing discussion and with minimal changes to the most recent proposal (set out in order No. 1263). The changes include adoption of a compromise suggested by one commenter on the issue of obtaining service of certain library references, clarification of whether the ''unduly burdensome'' consideration factors into filing a library reference under ''other circumstances,'' and minor editorial revisions.

*I. Review of Comments Filed in Response to Order No. 1263*

The Commission received comments from Douglas F. Carlson (Carlson), David B. Popkin (Popkin), the Office of the Consumer Advocate (OCA), and the Postal Service in response to the set of provisions proposed in order No. 1263. See Carlson Comments on Proposed Revisions to Library Reference Practice (October 15, 1999); Popkin Comments in Response to Order No. 1263 on Further Proposed Revisions to Library Reference Practice (Third Set) (October 16, 1999); OCA Comments in Response to Order No. 1263 on Further Proposed Revisions to Library Reference Practice (Third Set) (October 13, 1999); and Postal Service Comments on Third Set of Proposed Revisions to Library Reference Practice (October 20, 1999). (Hereafter, Carlson Comments, Popkin Comments, OCA Comments, and Postal Service Comments.)

*Carlson's comments.* Carlson notes that under the proposed rules, a party may request that a copy of a library reference be served if ''interest . . . is likely to be so limited that service on the entire list would be unreasonably burdensome, and the participant agrees to serve the material on individual participants upon request within three days of a request.'' Carlson Comments at 1, citing proposed rule 31(b)(2)(ii)(A). He supports this approach, but objects to the treatment the proposal accords a library reference containing material that is filed in compliance with a discovery request for production of documents or things. In this circumstance, Carlson notes that the filer is not required to comply with special requests, but may be required to serve the material upon the filing of a detailed motion setting forth the reasons why service is necessary or appropriate. *Id.* at 2, citing proposed rule 31(b)(2)(ii)(D) and 31(b)(2)(ix). Carlson asserts that the motion requirement imposes a significant burden on parties located a long distance from Washington who wish to review particular library references. Specifically, he estimates that the motion requirement could generate up to $50 in additional expense and delay of at least 7 to 10 days. *Id.* at 2–3. Carlson notes that he periodically has asked a party who has filed a library reference to provide him with a copy, and this has allowed him to obtain library references and avoid an expensive trip to Washington to view the material. He suggests that the Commission maintain the status quo or adopt an alternative that would require the party to serve the documents on the interrogating party upon request, while retaining the motion requirement for others. *Id.*

*Popkin's comments.* Popkin expresses two main concerns about the proposal. One is how it affects his ability to determine the contents of the library reference without traveling to Washington; the other is the extra expense and time associated with the requirement of a motion to obtain the library reference. Popkin Comments at 1.

With respect to determining the contents of a library reference, Popkin asserts that the tradeoff for not having to serve all participants should be a requirement that the filer provide a meaningful explanation of the library reference's contents. He also asks for clarification of the difference between the mandatory disclosures outlined in paragraph 31(b)(2)(iv) [regarding the contents of the required notice] and the optional preface or summary submitted with the library reference covered in paragraph (vi). *Id.* at 1. Popkin also says the explanation of the library reference should be available on the Commission's website so that participants will have easy and quick access to the material. *Id.* With respect to service, Popkin raises the same concerns Carlson expresses regarding the additional expense and work associated with the motion requirement. Also, Popkin says the term ''special requests'' in paragraph 31(b)(2)(ix) does not make clear whether the motion is required to obtain a reference on an occasional basis. *Id.* at 1.

Paragraph 31(b)(2)(ii)(D) refers to material filed in compliance with a discovery request for production of documents or things. Popkin says this provision is not clear, and suggests that it be divided into two parts: one for items that are directly associated with the interrogatory question; the other for supporting data or information. He proposes that the first category be automatically furnished to the proponent of the interrogatory, and the second treated like any other reference. *Id.* at 2. Popkin also says the three-day service requirement contained in paragraph 31(b)(2)(ii)(A) should apply to (D) ''at a minimum.'' *Id.* at 2.

The OCA's comments. The OCA prefaces its comments with the overall assessment that the proposed rules ''are workable and the requirement for a detailed notice will be an improvement over the current rules.'' OCA Comments at 1. At the same time, it notes that the Commission has not accepted its

suggestion for a cross-walk, reiterates its preference for this requirement, but indicates it is not pursuing this position in this round of comments. *Id.* at 1–2.

*Paragraph 31(b)(1): general introduction to provisions on documentary material.* The OCA notes that the Commission has included in this provision a new sentence requiring that testimony, exhibits, and supporting conclusions premised on data or conclusions developed in a library reference provide the location of that information within the library reference. *Id.* at 2. The OCA suggests further expansion to require the location of underlying information developed in other testimony, other exhibits or other supporting workpapers. It proposes the following substitute:

> Testimony, exhibits and supporting workpapers prepared for Commission proceedings that are premised on data or conclusions developed in a library reference, other testimony, other exhibits, or other supporting workpapers shall provide the location of that information within the library reference, testimony, exhibits, and supporting workpapers with sufficient specificity to permit ready reference, such as the page and line, or the file and worksheet or spreadsheet page or cell.

*Id.* at 3.

*Paragraph 31(b)(2)(iii): other circumstances justifying the filing of a library reference.* The OCA suggests that clarification of this provision, which permits the filing of any material as a library reference in unusual circumstances, is needed because it is not clear whether the ''unduly burdensome'' condition applies here as one of the ''other applicable requirements'' of referenced paragraph 31(b)(2)(ii)(B). Its position is that this criterion should be specifically included to remove any uncertainty.

*Paragraph 31(b)(2)(iv)(H).* The OCA suggests adding the words ''into the record'' after the word ''entered.'' *Id.* at 4. With this change, the phrase would read: ''To the extent feasible, identify portions expected to be entered into the record * * *.''

*Paragraph 31(b)(2)(vi): optional preface or summary.* The OCA suggests revising this paragraph to read: ''Inclusion of a preface or summary in a library reference addressing the matters set out in paragraph 31(b)(2)(iv)(A)–(H) is encouraged but optional.'' It contends that this will encourage the Postal Service to continue its acknowledged practice, in the vast majority of instances, of providing a preface to its library references. The OCA notes that this currently serves as a convenience to the participants and the Commission. *Id.*

*Paragraph 31(b)(2)(vii): electronic version.* The OCA also suggests requiring the electronic version of the notice to accompany the library reference (if not already incorporated therein) on grounds that this will ''better insure ready access to the detailed notice.''

*The Postal Service's comments.* The Postal Service observes that the proposed rules may prove generally satisfactory in most salient respects, but suggests several improvements. Postal Service Comments at 1. The Service also notes that in previous comments, it indicated that it hoped that the outcome of this rulemaking would be useful new procedures that would not unnecessarily impair its ability to complete preparations for submission of a request for a recommended decision in the most expeditious manner possible or its ability to maintain a smooth and timely flow of information in response to discovery requests. With the exceptions identified in its comments, the Service says it believes the most recently proposed rules may be consistent with these objectives. *Id.* at 10.

*Paragraph 31(b)(1).* The Service raises the possibility that the language the Commission adopted in apparent response to an OCA comment could be misinterpreted as meaning that every time a number that originates in a library reference is cited, it must be cross-referenced. Moreover, the Service claims the Commission's proposal goes beyond what the OCA suggested, and proposes two alternatives. One entails striking the reference to testimony; the other involves rewriting the middle part of the sentence to read:

> Testimony, exhibits and supporting workpapers prepared for Commission proceedings that are premised on data or conclusions developed in a library reference shall, whenever providing the location of that information within the library reference, do so with sufficient specificity to permit ready reference, such as the page and line, or the file and the worksheet or spreadsheet page or cell.

*Id.* at 5–6.

The Service notes that this revision is consistent with the Commission's position that the purpose of this rulemaking is to pursue relatively narrow improvements. *Id.*

*Paragraph 31(b)(2)(ii): examples of physical characteristics rendering service unduly burdensome.* The Postal Service suggests adding ''or electronic format'' to the list of examples of physical characteristics. In support of this addition, it says: ''Many library references are filed as such because they consist of one or more diskettes or CDs—the electronic format most currently in vogue—and there certainly is no intention (nor should there be) to serve copies of such items on every party.'' *Id.* at 6–7.

*The Postal Service's reply to the OCA's comments.* In addition to its own suggestions, the Service also addresses the OCA's comments. With respect to paragraph 31(b)(1), the Service says that the OCA's proposal to expand the new ''specificity'' provision to include citation to testimony, exhibits and workpapers, in addition to the citations to library references encompassed by the Commission's current proposal, exacerbates its concerns about the potential for misinterpretation. *Id.* at 7. Specifically, the Service asserts that this suggestion manifests no awareness of the difficulties inherent in preparing a postal rate filing, such as the need to revise testimony up to the printing deadline. The Service notes that these revisions change pagination and create ''ripple effects.'' *Id.* at 7–8. Given these circumstances, the Service urges a focus ''at a practical level'' on identifying and resolving real problems the parties might be experiencing under existing practices. *Id.* at 8.

*Paragraph 31(b)(2)(iii):* The Service notes that the OCA suggests that the ''other applicable requirements'' language of this provision might not clearly incorporate the ''unduly burdensome'' condition referred to in the preceding paragraph. However, the Service points out the function of this provision is to deal with exceptional circumstances. Since it provides ample limitations against abuse, the Service contends that it seems much wiser to leave intact the flexibility afforded by the proposed rules regarding the ''unduly burdensome'' condition. *Id.* at 9.

*Paragraph 31(b)(2)(iv)(H) and (vi): minor editorial revisions.* The Service says it has no objections to the OCA's suggestion that paragraph 31(b)(2)(iv)(H) be revised to include the phrase ''into the record'' after ''entered.'' Similarly, it has no objection to revising paragraph 31(b)(2)(vi) to include language stating that inclusion of a preface is ''encouraged but optional.''

*Section 31(b)(2)(vii): suggestion regarding notice of library reference filed in electronic format.* The Service notes that the root of OCA's concern appears to be that someone who gains access to a library reference on the Commission's web page might not be able to benefit fully from this access if he or she does not have similar access to the information provided with the notice. *Id.* at 9. It notes, however, that under current practice, the Commission

is scanning pleadings and posting them on the web already. Therefore, the Service says that whether or not an electronic version of the notice is submitted, the parties will have access to that information on the web as long as the notice is scanned. Consequently, it considers the rule as proposed entirely adequate. *Id.*

*II. Commission Response*

*Proposed alternative approaches to paragraph 31(b)(1) (general introduction to provisions on documentary material).* Both the Postal Service and the OCA suggest changes to this provision. The Service's proposed alternative adds a clause stating that ''whenever'' citations are made in testimony and exhibits, they must do so with sufficient specificity. According to the Service, the purpose of this wording change is to prevent misinterpretation of the Commission's proposal, especially of the type that would lead to litigation over whether every number originating in a library reference and used in testimony must be cross-referenced. Postal Service Comments at 4. The Service says it does not understand this to be the intent of the Commission's proposal, but is concerned that this could be its effect. The OCA, on the other hand, expands the reach of the proposal by including, in addition to library references, other testimony, exhibits, or supporting workpapers. OCA Comments at 3.

The Commission finds that the OCA's suggestion carries with it the potential for imposing far greater burden on the filing party than this rulemaking has contemplated. Therefore, it believes it is preferable to retain the language proposed in order no. 1263. In doing so, the Commission notes that the intent of the provision is not to impose on testimony unnecessarily severe or exhaustive citation requirements. In terms of guidance, the Commission notes that witness Tolley's recent presentations (which the Service refers to its comments) included a technical appendix containing extensive citations to source materials. These presentations provide an example of testimony that would comply with the new rule. In addition, the Commission expects participants to apply a common-sense standard.

*Special requests.* The issue of service of library references is problematic. In part, this is because it appears that the Service has complied with the requirement that material filed in response to a request for production of documents under rule 26 be made available ''for inspection and copying'' by filing a library reference. While this may pose some inconvenience for those located outside the greater Washington, DC area, the Service correctly notes that rule 26 does not necessarily require actual service.

The Commission will not impose an across-the-board obligation to provide copies of all library references the Postal Service may file in a case. As stated in order No. 1263, it believes that the growing ability to produce and distribute most material in an electronic format will greatly reduce the need for participants to make special requests for hard-copy service. It also believes that exposing the filer of a library reference to the potential for repeated requests for service diminishes the extent to which the practice of filing a library reference is a convenience.

The Commission believes that the compromise Carlson has suggested has merit. Under this approach, a participant filing a discovery request (under rule 25 or 26) that leads to the lodging of a library reference with the Commission may make a special (informal) request for service, while others would be required to file a motion. The Commission expects the filer to honor these informal, oral special requests whenever reasonably feasible. In the most recent proposal, no specific deadline was set for service. Upon reconsideration, the Commission believes that the same three-day period specified in paragraph 31(b)(2)(ii)(A) should apply. As the terms of that provision also allow the filer to provide an explanation of why the material cannot be provided within the specified time period, much of the flexibility of the previously-proposed standard allowing service within a reasonable time is preserved. The final rule reads as follows:

(ix) *Special requests and motions seeking service.* In situations other than that covered in (ii)(A), special requests for service of material contained in a library reference may be made by the participant that filed the interrogatory or inquiry that generated a response in the form of a library reference. Service shall be made within three days of a request, or the filer shall provide, within the same period, an explanation of why the material cannot be provided, and undertake reasonable efforts to promptly provide the material. Others seeking service of the material contained in a library reference shall file a detailed motion setting forth the reasons why service is necessary or appropriate.

*Popkin's request for clarification of the differences between paragraphs 31(b)(2)(iv) and (vi).* Popkin requests clarification of the differences between the ''mandatory'' provisions in paragraph 31(b)(2)(iv) and the ''optional'' provisions in paragraph 31(b)(2)(vi). In the Commission's view, the first provision identifies the disclosures that must be included in the notice the party serves (on all participants) informing them that a library reference has been filed. In contrast, the other provision addresses what must be included in the library reference itself. The Commission continues to believe these distinctions are appropriate, and retains them in the final rule. However, in keeping with the OCA's suggestion (and the Service's lack of objection thereto), the wording of paragraph 31(b)(2)(vi) is revised to make clear that inclusion of a preface or summary is also encouraged.

*Popkin's request for a change in paragraph 31(b)(2)(ii)(D).* Popkin contends that the effect of this provision, which refers to material filed in compliance with a discovery request for production of documents or things, is not clear. He suggests that it be divided into two parts: one for items that are directly associated with the interrogatory question; the other for supporting data or information. He further proposes that the first category be automatically furnished to the proponent of the interrogatory, and the second treated like any other reference. *Id.* at 2. Popkin also says that the three-day service requirement contained in paragraph 31(b)(2)(ii)(A) should apply.

The inclusion of this provision in the rule recognizes an informal practice that appears to have grown up around longstanding rule 26 (requests for production of documents or things for purposes of discovery). In many instances, it seems the Service has complied with requests that could be deemed to fall within rule 26 (even if not specifically identified as such) by filing a library reference. Rather than discourage these efforts, the Commission has attempted to draft the new provision on special requests in a way that preserves the spirit of cooperation underlying the ongoing practice. Given the alteration in the motion requirement that is being made, the Commission believes that Popkin's concerns about availability are addressed.

*Suggestions regarding interpretation of the ''unduly burdensome'' condition in connection with paragraph 31(b)(2)(iii).* This paragraph addresses ''other circumstances'' when it is appropriate to file material as a library reference, but for the inability to satisfy the terms of paragraph 31(b)(2)(A)–(D). In response to a request for clarification, the Commission notes that these terms, by the language of paragraph 31(b)(2)(ii), are factors to be considered in addition to physical characteristics that are

reasonably likely to render compliance with service requirements unduly burdensome.

The OCA suggests that the rule could be improved by adding the phrase ''unduly burdensome'' to this paragraph, while the Service says the existing approach provides a necessary degree of flexibility. The Commission's intent is that the ''unduly burdensome'' condition in paragraph 31(b)(2)(ii) applies to this section; that is, a filer can qualify the material for acceptance as a library reference by virtue of its physical characteristics, even if conditions in (A) through (D) are not met. Given the potential for confusion, the Commission is revising the introductory sentence of this paragraph to read as follows: ''If a participant considers it appropriate to file material as a library reference because physical characteristics render service unduly burdensome, but cannot satisfy the terms * * *.''

*Minor editorial revisions.* Several other suggestions have been made for minor editorial revisions. The Commission is adopting the OCA's suggestions for changes in paragraph 31(b)(2) (iv)(H) and (vii) without change. It is also adopting the Service's suggestion, with one small adjustment. This latter entails adding the broader term ''format'' to the examples of physical circumstances, instead of ''electronic format.''

*Ordering paragraphs.* The first ordering paragraph states that the Commission adopts the provisions set out in the attachment as a final rule amending 39 CFR 3001.31(b). The second paragraph states that the rule is effective upon publication in the **Federal Register**. The third paragraph directs the Secretary to cause this order to be published in the **Federal Register**.

Dated: November 24, 1999.

**Margaret P. Crenshaw,**

*Secretary.*

**List of Subjects in 39 CFR Part 3001**

Administrative practice and procedure, Postal Service.

For the reasons discussed in the preamble, the Commission amends 39 CFR part 3001 as follows:

## PART 3001—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 3001 continues to read as follows:

**Authority:** 39 U.S.C. 404(b); 3603, 3622–24, 3661, 3662, 3663.

2. Amend § 3001.31 in Subpart A by revising paragraph (b) to read as follows:

**§ 3001.31 Evidence.**

* * * * *

(b) *Documentary material.*—(1) *General.* Documents and detailed data and information shall be presented as exhibits. Testimony, exhibits and supporting workpapers prepared for Commission proceedings that are premised on data or conclusions developed in a library reference shall provide the location of that information within the library reference with sufficient specificity to permit ready reference, such as the page and line, or the file and the worksheet or spreadsheet page or cell. Where relevant and material matter offered in evidence is embraced in a document containing other matter not material or relevant or not intended to be put in evidence, the participant offering the same shall plainly designate the matter offered excluding the immaterial or irrelevant parts. If other matter in such document is in such bulk or extent as would unnecessarily encumber the record, it may be marked for identification, and, if properly authenticated, the relevant and material parts may be read into the record, or, if the Commission or presiding officer so directs, a true copy of such matter in proper form shall be received in evidence as an exhibit. Copies of documents shall be delivered by the participant offering the same to the other participants or their attorneys appearing at the hearing, who shall be afforded an opportunity to examine the entire document and to offer in evidence in like manner other material and relevant portions thereof.

(2) *Library references.* (i) The term ''library reference'' is a generic term or label that participants and others may use to identify or designate certain documents or things (''material'') filed with the Commission's docket section. To the extent possible, material filed as a library reference shall be identified and referred to by participants in terms of the following categories: Category 1—Reporting Systems Material (consisting of library references relating to the Service's statistical cost and revenue reporting systems, and their primary outputs); Category 2—Witness Foundational Material (consisting of material relating to the testimony of specific witnesses, primarily that which is essential to the establishment of a proper foundation for receiving into evidence the results of studies and analyses); Category 3—Reference Material (consisting of previously published material provided for the convenience of the reader, such as books, chapters or other portions of books, articles, reports, manuals, handbooks, guides, and contracts; Category 4—Material Provided in Response to Discovery (consisting of material provided in response to discovery requests); Category 5—Disassociated Material (consisting of material filed at the request of another, from which the filing party wishes to be disassociated, is not vouching for or sponsoring the material provided); Category 6—All Other Material (consisting of library references not fitting any of the other categories).

(ii) The practice of filing a library reference is authorized primarily as a convenience to filing participants and the Commission under certain circumstances. These include when the physical characteristics of the material, such as number of pages, bulk, or format, are reasonably likely to render compliance with the service requirements unduly burdensome; and one of the following considerations apply:

(A) Interest in the material or things so labeled is likely to be so limited that service on the entire list would be unreasonably burdensome, and the participant agrees to serve the material on individual participants upon request within three days of a request, or to provide, within the same period, an explanation of why the material cannot be provided within three days, and to undertake reasonable efforts to promptly provide the material; or

(B) The participant satisfactorily demonstrates that designation of material as a library reference is appropriate because the material constitutes a secondary source. A secondary source is one that provides background for a position or matter referred to elsewhere in a participant's case or filing, but does not constitute essential support and is unlikely to be a material factor in a decision on the merits of issues in the proceeding; or

(C) Reference to, identification of, or use of the material would be facilitated if it is filed as a library reference; or

(D) The material is filed in compliance with a discovery request for production of documents or things.

(iii) *Other circumstances.* If a participant considers it appropriate to file material as a library reference because its physical characteristics render service unduly burdensome, but cannot satisfy the terms set out in paragraphs (b)(2)(ii)(A) through (D) of this section, the material may be filed (by means of a notice) subject to the following conditions:

(A) Inclusion in the accompanying notice of a detailed explanation of the reason for filing the material under this provision;

(B) Satisfaction of all other applicable requirements relating to library references; and

(C) The Commission's right to refuse acceptance of the material in its docket room and its right to take other action to ensure participants' ability to obtain access to the material.

(iv) *Filing procedure.* Participants filing material as a library reference shall provide contemporaneous written notice of this action to the Commission and other participants, in accordance with applicable service rules. The notice shall:

(A) Set forth the reason(s) why the material is being designated as a library reference, with specific reference to paragraphs (b)(2)(ii) and (iii) of this section;

(B) Identify the category into which the material falls and describe in detail what the material consists of or represents, noting matters such as the presence of survey results;

(C) Explain in detail how the material relates to the participant's case or to issues in the proceeding;

(D) Identify authors or others materially contributing to substantive aspects of the preparation or development of the library reference;

(E) Identify the documents (such as testimony, exhibits, and an interrogatory) or request to which the library reference relates, to the extent practicable;

(F) Identify other library references or testimony relied upon or referred to in the designated material, to the extent practicable;

(G) Indicate whether the library reference is an update or revision to another library reference and, if it is, clearly identify the predecessor material.

(H) To the extent feasible, identify portions expected to be entered into the record and the expected sponsor (if the participant filing a library reference anticipates seeking, on its own behalf, to enter all or part of the material contained therein into the evidentiary record).

(v) *Labeling.* Material filed as a library reference shall be labeled in a manner consistent with standard Commission notation and any other conditions the presiding officer or Commission establishes.

(vi) *Optional preface or summary.* Inclusion of a preface or summary in a library reference addressing the matters set out in paragraphs (b)(2)(iv)(A) through (H) of this section is encouraged but optional.

(vii) *Electronic version.* Material filed as a library reference shall also be made available in an electronic version, absent a showing of why an electronic version cannot be supplied or should not be required to be supplied. Participants are encouraged to include in the electronic version the information and disclosures required to be included in the accompanying notice.

(viii) *Number of copies.* Except for good cause shown, two hard copies of each library reference shall be filed.

(ix) *Special requests and motions seeking service.* In situations other than that covered in paragraph (b)(2)(ii)(A) of this section, special requests for service of material contained in a library reference may be made by the participant that filed the interrogatory or inquiry that generated a response in the form of a library reference. Service shall be made within a reasonable time. Others seeking service of the material contained in a library reference shall file a detailed motion setting forth the reasons why service is necessary or appropriate.

(x) *Waiver.* Upon the filing of a motion showing good cause, the Commission may waive one or more of the provisions relating to library references. Motions seeking waiver may request expedited consideration and may seek waiver for categories of library references.

(xi) *Status of library references.* Designation of material as a library reference and acceptance in the Commission's docket section do not confer evidentiary status. The evidentiary status of the material is governed by this section.

[FR Doc. 99–31126 Filed 12–1–99; 8:45 am]

BILLING CODE 7715–01–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[GA–40–9929a; FRL–6473–1]**

### Approval and Promulgation of Revisions to the Georgia State Implementation Plan

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving the State Implementation Plan (SIP) revisions submitted by the State of Georgia on July 10, 1998. These revisions adopt two new rules for reducing nitrogen oxides emissions in the Atlanta ozone nonattainment area: a rule requiring specific gasoline formulation in 25 counties and a rule establishing unit-specific emission limits at certain Georgia Power generating units. The revisions also incorporate federal requirements related to permitting and wood furniture finishing and cleaning operations and make technical corrections to certain air quality rules. In addition, the revisions clarify requirements of Georgia's Clean Fueled Fleets Program. EPA will act on the rule requiring specific gasoline formulation in 25 counties and revisions submitted for regulating air emissions and operating practices of existing hospital/medical/infectious waste incinerators that commenced construction, reconstruction or modification on or before June 20, 1996 in a separate **Federal Register** notice at a later date.

**DATES:** This direct final rule is effective January 31, 2000 without further notice, unless EPA receives adverse comments by January 3, 2000. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** All comments should be addressed to: Michele Notarianni, Air Planning Branch, Air, Pesticides, and Toxics Management Division, EPA Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

Copies of the documents relative to this action are available for inspection at the following locations during normal business hours. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

EPA Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. (To make an appointment, please contact Michele Notarianni at 404–562–9031.)

Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354.

**FOR FURTHER INFORMATION CONTACT:** Michele Notarianni, Air Planning Branch, Air, Pesticides, and Toxics Management Division, EPA Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303. The telephone number is 404–562–9031.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

On July 10, 1998, the Georgia Environmental Protection Division (EPD) submitted a revision to Georgia's State Implementation Plan (SIP) incorporating revisions to the Rules for Air Quality Control, Chapter 391–3–1;

the Rules for Clean Fueled Fleets (CFF), Chapter 391–3–22; and the narrative for the revision to the CFF Program. Two public hearings on these revisions were held on March 20, 1998 and May 20, 1998. These revisions adopt two new rules for reducing nitrogen oxides emissions in the Atlanta ozone nonattainment area: a rule requiring specific gasoline formulation in 25 counties and a rule establishing unit-specific emission limits at certain Georgia Power generating units. The revisions also incorporate federal requirements related to permitting and wood furniture finishing and cleaning operations and make technical corrections to certain air quality rules. In addition, the revisions clarify requirements of Georgia's CFF Program. EPA will act on the rule requiring specific gasoline formulation in 25 counties and revisions submitted for regulating air emissions and operating practices of existing hospital/medical/infectious waste incinerators that commenced construction, reconstruction or modification on or before June 20, 1996 in a separate **Federal Register** document at a later date.

**II. Revisions Approved by EPA**

EPA is approving all revisions to the Georgia SIP included in the July 10, 1998, submittal. Below is a summary of the approved revisions.

*Air Quality Control, Rule 391–3–1*

• *Rule 391–3–1–.01(nnnn):* A new subparagraph, (nnnn), is added to adopt the current, January 2, 1998, version of the Georgia Department of Natural Resources Procedures for Testing and Monitoring Sources of Air Pollutants manual.

Adopting the January 2, 1998, manual adds test methods and monitoring procedures for waste sample analysis, methanol emissions from stationary sources, electric utility steam generating units, and medical waste incinerators.

• *Rule 391–3–1–.02(2)(c)(6):* The revisions provide exemptions for specific categories of incinerators subject to other, more specific regulations.

• *Rule 391–3–1–.02(2)(fff):* A new subparagraph, (fff), is added to regulate particulate matter emissions from yarn spinning operations.

• *Rule 391–3–1–.02(2)(hhh):* A new subparagraph, (hhh), is added to adopt federal requirements limiting volatile organic compound (VOC) emissions from wood furniture finishing and cleaning operations with potential emissions of VOCs exceeding 25 tons per year which are located in the 13-county Atlanta ozone nonattainment area. This area is comprised of the following counties: Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale.

• *Rule 391–3–1–.02(2)(jjj):* A new subparagraph, (jjj), is added to limit nitrogen oxides ($NO_X$) emissions from coal-fired electric utility steam-generating units with a maximum heat input greater than 250 million British thermal units per hour (mmbtu/hr) located in the 13-county Atlanta ozone nonattainment area. The compliance period is based on a 30-day rolling average beginning May 1 and ending September 30 of each year. Effective May 1, 1999, $NO_X$ emissions from regulated units cannot exceed the alternative emission limits established by the EPD for each unit in its Title V permit. If a facility does not comply with all alternative emission limits for its regulated units, the facility must demonstrate that the $NO_X$ emissions averaged over all regulated units do not exceed 0.34 pounds of $NO_X$ per mmbtu heat input. Effective May 1, 2000, if a facility does not comply with all, established alternative emission limits for its regulated units, the facility must demonstrate that the $NO_X$ emissions averaged over all regulated units do not exceed 0.30 pounds of $NO_X$ per mmbtu heat input. By December 31, 1999, owners/operators of regulated units must submit actual operating performance data, with natural gas technologies in place and optimized, for all regulated units. EPD may revise this rule based on its review of submitted performance data to determine if the $NO_X$ emission limits effective May 1, 2000 are technically achievable.

• *Rule 391–3–1–.02(3) and (6):* The revisions delete references to the August 15, 1997 version of the testing procedures manual in subparagraphs (3)(a), (6)(a)2.(v)(I), (6)(a)(vii)2.(II)I, and (6)(b)1.(vi).

• *Rule 391–3–1–.02(7)(b):* The revisions insert the word ''Deterioration'' into the heading as follows: ''Prevention of Significant Deterioration Standards.''

• *Rule 391–3–1–.02(11):* A new paragraph, (11), entitled ''Compliance Assurance Monitoring'' is added to incorporate and adopt 40 CFR part 64 and to require any stationary source subject to any requirement under 40 CFR part 64 to comply with these provisions.

• *Rule 391–3–1–.03(6):* The revisions modify the list of source types exempt from securing permits to construct and operate new sources by adding municipal solid waste landfills which meet the following three criteria: (a) total design capacity less than or equal to 2.756 million tons or 3.27 million cubic yards of solid waste; (b) the emissions of VOCs are less than 25 tons per year for landfills located in the 13-county Atlanta ozone nonattainment area; and (c) emissions of $NO_X$ from operations other than the final control device are less than 50 tons per year for landfills located within the 13-county Atlanta ozone nonattainment area.

• *Rule 391–3–1–.03(8):* The revisions add a new subparagraph, (f), to clarify that all requirements for obtaining a permit, as specified in 391–3–1–.02(9)(b)16, must be met to secure a permit to construct a new stationary source or modify an existing stationary source.

*Clean Fueled Fleets, Rule 391–3–22*

• *Rule 391–3–22–.01:* The revisions to Chapter 391–3–22, Georgia's CFF Rule, add five definitions, correct, modify, and clarify existing definitions, and re-number the list of definitions.

• *Rule 391–3–22–.02:* The revisions clarify that the requirements of the CFF Program in Chapter 391–3–22 are applicable to motor vehicles operated in the covered area, which is the 13-county Atlanta ozone nonattainment area.

• *Rule 391–3–22–.03:* The revisions clarify that the requirements of Chapter 391–3–22 do not apply to regulated fleets that are simply garaged in the covered area. The revisions also extend the rule's applicability to covered fleet operators which lease covered fleet vehicles.

• *Rule 391–3–22–.04:* The revisions to paragraph (1) correct the upper limit of the gross vehicle weight rating of covered heavy duty vehicles from 26,000 to 26,001 pounds. Vehicles not operated in the covered area are added to the list of exempted vehicles in paragraph (3).

• *Rule 391–3–22–.05(1):* Subsections (b)1., (b)6., and (c) are revised to clarify the procedure for determining whether a vehicle is capable of being centrally fueled, correct a reference to ratio calculations for this determination, and correct the model year to 1999 to reflect a one-year delay in rule implementation.

• *Rule 391–3–22–.06:* The revisions clarify that purchase requirements for CFFs can be met through purchasing clean fueled vehicles, converting existing vehicles to clean fueled vehicles, and/or using purchase credits. For flex-fuel and dual fuel vehicles, a provision is added to allow vehicle operation on a fuel not meeting the clean fuel definition for manufacturer recommended maintenance.

• *Rule 391–3–22–.07:* Minor word changes are made to paragraphs (1) and (2) for clarity. In Table B, the non-methane hydrocarbon plus $NO_X$ emission standard for heavy duty trucks which meets the low emission vehicle emission standards is amended from 3.15 to 3.8 grams/brake horsepower-hour to conform to the current, federal CFF standard.

• *Rule 391–3–22–.08(1):* Under subparagraph (a), subsections 1, 7, and 13, are revised to, respectively, provide purchase credits for both covered and non-covered fleet operators, clarify operational requirements for flex-fuel and dual fuel vehicles during maintenance, and specify that the selling or trading of vehicles used to meet purchase requirements or generate purchase credits is not allowed in the model year in which the vehicle was originally purchased. Subparagraphs (b)1., (c), and (d) are revised to, respectively: clarify the conditions for generating credit for purchases prior to the required acquisition date, provide for credits for clean fueled vehicles purchased in exempt categories, and clarify the use of purchase credits.

• *Rule 391–3–22–.08(2):* Subparagraphs (d), (i), and (j) are revised to, respectively, modify the time for non-covered fleet operators to obtain purchase credits, clarify and modify reporting requirements for covered and exempt vehicles, and delete a record keeping requirement for keeping monthly fueling records and routine maintenance records for covered and exempt vehicles.

• *Rule 391–3–22–.11:* A provision is added to allow EPD to grant exemptions or extensions to covered fleet operators not complying with purchase requirements upon considering vehicle and fuel availability issues.

## III. Final Action

EPA is approving the aforementioned changes to the Georgia SIP because they are consistent with requirements of EPA guidance and the Clean Air Act.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective January 31, 2000 without further notice unless the Agency receives adverse comments by January 3, 2000.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on January 31, 2000, and no further action will be taken on the proposed rule.

## 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. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

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

### *D. Executive Order 13084*

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

In addition, 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 rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

*E. Regulatory Flexibility Act*

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

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

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

*F. Unfunded Mandates*

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

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

*G. Submission to Congress and the Comptroller General*

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

*H. National Technology Transfer and Advancement Act*

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

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

*I. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 31, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

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

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: October 12, 1999.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

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

## PART 52—[AMENDED]

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

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

## Subpart L—Georgia

2. a. In the table in § 52.570(c), the following entries are removed: 391–3–21–.01, 391–3–21–.02, 391–3–21–.03, 391–3–21–.04, 391–3–21–.05, 391–3–21–.06, 391–3–21–.07, 391–3–21–.08, 391–3–21–.09, 391–3–21–.10, 391–3–21–.11.

b. In the table in § 52.570(c), the following entries are added: 391–3–1–.02(2)(fff), 391–3–1–.02(2)(hhh), 391–3–1–.02(2)(jjj), 391–3–1–.02(11), 391–3–22.

c. In the table in § 52.570(c), the following entries are revised: 391–3–1–.01, 391–3–1–.02(2)(c), 391–3–1–.02(3), 391–3–1–.02(6), 391–3–1–.02(7), 391–3–1–.03.

The additions and revisions read as follows:

**§ 52.570 Identification of plan.**

* * * * *

(c) * * *

EPA APPROVED GEORGIA REGULATIONS

| State citation | Title/subject | State effective date | EPA approval date | Explanation |
|---|---|---|---|---|
| * | * | * | * | * |
| 391–3–1–.01 ..... | Definitions ..... | 6/15/98 | 12/2/99 | |

EPA APPROVED GEORGIA REGULATIONS—Continued

| State citation | Title/subject | State effective date | EPA approval date | Explanation |
|---|---|---|---|---|
| * | * | * | * | * |
| 391–3–1–.02(2)(c) | Incinerators | 6/15/98 | 12/2/99 | |
| * | * | * | * | * |
| 391–3–1–.02(2)(fff) | Particulate Matter Emissions from Yarn Spinning Operations. | 6/15/98 | 12/2/99 | |
| * | * | * | * | * |
| 391–3–1–.02(2)(hhh) | Wood Furniture Finishing and Cleaning Operations. | 6/15/98 | 12/2/99 | |
| * | * | * | * | * |
| 391–3–1–.02(2)(jjj) | $NO_X$ Emissions from Electric Utility Steam Generating Units. | 6/15/98 | 12/2/99 | |
| 391–3–1–.02(3) | Sampling | 6/15/98 | 12/2/99 | |
| * | * | * | * | * |
| 391–3–1–.02(6) | Source Monitoring | 6/15/98 | 12/2/99 | |
| 391–3–1–.02(7) | Prevention of Significant Deterioration of Air Quality. | 6/15/98 | 12/2/99 | |
| * | * | * | * | * |
| 391–3–1–.02(11) | Compliance Assurance Monitoring. | 6/15/98 | 12/2/99 | |
| 391–3–1–.03 | Permits | 6/15/98 | 12/2/99 | |
| * | * | * | * | * |
| 391–3–22 | Clean Fueled Fleets | 6/15/98 | 12/2/99 | |
| * | * | * | * | * |

[FR Doc. 99–29445 Filed 12–1–99; 8:45 am]
BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[RI–028–01–6974a; A–1–FRL–6483–8]**

## Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; VOC Regulations and RACT Determinations

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving several State Implementation Plan (SIP) revisions submitted by the State of Rhode Island. These revisions establish requirements for certain facilities which emit volatile organic compounds (VOCs). The intended effect of this action is to approve these revisions into the Rhode Island SIP. EPA is taking this action in accordance with the Clean Air Act (CAA).

**DATES:** This direct final rule is effective on January 31, 2000 without further notice, unless EPA receives adverse comment by January 3, 2000. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA and the Division of Air and Hazardous Materials, Department of Environmental Management, 291 Promenade Street, Providence, RI 02908–5767.

**FOR FURTHER INFORMATION CONTACT:** Anne E. Arnold, (617) 918–1047.

**SUPPLEMENTARY INFORMATION:** This notice discusses several SIP revisions submitted by the Rhode Island Department of Environmental Management (DEM). These SIP submittals contain VOC regulations for certain categories of VOC sources and VOC reasonably available control technology (RACT) determinations for several specific facilities.

### I. Summary of SIP Revision

On March 26, 1996, DEM submitted to EPA as a SIP revision newly adopted Regulations No. 35 ''Control of Volatile Organic Compounds and Volatile Hazardous Air Pollutants from Wood Products Manufacturing Operations'' and No. 36 ''Control of Emissions from Organic Solvent Cleaning,'' as well as revised Regulations No. 9, 14, 15, 19, 21, 25, 26, 30, 31, 32, and 33. Also, on June 17, 1996, DEM submitted revisions to Regulation No. 35. In addition, on September 17, 1996, April 17, 1997, and November 4, 1997, Rhode Island submitted VOC RACT determinations for the following facilities: Quality Spray and Stenciling, Guild Music, Victory Finishing Technologies, CCL Custom Manufacturing, and Cranston Print Works. Finally, on October 27, 1999, DEM submitted addenda clarifying the RACT determinations for Quality Spray and Stenciling and CCL Custom Manufacturing.

**Background**

On November 15, 1990 amendments to the Clean Air Act (CAA) were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401 et seq. Pursuant to the amended CAA all of Rhode Island was classified as serious nonattainment for ozone. 56 FR 56694 (Nov. 6, 1991).

Section 182(b)(2) of the amended Act requires States to adopt RACT rules for all areas designated nonattainment for ozone and classified as moderate or above. There are three parts to the section 182(b)(2) RACT requirement: (1) RACT for sources covered by an existing Control Techniques Guideline (CTG)—*i.e.,* a CTG issued prior to the enactment of the 1990 amendments to the CAA; (2) RACT for sources covered by a post-enactment CTG; and (3) all major sources not covered by a CTG, *i.e.,* non-CTG sources. In a serious ozone nonattainment area, a source which has the potential to emit 50 tons of VOC or more per year is considered a major source.

A CTG is a document issued by EPA which establishes a ''presumptive norm'' for RACT for a specific VOC source category. Under the pre-amended CAA, EPA issued CTG documents for 29 categories of VOC sources. Rhode Island previously adopted, and EPA approved, regulations developed by the state pursuant to the pre-1990 CTGs, the most recent approval of which was on October 18, 1994 (59 FR 52427). Today's document addresses minor revisions to those previously adopted regulations, as well as new alternative VOC RACT determinations, adopted by Rhode Island pursuant to the pre-1990 CTGs. These alternative VOC RACT determination's essentially relax the generally applicable RACT emission limits for specific sources that have demonstrated that it is unreasonable to require them to comply with those limits. In addition, today's document also addresses requirements adopted by Rhode Island pursuant to the non-CTG RACT and new (*i.e.,* post-1990) CTG requirements of the CAA.

Section 183 of the amended CAA requires that EPA issue 13 new CTGs. Appendix E of the General Preamble of Title I (57 FR 18077) lists the categories for which EPA plans to issue new CTGs. On November 15, 1993, EPA issued a CTG for Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations and Reactor Processes. Also, on August 27, 1996, EPA issued a CTG for shipbuilding and repair operations and on May 26, 1996, EPA issued a CTG for wood furniture finishing operations. Furthermore, on March 27, 1998, EPA issued a CTG for aerospace coating operations. CTGs for the remaining appendix E categories have not yet been issued.

*EPA's Evaluation of Rhode Island's Submittals*

A. New CTGs

In response to the CAA section 182(b)(2)(A) requirement to adopt RACT for all sources covered by a new CTG, on April 5, 1995, Rhode Island submitted a negative declaration for the SOCMI Distillation Operations and SOCMI Reactor Processes CTG. Through this negative declaration, the State of Rhode Island is asserting that there are no sources within the State that would be subject to a rule for these source categories. EPA is approving this negative declaration as meeting the VOC RACT requirement for the SOCMI Distillation Operations and Reactor Processes source categories.[1]

In addition, Rhode Island has adopted requirements for wood furniture finishing operations pursuant to EPA's new CTG for this source category. These requirements are discussed below in the Section entitled ''Revised VOC regulations.'' Rhode Island has not yet addressed the new shipbuilding or aerospace CTGs but will need to do so in order to fully meet its CAA obligations.

B. Major Non-CTG Sources

In response to section 182(b)(2)(C) of the CAA, Rhode Island amended its Regulation No. 15 ''Control of Organic Solvent Emissions,'' which previously applied to sources with the potential to emit 100 tons of VOC or more per year, to include provisions which apply to sources with the potential to emit 50 tons of VOC or more per year. The new provisions allow subject sources three options. Specifically, sources are required to: (1) install and operate a control system which achieves an overall emission reduction efficiency of 85 percent; or (2) reduce VOC use such that daily VOC emissions do not exceed 20 percent of the facility's 1990 VOC emissions calculated on a mass of VOC per unit of production basis or a mass of VOC per mass of solids applied basis for surface coating operations. The third option in the rule describes a process by which RACT can be defined, but does not explicitly define RACT for each source to which this option applies.

On July 7, 1995 (60 FR 35361), EPA proposed a limited approval/limited disapproval of Rhode Island's revised Regulation No. 15 ''Control of Organic Solvent Emissions.'' [2] EPA's notice of proposed rulemaking (NPR) stated that in order to receive full approval Rhode Island DEM must submit, and EPA must approve, RACT determinations for all sources complying with Regulation No. 15 through the third option. At the time of EPA's NPR, DEM had identified the following three sources for which single source VOC RACT determinations would be conducted: Cranston Print Works, CCL Custom Manufacturing, and Hoechst Celanese. As a result of recent inspection activity, DEM has discovered an additional source, Original Bradford Soap Works, which is also subject to Regulation No. 15. Since this facility is complying with the regulation through the third option, the consent agreement for this facility must also be submitted to EPA as a SIP revision.

On September 17, 1996, and April 17, 1997, Rhode Island submitted consent agreements for Cranston Print Works and CCL Custom Manufacturing, respectively, to EPA as a SIP revision. On October 27, 1999, DEM submitted an addendum to the agreement for CCL Custom Manufacturing. Cranston Print Works is a textile processing facility. Generally, the agreement requires Cranston Print Works to limit the VOC content of its print paste and finish formulations and to operate scrubbers on its acid production ager and acid patch ager. CCL Custom Manufacturing is a contract manufacturer of personal care and household products packaged in aerosol and solid forms. Generally, CCL's agreement requires CCL to use an aerosol filling technique that minimizes VOC emissions or to collect and burn VOC emissions that escape from the alternative filling process. The consent agreements submitted for Cranston Print Works and CCL Custom Manufacturing are found to be approvable. The consent agreements and EPA's evaluation are detailed in a memorandum, dated November 5, 1999, entitled ''Technical Support Document—Rhode Island—VOC Rules and RACT Determinations.'' Copies of that document are available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document.

The necessary consent agreements for Hoechst Celanese and Original Bradford Soap Works, however, have not yet been submitted to EPA. Regulation No. 15, therefore, does not fully satisfy the requirements of section 182(b)(2)(C) of the CAA. In order for Regulation No. 15 to be fully approvable, the state must submit, and EPA must approve, the

[1] On July 5, 1995 (60 FR 35361), EPA proposed approval of this negative declaration. No comments were received on this proposal.

[2] No comments were received on EPA's July 7, 1995 proposal.

consent agreements for Hoechst Celanese and Original Bradford Soap Works. Therefore, EPA is granting a limited approval of Regulation No. 15 in order to strengthen the Rhode Island SIP.

Also in response to section 182(b)(2)(C) of the CAA, Rhode Island revised the applicability threshold in its previously EPA-approved Regulation No. 21 ''Control of Volatile Organic Compound Emissions from Printing Operations'' from the potential to emit 100 tons of VOC per year to the potential to emit 50 tons of VOC per year. EPA's July 7, 1995 NPR proposed a full approval of Rhode Island's Regulation No. 21 revisions. Since the time of EPA's NPR, the state has adopted revisions to all of its VOC regulations, including Regulation No. 21. These subsequent revisions are discussed in the section below entitled ''Revised VOC Regulations.''

C. Alternative VOC RACT Determinations

On September 17, 1996, DEM submitted alternative VOC RACT determinations for the following facilities: Quality Spraying and Stenciling, Guild Music, and Victory Finishing Technologies. In addition, on November 4, 1997, DEM submitted a revised consent agreement for Quality Spray and Stenciling and an addendum to that agreement on October 27, 1999. These facilities are subject to Rhode Island's EPA-approved Regulation No. 19 ''Control of Volatile Organic Compounds from Surface Coating Operations'' and have requested that alternative VOC RACT requirements be established for their specific facility. Regulation No. 19 allows alternative emissions limitations to be established on a case-by-case basis if sufficient technical and economic justification supporting the alternative limits is provided. These alternative requirements must be approved by Rhode Island DEM and EPA, based on a determination that it is technically or economically infeasible for the particular source to meet the requirements of Regulation No. 19. The type of operations and the VOC reduction strategies at each alternative VOC RACT facility are listed in the Table below. All of the submitted alternative RACT determinations are found to be approvable. The specific requirements for these sources and EPA's evaluation of these requirements are summarized in the accompanying Technical Support Document, which is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document.

| Facility | Source, type and VOC reduction strategy |
|---|---|
| Quality Spray and Stenciling of Providence, RI | Coater of miscellaneous metal parts, wood products, and plastic parts; alternate limits on VOC content of coating and use of electrostatic spray guns. |
| Guild Music of Westerly, RI | Manufacturers handmade guitars; alternate limits on VOC content of coatings and work practice plan addressing leaks, solvent accounting, and spray gun use. |
| Victory Finishing Technologies of Providence, RI | Coater of miscellaneous metal parts; alternate limits on VOC content of coatings. |

D. Revised VOC Regulations

Rhode Island's March 26, 1996 SIP submittal includes revised Regulations No. 9, 14, 15, 19, 21, 25, 26, 30, 31, 32, and 33. In each of these regulations, the definition of the term ''volatile organic compound'' has been revised. Acetone, parachlorobenzotrifluoride, and volatile methyl siloxanes are now included on the list of compounds that are exempted from the definition of VOC because of their negligible photochemical reactivity. Rhode Island's revisions to its VOC definition are consistent with revisions EPA has made to its definition of VOC. EPA's revisions were promulgated on October 5, 1994 (59 FR 50693) and June 16, 1995 (60 FR 31633) and are codified at 40 CFR 51.100(s). Rhode Island's VOC definition does not, however, reflect more recent revisions to EPA's VOC definition which were promulgated subsequent to Rhode Island's March 26, 1996 SIP submittal. EPA promulgated these additional revisions to its VOC definition on October 8, 1996 (61 FR 52848), August 25, 1997 (62 FR 44900), and April 4, 1998 (63 FR 17331).

Rhode Island's March 26, 1996 SIP submittal also includes newly adopted Regulation No. 36 ''Control of Emissions from Organic Solvent Cleaning.'' Emissions from solvent cleaning were previously regulated by Rhode Island under Regulation No. 18 which has been approved into the Rhode Island SIP (56 FR 49416). Regulation No. 36 was adopted to incorporate EPA's newly promulgated maximum achievable control technology (MACT) standards for halogenated solvent cleaning (40 CFR part 63, subpart T) and the state's existing VOC requirements for this source category into one regulation. Today's document addresses only the approvability of the VOC requirements in Regulation No. 36 since the state has not yet requested delegation of EPA's halogenated solvent cleaning MACT standard under section 112(l) of the CAA. An analysis of the VOC provisions in Regulation No. 36 shows that these requirements are consistent with EPA's model VOC rules [3] and the CTG for solvent metal cleaning.[4] In addition, since Regulation No. 36 is replacing Regulation No. 18 which was approved into the Rhode Island SIP, CAA section 110(l) of the CAA must be satisfied. Section 110(l) states that a SIP revision shall not be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. Rhode Island DEM included in its SIP submittal an analysis which shows that for each control requirement in the previously EPA-approved Regulation No. 18 there is a corresponding requirement in Regulation No. 36 that is at least as stringent.

Finally, Rhode Island's March 26, 1996 SIP submittal also includes newly adopted Regulation No. 35 ''Control of Volatile Organic Compounds and Volatile Hazardous Air Pollutants from Wood Products Manufacturing Operations.'' This rule was subsequently revised and resubmitted to EPA as a SIP revision on June 17, 1996. Emissions from wood furniture manufacturing operations in Rhode Island were previously regulated by requirements in the state's Regulation No. 19 ''Control of Volatile Organic Compounds from Surface Coating Operations.'' These requirements are part of Rhode Island's currently

[3] ''Model Volatile Organic Compound Rules for Reasonably Available control Technology,'' Staff Working document, June 1992.

[4] ''Control of Volatile Organic Emissions from Solvent Metal Cleaning'' (EPA–450/2–77–022).

approved SIP.[5] Regulation No. 35 was adopted to address EPA's newly promulgated MACT standards for wood furniture manufacturing operations (40 CFR part 63, subpart JJ), to update the state's existing VOC requirements for this source category pursuant to the issuance of EPA's wood furniture manufacturing CTG, and to incorporate both sets of requirements into one regulation. Today's notice addresses only the approvability of the VOC requirements in Regulation No. 35 since the state has not requested delegation of EPA's wood furniture MACT standard under section 112(l) of the CAA.

EPA wishes to clarify its understanding of how certain elements of Regulation 35 will be enforced as part of the SIP. Section 35.1.47 refers to ''applicable EPA criteria'' in defining an acceptable permanent total enclosure. Those criteria are to be found at 40 CFR part 51, appendix M, Test Methods 204 and 204A–204F. Section 35.2.2 refers to facilities becoming subject to Regulation 35 in the future ''due to an increase in emissions of VOC.'' It is clear from the structure of the regulation that it is the potential of a facility to emit VOC, not its actual emissions, that determines whether a facility is subject to the regulation. See sections 35.2.1 and 35.3.1(a) and (b). Section 35.2.3 provides that any reference to VOC in the regulation should also be read to include halogenated organic compounds (HOC). EPA does not regulate HOC for ozone control purposes under the SIP, and DEM has not submitted this section for inclusion in the SIP. EPA wishes to clarify that, if a source uses emissions averaging under 35.6.2(a) to meet VOC limits under the SIP, HOCs cannot be included in the averaging formula. Finally, section 35.3(c) provides for DEM to review the emission limits of facilities every two years and make a new RACT determination. Any new emission limits determined under this provision do not modify the SIP limits, and there is no authority for DEM to relax SIP emission limits under this section without EPA approval in the SIP. Based on these understandings of how Regulation 35 will be implemented, EPA has found Rhode Island's Regulation 35 to be consistent with EPA's CTG for Wood Furniture Manufacturing Operations (EPA–453/R–96–007, April 1996).

[5] The requirements of Regulation No. 19 which apply to wood furniture manufacturing operations were adopted by Rhode Island on October 30, 1992 and approved by EPA on October 18, 1994 (59 FR 52429) prior to the March 26, 1996 issuance of EPA's CTG for wood furniture manufacturing operations.

As stated above, EPA has evaluated all of the submitted Rhode Island VOC regulations and facility specific RACT determinations and has found that, with the exception of the Regulation No. 15 issue noted above, they are consistent with the applicable EPA guidance documents referenced above. As such, EPA believes that the submitted rules and facility RACT determinations constitute RACT for the applicable sources. Rhode Island's VOC rules and facility specific RACT determinations and EPA's evaluation are detailed in a memorandum, dated November 5, 1999, entitled ''Technical Support Document—Rhode Island—VOC Rules and RACT Determinations.'' Copies of that document are available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective January 31, 2000 unless adverse or critical comments are received by January 3, 2000.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on January 31, 2000.

## II. Final Action

EPA is granting a full approval of the following Rhode Island Air Pollution Control Regulations and incorporating them into the Rhode Island SIP:

No. 9: Air Pollution Control Permits
No. 14: Record Keeping and Reporting
No. 19: Control of Volatile Organic Compounds from Surface Coating Operations
No. 21: Control of Volatile Organic Compound Emissions from Printing Operations
No. 25: Control of VOC Emissions from Cutback and Emulsified Asphalt
No. 26: Control of Organic Solvent Emissions from Manufacture of Synthesized Pharmaceutical Products
No. 30: Control of VOCs from Automobile Refinishing Operations
No. 31: Control of VOCs from Commercial and Consumer Products
No. 32: Control of VOCs from Marine Vessel Loading Operations
No. 33: Control of VOCs from Architectural Coatings and Industrial Maintenance Coatings
No. 35: Control of VOCs and Volatile Hazardous Air Pollutants from Wood Products Manufacturing Operations
No. 36: Control of Emissions from Organic Solvent Cleaning

EPA is also granting a full approval of the consent agreements for the following facilities and incorporating them into the Rhode Island SIP: Cranston Print Works; CCL Custom Manufacturing; Quality Spraying and Stenciling; Guild Music; and Victory Finishing Technologies. In addition, EPA is granting a limited approval of Rhode Island's Regulation No. 15 ''Control of Organic Solvent Emissions'' and incorporating this rule into the Rhode Island SIP. Finally, EPA is approving Rhode Island's negative declaration for the SOCMI Distillation and Reactor Processes CTG categories as meeting the CAA VOC RACT requirements for these source categories.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State Implementation Plan. Each request for revision to the State Implementation Plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

## III. Administrative Requirements

### *A. Executive Order 12866*

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

### *B. Executive Order 13132*

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct

effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

*C. Executive Order 13045*

''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children.

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

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

*D. Executive Order 13084*

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

*E. Regulatory Flexibility*

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

*F. Unfunded Mandates*

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

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

*G. Submission to Congress and the Comptroller General*

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

*H. National Technology Transfer and Advancement Act*

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

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

*I. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of

this action must be filed in the United States Court of Appeals for the appropriate circuit by January 31, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).) EPA encourages interested parties to comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal.

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

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Ozone.

Dated: November 23, 1999.

**John P. DeVillars,**

*Regional Administrator, Region I.*

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

## PART 52—[AMENDED]

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

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

2. In § 52.2070, the table in paragraph (c) is amended by revising entries to existing state citations for Regulations 9, 14, 15, 18, 19, 21, 25, 26, 30, 31, 32, and 33 and by adding new state citations Regulations 35 and 36; and the table in paragraph (d) is amended by adding new citations for Cranston Print Works, CCL Custom Manufacturing, Victory Finishing Technologies, Quality Spray and Stenciling, and Guild Music to read as follows:

**§ 52.2070 Identification of plan.**

* * * * *

(c) * * *

EPA APPROVED RHODE ISLAND REGULATIONS

| State citation | Title/subject | State effective date | EPA approval date | Explanations |
|---|---|---|---|---|
| * | * * | | * * | * * |
| Air Pollution Control Regulation 9. | Air Pollution Control Permits. | 4/8/96 | 12/2/99 [Insert *FR* citation from published date] | Definition of VOC revised. All of No. 9 is approved with the exception of Sections 9.13, 9.14, 9.15, and Appendix A which Rhode Island did not submit as part of the SIP revision. |
| * | * * | | * * | * * |
| Air Pollution Control Regulation 14. | Record Keeping and Reporting. | 4/8/96 | 12/2/99 [Insert *FR* citation from published date] | Definition of VOC revised. |
| Air Pollution Control Regulation 15. | Control of Organic Solvent Emissions. | 4/8/96 | 12/2/99 [Insert *FR* citation from published date] | Limited approval. Applicability threshold decreased to 50 tpy. Definition of VOC revised. All of No. 15 is approved with the exception of 15.2.2 which Rhode Island did not submit as part of the SIP revision. |
| * | * * | | * * | * * |
| Air Pollution Control Regulation 18. | Control of Emissions from Organic Solvent Cleaning. | Withdrawn | 12/2/99 [Insert *FR* citation from published date] | No. 18 is superseded by No. 36. |
| Air Pollution Control Regulation 19. | Control of Volatile Organic Compounds from Surface Coating Operations. | 3/7/96 | 12/2/99 [Insert *FR* citation from published date] | Definition of VOC revised. Wood products requirements deleted because state adopted new Regulation No. 36 which addresses wood products. |
| Air Pollution Control Regulation 21. | Control of Volatile Organic Compound Emissions from Printing Operations. | 4/8/96 | 12/2/99 [Insert *FR* citation from published date] | Applicability threshold decreased to 50 tpy. Definition of VOC revised. All of No. 21 is approved with the exception of Section 21.2.3 which the state did not submit as part of the SIP revision. |
| Air Pollution Control Regulation 25. | Control of VOC Emissions from Cutback and Emulsified Asphalt. | 4/8/96 | 12/2/99 [Insert *FR* citation from published date] | Definition of VOC revised. All of No. 25 is approved with the exception of Section 25.2.2 which the state did not submit as part of the SIP revision. |
| Air Pollution Control Regulation 26. | Control of Organic Solvent Emissions from Manufacture of Synthesized Pharmaceutical Products. | 4/8/96 | 12/2/99 [Insert *FR* citation from published date] | Definition of VOC revised. All of No. 26 is approved with the exception of 26.2.3 which the state did not submit as part of the SIP revision. |
| * | * * | | * * | * * |
| Air Pollution Control Regulation 30. | Control of VOCs from Automobile Refinishing. | 4/8/96 | 12/2/99 [Insert *FR* citation from published date] | Definition of VOC revised. All of No. 30 is approved with the exception of Section 30.2.2 which the state did not submit as part of the SIP revision. |
| Air Pollution Control Regulation 31. | Control of VOCs from Commercial and Consumer Products. | 4/8/96 | 12/2/99 [Insert *FR* citation from published date] | Definition of VOC revised. All of No. 31 is approved with the exception of Section 31.2.2 which the state did not submit as part of the SIP revision. |

EPA APPROVED RHODE ISLAND REGULATIONS—Continued

| State citation | Title/subject | State effective date | EPA approval date | Explanations |
|---|---|---|---|---|
| Air Pollution Control Regulation 32. | Control of VOCs from Marine Vessel Loading Operations. | 4/8/96 | 12/2/99 [Insert *FR* citation from published date] | Definition of VOC revised. All of No. 32 is approved with the exception of Section 32.2.2 which the state did not submit as part of the SIP revision. |
| Air Pollution Control Regulation 33. | Control of VOCs from Architectural Coatings and Industrial Maintenance Coatings. | 4/8/96 | 12/2/99 [Insert *FR* citation from published date] | Definition of VOC revised All of No. 33 is approved with the exception of Section 33.2.2 which the state did not submit as part of the SIP revision. |
| Air Pollution Control Regulation 35. | Control of VOCs and Volatile Hazardous Air Pollutants from Wood Products Manufacturing Operations. | 7/7/96 | 12/2/99 [Insert *FR* citation from published date] | All of No. 35 is approved with the exception of Section 35.2.3 which the state did not submit as part of the SIP revision. |
| Air Pollution Control Regulation 36. | Control of Emissions from Organic Solvent Cleaning. | 4/18/96 | 12/2/99 [Insert *FR* citation from published date] | All of No. 36 is approved with the exception of Section 36.2.2 which the state did not submit as part of the SIP revision. |
| * | * * | * | * * | * * |

(d) * * *

EPA APPROVED RHODE ISLAND SOURCE SPECIFIC REQUIREMENTS

| Name of source | Permit No. | State effective date | EPA approval date | Explanations |
|---|---|---|---|---|
| * | * * | * | * * | * * |
| Cranston Print Works .... | A. H. File No. 95–30–AP. | 12/19/95 | 12/2/99 [Insert FR citation from published date] | Non-CTG VOC RACT Determination. |
| CCL Custom Manufacturing. | A. H. File No. 97–02–AP. | 4/10/97 10/27/99 | 12/2/99 [Insert FR citation from published date] | Non-CTG VOC RACT Determination. |
| Victory Finishing Technologies. | A. H. File No. 96–05–AP. | 5/24/96 | 12/2/99 [Insert FR citation from published date] | Alternative VOC RACT Determination. |
| Quality Spray and Stenciling. | A. H. File No. 97–04–AP. | 10/21/97 7/13/99 | 12/2/99 [Insert FR citation from published date] | Alternative VOC RACT Determination. |
| Guild Music ..... | A. H. File No. 95–65–AP. | 11/9/95 | 12/2/99 [Insert FR citation from published date] | Alternative VOC RACT Determination. |

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BILLING CODE 6560–50–P

## LEGAL SERVICES CORPORATION

### 45 CFR Part 1641

### Debarment, Suspension and Removal of Recipient Auditors

**AGENCY:** Legal Services Corporation.

**ACTION:** Final rule.

**SUMMARY:** This rule implements a provision in the Legal Services Corporation's (''Corporation'' or ''LSC'') fiscal year 1996 and subsequent fiscal year appropriations acts which authorized the Office of Inspector General (''OIG'') to remove, suspend, or bar an independent public accountant, upon a showing of good cause, from performing audit services . . . after notice to the auditor and an opportunity for hearing. This rule sets out the debarment, suspension and removal authority of the OIG and informs independent public accountants performing audit services for LSC recipients of their rights, and the standards that will apply, in connection with debarment, suspension and removal actions.

**DATES:** This final rule is effective January 3, 2000.

**FOR FURTHER INFORMATION CONTACT:** Laurie Tarantowicz, Counsel, Office of Inspector General, (202) 336–8830, LTarantowicz@oig.lsc.gov.

**SUPPLEMENTARY INFORMATION:** The Corporation's fiscal year 1996 appropriations act authorized the LSC Inspector General (''IG'') to ''remove, suspend, or bar an independent public accountant, upon a showing of good cause, from performing audit services . . . after notice to the auditor and an opportunity for hearing.'' Pub. L. No. 104–134, 110 Stat. 1321, § 509(d) (1996). This provision has continuing effect in fiscal years 1997, Pub. L. No. 104–208, 110 Stat. 3009, § 503(a) (1996) and 1998, Pub. L. No. 105–119, 111 Stat. 2440 (1997), and 1999, Pub. L. No. 105–277 (1998). In accordance with the statutory direction to ''develop and issue rules of practice,'' 110 Stat. 1321, § 509(d), the OIG issues this rule. On September 11, 1998, the LSC Board of Directors' Operations and Regulations Committee held public hearings on proposed 45 CFR Part 1641. The proposed rule was published in the **Federal Register** on

February 5, 1999, was published on the OIG's website, and notification was sent to recipient auditors. No comments were received. The Committee again held public hearings on the proposed rule on April 16 and June 11, 1999. After making additional revisions to the rule, the Committee recommended that the Board adopt the rule as final, which the Board did on June 12, 1998.

Pursuant to Executive Order, the Federal government has a government wide system of suspension and debarment. The Executive Office of the President, Office of Management and Budget, has issued guidance setting forth procedures for agencies to follow in establishing procedures for making suspension and debarment decisions. Policy Letter 82–1. Based on this guidance, agencies have promulgated regulations, all substantially similar, implementing suspension and debarment. These regulations have been developed after extensive public comment and have withstood considerable judicial scrutiny. This rule is based on the government wide system, but includes some modifications based on the OIG's specific statutory authorization to debar, suspend and remove, and on the particular circumstances of independent public accountants and their relationship to LSC recipients.

**Section-by-Section Analysis**

**Subpart A—General**

*Section 1641.1 Purpose/Applicability*

Recipients are required by statute to have an annual audit conducted by an independent public accountant (IPA). In order to assist in ensuring that recipients receive acceptable audits, the OIG is authorized to debar, suspend and remove IPAs from performing audit services for recipients. This rule sets out that authority and informs IPAs of their rights, and the standards that will apply, in connection with debarment, suspension and removal actions.

This rule applies to IPAs performing audit services for all entities that receive LSC funds, including subrecipients. This is consistent with LSC's general policy extending the requirements and restrictions applicable to recipients to entities that receive transfers of LSC funds from recipients, *see* 45 CFR 1610.7, and with LSC's regulation governing subgrants, 45 CFR Part 1627, which requires subrecipients to obtain an audit in accordance with LSC's audit policy, 45 CFR 1627.3(c).

*Section 1641.2 Definitions*

This section defines the key terms used in the rule. Many of the terms are defined in the rule as they are defined in the government wide system.

Paragraph (a) defines ''adequate evidence,'' which is the standard of proof for imposing a suspension, as information sufficient to support the reasonable belief that a particular act or omission has occurred. This is a less stringent standard than ''preponderance of the evidence,'' the standard applicable to debarment and removal actions. The courts have likened the adequate evidence standard to the probable cause standard for obtaining a search warrant. *See Electro-Methods, Inc.* v. *United States*, 728 F.2d 1471, 1473 (Fed. Cir. 1984); *Horne Brothers, Inc.* v. *Laird*, 463 F.2d 1268, 1271 (D.C. Cir. 1972). Under the Federal Acquisition Regulations (FAR), ''[i]n assessing the adequacy of evidence, agencies should consider how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn as a result.'' 29 CFR 9.407–1(b)(1).

Paragraph (b) defines ''audit services.'' This section has been modified from the proposed rule to expressly set out the elements of an annual financial statement audit. This is the audit required by section 509(a) of LSC's fiscal year 1996 appropriations act. Section 509 of the fiscal year 1996 appropriations act has been incorporated by reference in subsequent fiscal year appropriations acts and continues to be effective, see, *e.g.*, Pub. L. No. 105–277 (1998). For ease of reference, this provision of law is hereinafter referred to as ''section 509.'' Debarment, suspension and removal affects only the ability of recipients to hire an IPA to perform ''audit services'' as defined. Leaving aside the question of the wisdom of doing so, even if the IPA is debarred, suspended or removed, a recipient may hire the IPA to perform other services, such as, preparation of a tax return or setting up the recipient's accounting system. Of course, recipients should consider the fact of debarment, etc., when deciding whether to hire an IPA to perform such other services.

Paragraph (c) defines ''contract'' as an agreement between a recipient and an IPA for an IPA to provide audit services to the recipient. Debarment and suspension affects future contracts between a recipient and an IPA; removal affects existing contracts.

Paragraph (d) defines ''conviction'' as a judgment or conviction of a criminal offense by any court, whether entered upon a verdict or plea, including but not limited to pleas of *nolo contendere*. After some consideration, the Committee decided that, in order to debar or remove an IPA, a conviction must be final, see sections 1641.7 and 1641.18. The conviction need not be final in order to suspend an IPA, see section 1641.13.

An IPA may be debarred suspended or removed if convicted of any offense indicating a breach of trust, dishonesty or lack of integrity, or conspiracy to do the same, by any court, whether federal, state, county or municipal. For examples of such offenses, see the discussion under section 1641.7(d) of this section-by-section analysis.

Paragraph (e) defines ''debarment.'' Debarment is a decision by the debarring official to prohibit an IPA from soliciting or entering into new contracts to perform audit services for recipient(s). Debarment does not affect existing contracts between a recipient and an IPA. A debarment must be based on a finding, by a preponderance of the evidence, that any of the causes for debarment exist. Debarment may cover an IPA's contracts with all recipients or with one or more specific recipients.

Paragraph (f) defines ''debarring official.'' This is the official responsible for debarment, suspension or removal actions. In the normal course, the OIG legal counsel will be the debarring official. The final rule eliminates the authority of the OIG legal counsel to designate another to act as the debarring official. Instead, the final rule provides the Inspector General with the discretion to appoint another OIG staff member or an individual outside the OIG as the debarring official. The Inspector General would designate someone other than legal counsel as the debarring official when there is no OIG legal counsel or when the OIG legal counsel, in the judgment of the Inspector General, should not serve as the debarring official because, for example, there exists a conflict of interest.

An issue was raised concerning whether the debarring official should in some cases be required to be an individual having no prior involvement in the matter, *e.g.*, a neutral independent hearing examiner. Due process does not require this. See Note, Moving Toward a Better-Defined Standard of Public Interest in Administrative Decisions to Suspend Government Contractors, 36 Am. U. L. Rev. 693, n. 43 (citing *Schweiker* v. *McClure*, 456 U.S. 188, 195 (1982) (presuming hearing officers unbiased unless showing of specific reason for disqualification); *Withrow* v. *Larkin*, 421 U.S. 35, 47 (1975) (stating that combination of investigative and adjudicative function does not, without

more, create unconstitutional risk of bias); *Transco Sec., Inc. of Ohio* v. *Freeman*, 639 F.2d 318, 325 (6th Cir.) (holding high level administrative review satisfies due process, neutral judicial officer unnecessary), cert. denied, 454 U.S. 820 (1981)).

Paragraph (g) defines ''indictment'' for a criminal offense. This definition was modified to make clear that an information, presentment, or other filing by competent authority charging a criminal offense shall be given the same effect as an indictment. An IPA may be suspended if indicted for any offense indicating a breach of trust, dishonesty or lack of integrity, or conspiracy to do the same.

Paragraph (h) defines ''IPA.'' This definition was modified to clarify that IPA means either an individual independent public accountant or a firm of accountants.

Paragraph (i) defines ''knowingly'' to mean that an act was done voluntarily and intentionally and not because of mistake or accident. This term is used in the rule in the context of prohibiting recipients from knowingly awarding contracts to, extending or modifying existing contracts with, or soliciting proposals from IPAs that have been debarred or suspended.

Paragraph (j) defines ''material fact'' as one which is necessary to determine the outcome of an issue or case and without which the case could not be supported. In certain respects, whether material facts are in dispute determines the extent of the procedures afforded the IPA under the rule. For example, if the debarring official determines that the IPA's response to the notice of proposed debarment does not raise a genuine issue of material fact, the debarment proceeding will be conducted entirely by written submissions.

Paragraph (k) defines ''person.'' The definition of this term was added to the final rule to clarify that the term, particularly in its use in the definition of ''indictment,'' means an individual or a firm, partnership, corporation, association, or other legal entity.

Paragraph (l) defines ''preponderance of the evidence,'' which is the standard of proof for imposing a debarment or removal, as proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not. This is a more stringent standard than ''adequate evidence,'' the standard applicable to suspension actions.

Paragraph (m) defines ''removal.'' Removal is a decision by the debarring official to prohibit an IPA from performing audit services in subsequent years of an existing contract. Suppose, for example, that a recipient has entered into a contract with an IPA under which the IPA will perform an audit of the recipient for years 1, 2 and 3. If the IPA is conducting the year-1 audit of the recipient when the IPA is removed by the OIG, removal of the IPA will not prohibit the IPA from completing the year-1 audit. Removal will prohibit the IPA from conducting the year-2 and year-3 audits. Removal must be based on a finding, by a preponderance of the evidence that any of the causes for removal exist. Removal may cover an IPA's contracts with one or more recipients.

Paragraph (n) defines ''suspension.'' This paragraph was modified in the final rule to clarify that suspension is a decision by the debarring official prohibiting an IPA from soliciting or entering into new contracts to perform audit services for recipient(s). Suspension does not affect existing contracts between recipients and IPAs. A suspension must be supported by adequate evidence. Suspension may preclude an IPA from soliciting or entering into new contracts with all recipients or with one or more specific recipients.

*Section 1641.3 Scope of Debarment, Suspension and Removal*

This section sets out the scope of debarment, suspension or removal; that is, the effect of such action on the IPA and, for example, the IPA's divisions and affiliates.

Debarment, suspension or removal of an individual IPA prohibits that IPA from performing audit services as an individual or as an employee, independent contractor, agent or other representative of an IPA firm.

This section has been reworded to clarify that a debarment, suspension, or removal shall have an impact on only those organizational elements of an IPA firm which were materially involved in the relevant engagement. Extending the debarment to other organizational elements would go beyond what is necessary to achieve the purposes of debarment, suspension or removal.

If there is a cause to debar, suspend, or remove, the OIG may include in its debarment, suspension or removal of an IPA firm any firm that is an affiliate, subcontractor, joint venturer, agent or representative of the IPA firm. An affiliate, etc., may be included in the decision only if such firm was materially involved in the relevant engagement and only if such affiliate, etc., was specifically named and given notice of the proposed action and an opportunity to respond.

Similarly, the OIG may include in its debarment, suspension or removal of an IPA firm the individual officer, director or partner responsible for the engagement, or an individual employee, independent contract or, agent, representative or other individual associated with the IPA firm. Such individuals may be included in the decision only if specifically named and given notice of the proposed action and an opportunity to respond. If not named in the decision, such individuals would be prohibited from performing audit services only as a representative of the debarred firm. Otherwise, such individuals are not prohibited from performing audit services.

*Section 1641.4 Duration of Debarment, Suspension and Removal*

This section provides that a debarment, suspension or removal only becomes effective after the IPA has been provided the opportunity to avail itself of the procedures outlined in this rule (notice and an opportunity to be heard) and a decision is issued by the debarring official.

Subsection (a) sets out the length of time that a debarment will be effective. Generally, a debarment should not exceed three years. Debarment may be effective for less than three years if appropriate after consideration of the evidence presented by the IPA. Debarment may exceed three years in extraordinary circumstances. A longer period may be appropriate, for example, if an IPA has been debarred by a Federal agency for a longer period, see section 1641.7(b), or if an IPA has been convicted of an offense referred to in section 1641.7(d) and will be incarcerated for a period exceeding three years. If a suspension precedes a debarment, the suspension period will be considered in determining the debarment period and the debarment may be effective for less than three years.

After debarment for a specified period has been instituted, the debarring official may extend the debarment for an additional period if necessary to protect LSC funds. The debarment period may not be extended based solely on the facts and circumstances upon which the initial debarment was based, but must be based on new facts, not previously in the record, and will be effective only after the procedures outlined in the rule have been followed.

Subsection (b) defines the duration of suspension. A suspension is a temporary measure, which may be instituted while debarment proceedings are being conducted. This subsection has been modified in the final rule to

clarify that, if a cause for suspension exists, but an investigation or other legal or debarment proceedings should be completed prior to the initiation of a debarment, an IPA may be suspended pending the completion of such investigation or proceedings. This could occur, for example: pending completion of an investigation conducted by either the OIG or other authority, pending completion of a debarment proceeding conducted by a Federal agency, pending the outcome of a criminal prosecution, or pending the outcome of proceedings conducted by a sanctioning or licensing body with authority over IPAs, such as the American Institute of Certified Public Accountants (AICPA) or a State Board of Accountancy. If debarment proceedings are not initiated within 12 months after the date of the suspension notice, the suspension shall be terminated. However, if a law enforcement official, including the police or a prosecuting authority, an official from another OIG, a state licensing body or other organization with authority over IPAs, or a government agency requests an extension of the suspension in writing, the suspension may be extended. This subsection also has been modified to clarify that the OIG shall notify such officials or organizations of the suspension and of its pending termination. Unless a debarment has been initiated, a suspension may not be imposed for more than 18 months.

Subsection (c) defines the duration of removal. A removal is effective for the years remaining on the existing contract between the IPA and the recipient. Because removal affects existing contracts, there is an obvious concern that removal might cause financial harm to the recipient. Although current contracts between recipients and their IPAs may vary, the sample contract included as an appendix to the Audit Guide for Recipients and Auditors (Audit Guide) contains a provision which may be interpreted to allow the recipient to end its relationship with the IPA in the event of removal, see Audit Guide, Appendix B. To clearly address removal (and recognize debarment and suspension), the OIG intends to notify recipients that contracts with IPAs should specifically address this potentiality. In the meantime, if a removal action is considered against an IPA with a current contract that does not include such a term, the OIG will consider this when contemplating removal of the IPA.

**Subpart B—Debarment**

*Section 1641.5 Debarment*

The OIG may debar an IPA from performing audit services to all recipients or may debar an IPA from performing audit services for one or more specific recipients. This section informs the IPA and recipients of the effect of both types of debarment. Recipients are prohibited from knowingly awarding contracts to, extending or modifying existing contracts with, or soliciting proposals from debarred IPAs. Although IPAs debarred from providing audit services to selected recipients may contract with other recipients, the IPA must give prior written notice to the debarring official before providing such services to other recipients. In addition, the debarred IPA is required to provide prior written notice of the debarment to any recipient seeking its services. Minor clarifying changes were made to this section.

*Section 1641.6 Procedures for Debarment*

This section sets out the general procedures for debarment. The specific procedures are set out more fully in subsequent sections. The OIG shall provide an IPA with an opportunity to be heard prior to debarring the IPA. Such hearing will consist entirely of written submissions unless the debarring official finds that there is a genuine dispute of material fact. In addition, an informal meeting may be held between the debarring official and the IPA.

*Section 1641.7 Causes for Debarment*

The subsections in this section set out the causes for debarment. The causes are based on those set out in the government wide system, but have been modified to recognize the particular circumstances of IPAs performing audits of LSC recipients. The existence of a cause for debarment does not necessarily require that the IPA be debarred; the seriousness of the IPA's acts or omissions and any mitigating circumstances shall be considered in making any debarment decisions.

Subsection (a) allows the OIG to debar an IPA that has failed significantly to comply with government auditing standards established by the Comptroller General of the United States, generally accepted auditing standards and/or OIG audit guidance. Under section 509, LSC recipients are required to have audits conducted in accordance with guidance established by the OIG. Such guidance appears in the OIG Audit Guide, including the Compliance Supplement for Audits of LSC Recipients, and audit bulletins issued by the OIG. The OIG audit guidance incorporates government auditing standards. Under the IG Act, the OIG is required to ensure that audits are conducted in accordance with government auditing standards (established by the Comptroller General). In determining whether there is a failure to comply with standards or OIG audit guidance, the OIG primarily will be concerned about the effect of the failure on the reliability of the audit report. Minor clarifying edits were made to this subsection.

Subsection (b) allows debarment when an IPA is currently debarred from contracting with any Federal agency or entity receiving Federal funds. This would include, for example, when the IPA has been debarred consistent with the government wide system for debarment. The proposed rule included suspension as well as debarment from government contracting as a cause for debarment. The Committee determined that a suspension was not a sufficient cause for debarment and deleted reference to suspension.

Subsection (c) allows debarment if the IPA's license to practice accounting has been revoked, terminated or suspended by a state licensing body or other organization with authority over IPAs.

Subsection (d) allows debarment if the IPA has been convicted of any offense indicating a breach of trust, dishonesty or lack of integrity, or conspiracy to do the same. Offenses indicating a breach of trust, dishonesty or lack of integrity include, for example, fraud, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, making false claims, or receiving stolen property. This section has been modified: a conviction is a cause for debarment only if the conviction is final. A conviction is final when all appeals have been exhausted or the time for appeal has expired.

Subsection (e) allows debarment if the IPA has been found subject to a civil judgment for any action indicating a breach of trust, dishonesty or lack of integrity, or conspiracy to do the same. This section has been modified: a civil judgment is cause for debarment only when the judgment is final. A civil judgment is final when all appeals have been exhausted or the time for appeal has expired.

*Section 1641.8 Notice of Proposed Debarment*

This section sets out the information which must be included in the notice of proposed debarment sent to the IPA. Because the IPA will have a specified

time from receipt of the notice to respond, see section 1641.9, notice will be sent in a way that ensures that the OIG receives evidence of the IPA's receipt of the notice. Thus, for example, the OIG may send the notice via certified mail, return receipt requested, or via Federal Express, requiring that the recipient sign to evidence receipt, or by any other means that will provide evidence that the specific addressee has received the notice. Although the notice may be sent via electronic mail, that shall not be the only means by which notice is sent. Under this section, a copy of the notice is sent to any affected recipient and the recipient may comment on the proposed action within the time that the IPA has to respond under section 1641.9.

*Section 1641.9 Response to Notice of Proposed Debarment*

This section gives the IPA 30 days from receipt of the notice within which to respond. Such response must be in writing and should include information and argument in opposition to the proposed debarment. The response may request a meeting with the debarring official to permit the IPA to discuss issues of fact or law relating to the proposed debarment or to otherwise resolve the matter. Although the meeting shall take such form as the debarring official deems appropriate, the IPA may request an in person meeting. Any in person meeting shall be held at LSC headquarters. The meeting must be held within 20 days of the response. Under subsection (d), if the IPA fails to respond to the notice, this shall be deemed an admission of the existence of the cause(s) for debarment set out in the notice and an acceptance of the period of debarment, and the debarring official may enter a final decision without further proceedings. Minor clarifying edits were made to this section.

*Section 1641.10 Additional Proceedings as to Disputed Material Facts*

If the debarring official finds that the IPA's submission raises a genuine dispute of material fact and the action is not based on a conviction or civil judgment under section 1641.7(d) or (e), the IPA will be afforded an opportunity to appear (with counsel), submit documentary evidence, present witnesses, and confront any witnesses the OIG presents. When there is no genuine dispute of material fact, an evidentiary hearing is not warranted. In the case of a conviction or civil judgment, the facts underlying the conviction or civil judgment would have been fully adjudicated in another forum and a hearing on those facts would be inappropriate. In addition, there should be no dispute about the existence of the conviction or civil judgment.

If, on the other hand, the debarring official finds that the IPA's submission does not raise a genuine issue of material fact, no such additional proceedings will be provided and the hearing shall be held entirely by written submissions (except to the extent a meeting is held under section 1641.9(c)).

If additional proceedings are to be held, the IPA shall be notified, and such notice shall identify the procedures under which the proceeding will be conducted. A transcribed record of such proceedings shall be prepared, with a copy provided to the IPA without cost. At the debarring official's discretion, disputed material facts may be referred to a fact finder for fact finding, analysis and recommendation. Such fact finder need not be a member of the OIG staff. Minor clarifying edits were made to this section.

**Subpart C—Suspension**

The sections in this subpart set out the causes, procedures and effect of a suspension. Suspension procedures are similar to those for debarment. However, the procedures have been streamlined by shortening the time periods and providing for a strictly show cause procedure, entirely by written submissions, except that an informal meeting may be held. Because suspension procedures are similar to debarment procedures, the proposed rule used incorporation by reference to the debarment procedures. After consideration, the Committee determined that in most cases, this either did not work or was not clear. Therefore, the final rule sets out the procedures more fully than did the proposed rule.

*Section 1641.11 Suspension*

The OIG may suspend an IPA from performing audit services to all recipients or may suspend an IPA from performing audit services for one or more specific recipients. This section informs the IPA and recipients of the effect of both types of suspension.

*Section 1641.12 Procedures for Suspension*

Before suspending an IPA, the OIG will provide a show cause hearing held entirely by written submissions (except that a meeting between the IPA and the debarring official may be held). The specific procedures are set out more fully in subsequent sections.

*Section 1641.13 Causes for Suspension*

The causes for suspension are similar to those for debarment. In a suspension, however, there must be adequate evidence that the cause(s) may exist, rather than a preponderance of the evidence that the cause(s) do exist as in debarment. In addition, an indictment for or conviction of the listed types of offenses, rather than a final conviction, is sufficient cause for suspension, as is the described type of civil judgment, whether or not the judgment is final. Finally, a suspension, rather than a debarment, from contracting with a Federal agency or entity receiving Federal funds is sufficient cause for suspension.

*Section 1641.14 Notice of Proposed Suspension*

The notice for suspension is similar to that for debarment. A suspension notice, however, includes a directive, returnable in 10 days, to show cause why a suspension should not be instituted.

*Section 1641.15 Response to Notice of Proposed Suspension*

The IPA's response to the notice of proposed suspension must be received within 10 days of receipt of the notice. The response should contain information similar to that discussed under section 1641.9 relating to debarment. Similar provisions allow for a meeting between the IPA and the debarring official and describe the effect of not responding. This section contains one modification. The Committee felt that, in order for a law enforcement or other official to prevent a meeting between the IPA and the OIG, a proceeding (including an investigation or other legal or debarment proceeding) involving the IPA should be pending, rather than merely contemplated.

**Subpart D—Removal**

Because removal procedures are similar to debarment procedures, the proposed rule used incorporation by reference to the debarment procedures. After consideration, the Committee determined that in most cases, this either did not work or was not clear. Therefore, the final rule sets out the procedures more fully than did the proposed rule.

*Section 1641.16 Removal*

The OIG may remove an IPA from performing audit services for one or more recipients. This section informs the IPA and recipients of the effect of a removal. Removed IPAs are prohibited from performing audit services for subsequent years under an existing

contract. Recipients, moreover, are prohibited from extending existing contracts with removed IPAs. It is likely that the OIG would simultaneously debar (or prohibit the IPA from entering into future contracts with recipients) and remove the IPA, see section 1641.17(b). Absent complete debarment, IPAs removed from providing audit services to selected recipients may contract with other recipients. The IPA, however, must give prior written notice to the debarring official before providing such services to other recipients. In addition, the removed IPA is required to provide prior written notice of the removal to any recipient seeking its services.

*Section 1641.17 Procedures for Removal*

This section sets out the general procedures for removal. The specific procedures are set out more fully in subsequent sections. The OIG shall provide an IPA with an opportunity to be heard prior to removing the IPA. Such hearing will be held entirely by written submissions unless the debarring official finds that there is a genuine dispute of material fact. In addition, an informal meeting may be held between the debarring official and the IPA. This section also puts IPAs on notice that a Notice of Proposed Removal normally will be accompanied by a Notice of Proposed Debarment, and that the proceedings may be consolidated.

*Section 1641.18 Causes for Removal*

This section sets out the causes for removal. The causes for removal are the same as the causes for debarment (section 1641.7).

*Section 1641.19 Notice of Proposed Removal*

Notice required for removal is similar to that required for debarment (section 1641.8).

*Section 1641.20 Response to Notice of Proposed Removal*

The response to the notice of proposed removal should contain information similar to that which would be submitted in response to a notice of debarment. Unlike debarment, which may be effective for varying periods of time, a removal, by definition, is for the years remaining on an existing contract. The response to a notice of removal, therefore, will not include argument in mitigation of the period of removal, as it would in the case of debarment.

*Section 1641.21 Additional Proceedings as to Disputed Material Facts*

If the debarring official finds that the IPA's submission raises a genuine dispute of material fact and the action is not based on a conviction or civil judgment under section 1641.18(d) or (e), the IPA will be afforded an opportunity to appear (with counsel), submit documentary evidence, present witnesses, and confront any witnesses the OIG presents. When there is no genuine dispute of material fact, an evidentiary hearing is not warranted.

**Subpart E—Decisions**

*Section 1641.22 Decisions of Debarring Official*

This section provides information relevant to the debarring official's decision on debarment, suspension or removal.

Subsection (a) sets out the standard of proof for debarment and removal (preponderance of the evidence) and for suspension (adequate evidence).

Subsection (b) sets out the information that will be included in the administrative record, which will form the basis for the decision. This subsection has been modified in the final rule to remove redundancies and to make clear what the administrative record will consist of in cases in which additional proceedings under section 1641.10 or section 1641.21 are conducted.

Subsection (c) notifies IPAs that the failure of the OIG to meet a time requirement does not preclude the OIG from taking the debarment, suspension or removal action. This subsection has been modified to allow the OIG limited discretion to waive a time requirement placed on the IPA by this rule.

Subsection (d) sets forth the information that will be contained in the debarring official's decision. Among other things, this includes notifying the IPA that the decision will become a matter of public record. In the government wide system for suspension and debarment, the General Services Administration (GSA) is required to maintain and distribute a current list of all entities debarred or suspended by Federal agencies or by the General Accounting Office (GAO). Although we cannot include IPAs debarred by the OIG debars on this GSA list, the OIG plans to maintain a list of debarred, suspended and removed IPAs, to distribute the list to recipients, and to maintain the list on the OIG website.

Subsection (e) sets out the debarring official's authority to withdraw the notice of debarment, suspension or removal, where appropriate, or to terminate the proceedings, and subsection (f) sets out the debarring official's authority to settle the action and to place appropriate conditions on the IPA.

*Section 1641.23 Exceptions to Debarment, Suspension and Removal*

In unique circumstances, when there are compelling reasons to use a particular IPA for a specific task, the recipient requiring such services may submit to the OIG a request to except the IPA from the effects of the debarment, suspension or removal. The Inspector General may provide an exception for a particular contract upon a written determination that a compelling reason exists for using the IPA in a particular instance. Under certain circumstances, a compelling reason may be that the recipient is in a rural area and there are no other IPAs within a reasonable distance from the recipient.

*Section 1641.24 Appeal and Reconsideration of Debarring Official Decisions*

This section allows for appeal or reconsideration of the debarring official's decision to debar, suspend or remove an IPA. The section has been modified in the final rule to make clear that if any relief is granted upon appeal or reconsideration, the relief shall be limited to that granted in the decision on appeal or reconsideration. The section also has been modified to make it consistent with the Committee's determination that an IPA may be debarred or removed based on a conviction or civil judgment only when the conviction or judgment is final. Thus, those subsections dealing with reconsideration based on the reversal of a conviction or civil judgment have been modified to make clear that this ground for reconsideration applies only to suspensions.

Appeals are decided by the Inspector General, who may uphold, reverse or modify the debarring official's decision. A written appeal may be filed by a debarred or removed IPA within 30 days of receipt of the decision and by a suspended IPA within 15 days of receipt. At his discretion, the Inspector General may stay the effect of the debarring official's decision pending the conclusion of review, after determining that a compelling reason to do so exists.

Requests for reconsideration are decided by the debarring official. Such requests must be in writing and supported by documentation justifying the action on reconsideration. Modification of the decision on

reconsideration is appropriate only in the circumstances set out in the rule.

**List of Subjects in 45 CFR Part 1641**

Accounting, Grant programs, Hearing and appeal procedures, Legal services.

For reasons set forth in the preamble, LSC amends Chapter XVI of Title 45 by adding part 1641 as follows:

## PART 1641—DEBARMENT, SUSPENSION AND REMOVAL OF RECIPIENT AUDITORS

**Subpart A—General**



**Subpart B—Debarment**



**Subpart C—Suspension**



**Subpart D—Removal**



**Subpart E—Decisions**



**Authority:** 42 U.S.C. 2996e(g); Pub. L. 105–277.

## Subpart A—General

### § 1641.1 Purpose/Applicability.

In order to assist in ensuring that recipients receive acceptable audits, this part sets out the authority of the Legal Services Corporation (''LSC'') Office of Inspector General (''OIG'') to debar, suspend or remove independent public accountants (''IPAs'') from performing audit services for recipients. This rule informs IPAs of their rights to notice and an opportunity to be heard on actions involving debarment, suspension or removal, and the standards upon which such actions will be taken. This part applies to IPAs performing audit services for recipients, subrecipients or other entities which receive LSC funds and are required to have an audit performed in accordance with guidance promulgated by the OIG.

### § 1641.2 Definitions.

*Adequate evidence* means information sufficient to support the reasonable belief that a particular act or omission has occurred.

*Audit services* means the annual financial statement audit of a recipient, including an audit of the recipient's financial statements, systems of internal control, and compliance with laws and regulations.

*Contract* means an agreement between a recipient and an IPA for an IPA to provide audit services to the recipient.

*Conviction* means a judgment or conviction of a criminal offense by any court, whether entered upon a verdict or plea, including but not limited to, pleas of *nolo contendere.*

*Debarment* means a decision by the debarring official to prohibit an IPA from soliciting or entering into new contracts to perform audit services for recipient(s) based upon a finding by a preponderance of the evidence that any of the causes for debarment set out in § 1641.7 exist. Debarment may cover an IPA's contracts with all recipients or with one or more specific recipients.

*Debarring official* is the official responsible for debarment, suspension or removal actions under this part. The OIG legal counsel is the debarring official. In the absence of an OIG legal counsel or in the discretion of the Inspector General, the debarring official shall be the OIG staff person or other individual designated by the Inspector General.

*Indictment* means a charge by a grand jury that the person named therein has committed a criminal offense. An information, presentment, or other filing by competent authority charging a criminal offense shall be given the same effect as an indictment.

*IPA* means an independent public accountant or firm of accountants.

*Knowingly* means that an act was done voluntarily and intentionally and not because of mistake or accident.

*Material fact* means one which is necessary to determine the outcome of an issue or case and without which the case could not be supported.

*Person* means an individual or a firm, partnership, corporation, association, or other legal entity.

*Preponderance of the evidence* means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

*Removal* means a decision by the debarring official to prohibit an IPA from performing audit services in subsequent years of an existing contract with one or more specific recipients based upon a finding by a preponderance of the evidence that any of the causes set out in § 1641.18 exist.

*Suspension* means a decision by the debarring official, in anticipation of a debarment, to prohibit an IPA from soliciting or entering into new contracts to perform audit services for recipient(s) based upon a finding of adequate evidence that any of the causes referred to in § 1641.13 exist. Suspension may preclude an IPA from soliciting or entering into new contracts with all recipients or with one or more specific recipients.

### § 1641.3 Scope of debarment, suspension and removal.

An IPA may be debarred, suspended or removed under this part only if the IPA is specifically named and given notice of the proposed action and an opportunity to respond in accordance with this part.

(a) *Actions against individual IPAs.* Debarment, suspension or removal of an individual IPA, debars, suspends or removes that individual from performing audit services as an individual or as an employee, independent contractor, agent or other representative of an IPA firm.

(b) *Actions against IPA firms.* (1) Debarment, suspension or removal shall affect only those divisions or other organizational elements materially involved in the relevant engagement and as to which there is cause to debar, suspend or remove.

(2) The debarment, suspension or removal action contemplated in paragraph (b)(1) of this section may include any firm that is an affiliate, subcontractor, joint venturer, agent or representative of the IPA firm only if such firm was materially involved in the relevant engagement and is specifically named and given notice of the proposed action and an opportunity to respond in accordance with this part.

(3) The debarment, suspension or removal action contemplated in paragraph (b)(1) of this section may include an individual officer, director, or partner responsible for the engagement, or an individual employee, independent contractor, agent, representative or other individual associated with an IPA firm only if such individual is specifically named and given notice of the proposed action and

an opportunity to respond in accordance with this part.

**§ 1641.4 Duration of debarment, suspension and removal.**

A debarment, suspension or removal is effective as set out in the debarring official's decision to debar, suspend or remove, issued pursuant to § 1641.22.

(a) *Debarment.* (1) Debarment generally should not exceed three years, but may be for a shorter period based on a consideration of the evidence presented by the IPA. Debarment may exceed three years in extraordinary circumstances.

(2) If a suspension precedes a debarment, the suspension period shall be considered in determining the debarment period.

(3) The debarring official may extend an existing debarment for an additional period if the debarring official determines, based on additional facts not previously in the record, that an extension is necessary to protect LSC funds. The standards and procedures in this part shall be applied in any proceeding to extend a debarment.

(b) *Suspension.* (1) The debarring official may determine that a cause for suspension exists, but that an investigation or other legal or debarment proceeding should be completed before proceeding to a debarment. Suspension shall be for a temporary period pending the completion of an investigation or other legal or debarment proceedings, including a proceeding conducted by the OIG, a law enforcement or other government agency, an investigative or audit official from another OIG, a court, or a state licensing body or other organization with authority over IPAs.

(2) If debarment proceedings are not initiated within 12 months after the date of the suspension notice, the suspension shall be terminated unless an official or organization conducting a proceeding referred to in paragraph (b)(1) of this section requests its extension in writing. In such cases, the suspension may be extended up to an additional six months. In no event may a suspension be imposed for more than 18 months, unless debarment proceedings have been initiated within that period.

(3) The OIG shall notify the appropriate official or organization conducting a proceeding referred to in paragraph (b)(1) of this section, if any, of the suspension within 10 days of its implementation, and shall notify such official or organization of an impending termination of a suspension at least 30 days before the 12-month period expires to allow an opportunity to request an extension.

(4) The limit on the duration of a suspension in paragraph (b)(2) of this section may be waived by the affected IPA.

(c) *Removal.* Removal shall be effective for the years remaining on the existing contract(s) between the IPA and the recipient(s).

## Subpart B—Debarment

**§ 1641.5 Debarment.**

(a) IPAs debarred from providing audit services for all recipients are prohibited from soliciting or entering into any new contracts for audit services with recipients for the duration of the specified period of debarment. Recipients shall not knowingly award contracts to, extend or modify existing contracts with, or solicit proposals from, such IPAs. Debarred IPAs also are prohibited from providing audit services to recipients as agents or representatives of other IPAs.

(b) IPAs debarred from providing audit services for one or more specific recipient(s) are prohibited from soliciting or entering into any new contracts for audit services with such recipient(s) for the duration of the period of debarment as determined pursuant to this part. The affected recipient(s) shall not knowingly award contracts to, extend or modify existing contracts with, or solicit proposals from, such IPAs. Debarred IPAs also are prohibited from providing audit services to the affected recipient(s) as agents or representatives of other IPAs, and are required to provide prior written notice to the debarring official before providing such services to other recipients. Debarred IPAs also must provide prior written notice of the debarment to any recipient for which the IPA provides audit services.

**§ 1641.6 Procedures for debarment.**

Before debarring an IPA, the OIG shall provide the IPA with a hearing in accordance with the procedures set out in §§ 1641.7 through 1641.9. Such hearing shall be held entirely by written submissions, except:

(a) Additional proceedings shall be held under § 1641.10 if the debarring official finds there is a genuine dispute of material fact; and/or

(b) A meeting may be held under § 1641.9(c).

**§ 1641.7 Causes for debarment.**

The debarring official may debar an IPA from performing audit services in accordance with the procedures set forth in this part upon a finding by a preponderance of the evidence that:

(a) The IPA has failed significantly to comply with government auditing standards established by the Comptroller General of the United States, generally accepted auditing standards and/or OIG audit guidance as stated in the OIG Audit Guide for Recipients and Auditors, including the Compliance Supplement for Audits of LSC Recipients, and in OIG Audit Bulletins;

(b) The IPA is currently debarred from contracting with any Federal agency or entity receiving Federal funds, including when the IPA has stipulated to such debarment;

(c) The IPA's license to practice accounting has been revoked, terminated or suspended by a state licensing body or other organization with authority over IPAs;

(d) The IPA has been convicted of any offense indicating a breach of trust, dishonesty or lack of integrity, or conspiracy to commit such an offense, and the conviction is final; or

(e) The IPA has been found subject to a civil judgment for any action indicating a breach of trust, dishonesty or lack of integrity, or conspiracy to take such action, and the judgment is final.

**§ 1641.8 Notice of proposed debarment.**

(a) Before debarring an IPA, the OIG shall send the IPA written notice of the proposed debarment. The notice shall be sent in a manner that provides evidence of its receipt and shall:

(1) State that debarment is being considered;

(2) Identify the reasons for the proposed debarment sufficient to put the IPA on notice of the conduct or transaction(s) upon which a debarment proceeding is based;

(3) Identify the regulatory provisions governing the debarment proceeding; and

(4) State that debarment may be for a period of up to three years or longer under extraordinary circumstances. If the OIG has determined that extraordinary circumstances warranting debarment in excess of three years may exist, the notice shall so state.

(b) A copy of the notice also shall be sent to the affected recipient(s), if any, which may comment on the proposed action in the time frame set out in § 1641.9.

**§ 1641.9 Response to notice of proposed debarment.**

(a) The IPA shall have 30 days from receipt of the notice within which to respond.

(b) The response shall be in writing and may include information and argument in opposition to the proposed debarment, including any additional specific information pertaining to the

possible causes for debarment, and information and argument in mitigation of the proposed period of debarment.

(c) The response may request a meeting with the debarring official to permit the IPA to discuss issues of fact or law relating to the proposed debarment, or to otherwise resolve the pending matters. Any such meeting shall take the form that the debarring official deems appropriate and shall be held within 20 days of the response. If the IPA requests an in person meeting, it shall be held at LSC headquarters.

(d) Failure to respond to the notice shall be deemed an admission of the existence of the cause(s) for debarment set forth in the notice and an acceptance of the period of debarment. In such circumstances, without further proceedings, the debarring official may enter a final decision stating the period of debarment.

**§ 1641.10 Additional proceedings as to disputed material facts.**

(a) In actions not based upon a conviction or civil judgment under § 1641.7 (d) or (e), if the debarring official finds that the IPA's submission raises a genuine dispute of material fact, the IPA shall be afforded an opportunity to appear (with counsel, if desired), submit documentary evidence, present witnesses, and confront any witnesses the OIG presents. If the debarring official finds that the IPA's submission does not raise a genuine issue of material fact, additional proceedings will not be provided. In such case, the hearing shall be held entirely by written submissions, except that a meeting may be held under § 1641.9(c).

(b) If the debarring official determines additional proceedings to be warranted, OIG shall notify the IPA. Such notice shall include notice of the procedures under which such proceedings shall be conducted.

(c) A transcribed record of any additional proceedings shall be prepared and a copy shall be made available to the IPA without cost.

(d) The debarring official may refer disputed material facts to a fact finder, who need not be a member of the OIG staff, for fact finding, analysis and recommendation.

## Subpart C—Suspension

**§ 1641.11 Suspension.**

(a) IPAs suspended from providing audit services for all recipients are prohibited from soliciting or entering into any new contracts for audit services with recipients for the duration of the suspension. Recipients shall not knowingly award contracts to, extend or modify existing contracts with, or solicit proposals from, such IPAs. Suspended IPAs also are prohibited from providing audit services to recipients as agents or representatives of other IPAs.

(b) IPAs suspended from providing audit services for one or more specific recipient(s) are prohibited from soliciting or entering into any new contracts for audit services with such recipient(s) for the duration of the period of suspension as determined pursuant to this part. The affected recipient(s) shall not knowingly award contracts to, extend or modify existing contracts with, or solicit proposals from, such IPAs. Suspended IPAs also are prohibited from providing audit services to the affected recipient(s) as agents or representatives of other IPAs, and are required to provide prior written notice to the debarring official before providing such services to other recipients. Suspended IPAs also must provide prior written notice of the suspension to any recipient for which the IPA provides audit services.

**§ 1641.12 Procedures for suspension.**

Before suspending an IPA, the OIG shall provide the IPA with a show cause hearing in accordance with the procedures set out in §§ 1641.13 through 1641.15. Such hearing shall be held entirely by written submissions, except that a meeting may be held under § 1641.15(c).

**§ 1641.13 Causes for suspension.**

The debarring official may suspend an IPA in accordance with the procedures set forth in this part upon adequate evidence that:

(a) A cause for debarment under § 1641.7 may exist;

(b) The IPA has been indicted for or convicted of any offense described in § 1641.7;

(c) The IPA has been found subject to a civil judgment described in § 1641.7(e), whether the judgment is final or not.

(d) The IPA has been suspended from contracting with a Federal agency or entity receiving Federal funds including when the IPA has stipulated to the suspension.

**§ 1641.14 Notice of proposed suspension.**

(a) Before suspending an IPA, OIG shall send it written notice of cause to suspend. Such notice shall:

(1) Include a directive to show cause, signed by the debarring official, which shall inform the IPA that unless the IPA responds within 10 days as provided in § 1641.15, a suspension will be imposed;

(2) Identify the reasons for the proposed suspension sufficient to put the IPA on notice of the conduct or transaction(s) upon which a suspension proceeding is based;

(3) Identify the regulatory provisions governing the suspension proceeding; and

(4) State that, if imposed, the suspension shall be for a temporary period pending the completion of a investigation or other legal or debarment proceeding.

(b) A copy of the notice also shall be sent to the affected recipient(s), if any, who may comment on the proposed action in the time frame set out in § 1641.15.

**§ 1641.15 Response to notice of proposed suspension.**

(a) The IPA shall have 10 days from receipt of the notice within which to respond.

(b) The response shall be in writing and may include information and argument in opposition to the proposed suspension, including any additional specific information pertaining to the possible causes for suspension, and information and argument in mitigation of the proposed period of suspension.

(c) The response may request a meeting with the OIG official identified in the notice to permit the IPA to discuss issues of fact or law relating to the proposed suspension, or to otherwise resolve the pending matters.

(1) Any such meeting shall take such form as the debarring official deems appropriate and shall be held within 10 days of the response.

(2) No meeting will be held if a law enforcement official, an investigative or audit official from another OIG, a state licensing body or other organization with authority over IPAs, or a governmental agency has advised in writing that the substantial interest of a governmental unit would be prejudiced by such a meeting and the debarring official determines that the suspension is based on the same facts as the pending legal proceedings referenced by the law enforcement official.

(d) Failure to respond to the notice shall be deemed an admission of the existence of the cause(s) for suspension set forth in the notice and an acceptance of the period of suspension. In such circumstances, the OIG may proceed to a final decision without further proceedings.

## Subpart D—Removal

**§ 1641.16 Removal.**

Removed IPAs are prohibited from performing audit services in subsequent years under an existing contract(s) with one or more specific recipients. The

affected recipient(s) shall not extend existing contracts with such IPAs. Removed IPAs also are prohibited from providing audit services to the affected recipient(s) as agents or representatives of other IPAs, and are required to provide prior written notice to the debarring official before providing such services to other recipients. Removed IPAs also must provide prior written notice of the removal to any such recipient.

**§ 1641.17 Procedures for removal.**

(a) Before removing an IPA, the OIG shall provide the IPA with a hearing in accordance with the procedures set out in §§ 1641.18 through 1641.21. Such hearing shall be held entirely by written submissions, except:

(1) Additional proceedings shall be held under § 1641.21 if the debarring official finds there is a genuine dispute of material fact; and/or

(2) A meeting may be held under § 1641.20(c).

(b) A Notice of Proposed Removal normally will be accompanied by a Notice of Proposed Debarment, and the proceedings may be consolidated.

**§1641.18 Causes for removal.**

The debarring official may remove an IPA from performing audit services in accordance with the procedures set forth in this part upon a finding by a preponderance of the evidence that:

(a) The IPA has failed significantly to comply with government auditing standards established by the Comptroller General of the United States, generally accepted auditing standards and/or OIG audit guidance as stated in the OIG Audit Guide for Recipients and Auditors, including the Compliance Supplement for Audits of LSC Recipients, and in OIG Audit Bulletins;

(b) The IPA is currently debarred from contracting with any Federal agency or entity receiving Federal funds, including when the IPA has stipulated to such debarment;

(c) The IPA's license to practice accounting has been revoked, terminated or suspended by a state licensing body or other organization with authority over IPAs;

(d) The IPA has been convicted of any offense indicating a breach of trust, dishonesty or lack of integrity, or conspiracy to commit such an offense, and the conviction is final; or

(e) The IPA has been found subject to a civil judgment for any action indicating a breach of trust, dishonesty or lack of integrity, or conspiracy to take such action, and the judgment is final.

**§ 1641.19 Notice of proposed removal.**

(a) Before removing an IPA, the OIG shall send the IPA written notice of the proposed removal. The notice shall be sent in a manner that provides evidence of its receipt and shall:

(1) State that removal is being considered;

(2) Identify the reasons for the proposed removal sufficient to put the IPA on notice of the conduct or transaction(s) upon which a removal proceeding is based;

(3) Identify the regulatory provisions governing the removal proceeding; and

(4) State that removal shall be for the years remaining on the existing contract(s) between the IPA and the recipient(s).

(b) A copy of the notice also shall be sent to the affected recipient(s), if any, which may comment on the proposed action in the time frame set out in § 1641.20.

**§ 1641.20 Response to notice of proposed removal.**

(a) The IPA shall have 30 days from receipt of the notice within which to respond.

(b) The response shall be in writing and may include information and argument in opposition to the proposed removal, including any additional specific information pertaining to the possible causes for removal.

(c) The response may request a meeting with the debarring official to permit the IPA to discuss issues of fact or law relating to the proposed removal, or to otherwise resolve the pending matters. Any such meeting shall take the form that the debarring official deems appropriate and shall be held within 20 days of the response. If the IPA requests an in person meeting, it shall be held at LSC headquarters.

(d) Failure to respond to the notice shall be deemed an admission of the existence of the cause(s) for removal set forth in the notice and an acceptance of the removal. In such circumstances, without further proceedings, the debarring official may enter a final decision removing the IPA.

**§ 1641.21 Additional proceedings as to disputed material facts.**

(a) In actions not based upon a conviction or civil judgment under § 1641.18(d) or (e), if the debarring official finds that the IPA's submission raises a genuine dispute of material fact, the IPA shall be afforded an opportunity to appear (with counsel, if desired), submit documentary evidence, present witnesses, and confront any witnesses the OIG presents. If the debarring official finds that the IPA's submission does not raise a genuine issue of material fact, additional proceedings will not be provided. In such case, the hearing shall be held entirely by written submissions, except that a meeting may be held under § 1641.20(c).

(b) If the debarring official determines additional proceedings to be warranted, OIG shall notify the IPA. Such notice shall include notice of the procedures under which such proceedings shall be conducted.

(c) A transcribed record of any additional proceedings shall be prepared and a copy shall be made available to the IPA without cost.

(d) The debarring official may refer disputed material facts to a fact finder, who need not be a member of the OIG staff, for fact finding, analysis and recommendation.

## Subpart E—Decisions

**§ 1641.22 Decisions of debarring official.**

(a) *Standard of proof.* (1) A debarment or removal must be based on a finding that the cause or causes for debarment or removal are established by a preponderance of the evidence in the administrative record of the case.

(2) A suspension must be based on a finding that the cause or causes are established by adequate evidence in the administrative record of the case.

(b) The administrative record consists of any information, reports, documents or other evidence identified and relied upon in the Notice of Proposed Debarment, the Notice of Proposed Suspension, or the Notice of Proposed Removal, together with any relevant material contained in the IPA's response or submitted by an affected recipient. In the case of debarment or removal, when additional proceedings are necessary to determine disputed material facts, the administrative record also shall consist of any relevant material submitted or presented at such proceedings.

(c) Failure of the OIG to meet a time requirement of this part does not preclude the OIG from debarring, suspending or removing an IPA. In extraordinary circumstances, the OIG may grant an IPA an extension of the time requirements set out in this part.

(d) *Notice of decisions.* IPAs shall be given prompt notice of the debarring official's decision. A copy of the decision also will be sent to the affected recipient. If the debarring official debars, suspends or removes an IPA, the decision shall:

(1) Set forth the finding(s) upon which the decision is based;

(2) Set forth the effect of the debarment, suspension or removal

action and the effective dates of the action;

(3) Refer the IPA to its procedural rights of appeal and reconsideration under § 1641.24; and

(4) Inform the IPA that a copy of the debarring official's decision will be a public document and the fact of debarment, suspension or removal will be a matter of public record.

(e) If the debarring official decides that a debarment, suspension, or removal is not warranted, the Notice may be withdrawn or the proceeding may be otherwise terminated.

(f) If the debarring official deems it appropriate, the debarring official may, at any time, settle by agreement with the IPA a debarment, suspension, or removal action. Such a negotiated settlement may include the imposition of appropriate conditions on the IPA.

**§ 1641.23 Exceptions to debarment, suspension and removal.**

Exceptions to the effects of debarment, suspension or removal may be available in unique circumstances, when there are compelling reasons to use a particular IPA for a specific task. Requests for such exceptions may be submitted only by the recipient requiring audit services. The Inspector General may except a contract from the effects of debarment, suspension or removal upon a written determination that a compelling reason exists for using the IPA in the particular instance.

**§ 1641.24 Appeal and reconsideration of debarring official decisions.**

(a) *Appeal and reconsideration generally.* A debarred, suspended or removed IPA may submit the debarring official's decision for appeal or reconsideration in accordance with this section. Within 60 days, IPAs shall be given notice of decisions on appeal and reconsideration. The relief, if any, granted upon appeal or reconsideration shall be limited to the relief stated in the decision on the appeal or reconsideration.

(b) *Appeal.* (1) A debarred, suspended or removed IPA may appeal the decision to the Inspector General, who may uphold, reverse or modify the debarring official's decision.

(2) The appeal shall be filed in writing:

(i) By a debarred or removed IPA, within 30 days of receipt of the decision;

(ii) By a suspended IPA, within 15 days of receipt of the decision.

(3) The Inspector General, at his or her discretion and after determining that a compelling reason exists, may stay the effect of the debarment, suspension or removal pending conclusion of his or her review of the matter.

(c) *Reconsideration.* (1) A debarred, suspended or removed IPA may submit a request to the debarring official to reconsider the debarment, suspension or removal decision, reduce the period of debarment or removal, or terminate the suspension.

(2) Such requests shall be in writing and supported by documentation that the requested action is justified by:

(i) In the case of suspension, reversal of the conviction or civil judgment upon which the suspension was based;

(ii) Newly discovered material evidence;

(iii) Bona fide change in ownership or management;

(iv) Elimination of other causes for which the debarment, suspension or removal was imposed; or

(v) Other reasons the debarring official deems appropriate.

(3) A request for reconsideration of a suspension which was based a conviction, civil judgment, or sanction that has been reversed may be filed at any time.

(4) Requests for reconsideration based on other grounds may only be filed during the period commencing 60 days after the debarring official's decision imposing the debarment or suspension. Only one such request may be filed in any twelve month period.

(5) The debarring official's decision on a request for reconsideration is subject to the appeal procedure set forth in paragraph (b) of this section.

Dated: November 22, 1999.

**Victor M. Fortuno,**

*Vice President for Legal Affairs, General Counsel, Corporate Secretary.*

[FR Doc. 99–30896 Filed 12–1–99; 8:45 am]

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 600

**[Docket No. 980519132–9315–03; I.D.022498F]**

**RIN 0648–AK49**

## Magnuson-Stevens Act Provisions; List of Fisheries and Gear, and Notification Guidelines

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

**ACTION:** Final rule.

**SUMMARY:** NMFS revises the list of authorized fisheries and fishing gear used in those fisheries (LOF) contained in 50 CFR 600.725(v). Effective December 1, 1999, no person or vessel may employ fishing gear or participate in a fishery in the exclusive economic zone (EEZ) not included in this LOF without giving 90 days' advance notice to the appropriate Fishery Management Council (Council) or, with respect to Atlantic highly migratory species (HMS), the Secretary of Commerce (Secretary).

**DATES:** Effective December 1, 1999.

**ADDRESSES:** Copies of the regulatory impact review for the final rule for this action can be obtained from Dr. Gary C. Matlock, Director, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Send comments regarding the collection-of-information requirements associated with this rule to the above address and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

**FOR FURTHER INFORMATION CONTACT:** Mark Millikin, NMFS, (301) 713–2344.

**SUPPLEMENTARY INFORMATION:**

### Background

Section 305(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1855(a)) requires the Secretary to publish in the **Federal Register**, after notice and an opportunity for public comment, a list of authorized fisheries under the authority of each Council and all fishing gear used in such fisheries in the EEZ, as well as the fisheries and fishing gear used in those fisheries under the authority of the Secretary of Commerce (Secretary) with respect to HMS. A fish, regardless of whether targeted, may be retained only if it is taken within a listed fishery, is taken with a gear authorized for that fishery, and is taken in conformance with all other applicable regulations. This LOF is based on information submitted by the Councils and by the Director, Office of Sustainable Fisheries, NMFS (Director), in the case of HMS, and upon public comments received.

On June 4, 1998, NMFS published a proposed LOF and invited public comment thereon (63 FR 30455). On January 27, 1999, NMFS by final rule published the LOF (64 FR 4030). On July 28, 1999, NMFS delayed the effectiveness of the LOF and invited additional public comments (64 FR 40781). This final rule revises the LOF

and makes it effective on December 1, 1999.

**Relationship of This Rule to Other Federal Fishery Regulations**

Fisheries and associated gear in the EEZ continue to be managed by implementing regulations in 50 CFR chapter VI for the various FMPs under authority of the Councils and the Secretary. FMPs often address issues about gear, such as structure, size, shape, material, deployment, seasonality of allowed use, prohibitions, or other features of gear and its use. The LOF contained in § 600.725(v) is not intended to alter or supersede any other regulations related to fisheries and gear (for example, specific prohibitions).

The LOF does not affect experimental fisheries conducted for a year or less under 50 CFR chapter VI.

NMFS is not aware of any Treaty Indian tribe or subsistence fisheries in the EEZ other than those listed in § 600.725(v). This action does not supersede or otherwise affect exemptions that exist for Treaty Indian fisheries.

**Comments and Responses**

Forty-four sets of comments were received regarding the LOF from various individuals and organizations in response NMFS' invitation to public comment in the final rule, delay of effectiveness published on July 28, 1999 (64 FR 40781).

*Comment 1:* One commenter stated that the following species should be allowed to be harvested by trawl, pot, trap, gill nets, pound nets, dredge, haul seine, and handline in waters off New York: Eels, crabs (including horseshoe crabs), menhaden, sea robins, sculpins, puffer, triggerfish, lumpfish, toadfish, hogchoker, striped bass, shrimp, wolffish, spiny dogfish, smooth dogfish, lobster, conch, jellyfish, seaweeds, Spanish mackerel, octopus, spot, skate (all species), snails, stingrays, sturgeon, herring, anchovy, sardine, silverside, killifish, minnow, sea raven, red porgy, sheepshead, spottail pinfish, Atlantic croaker, black drum, Northern kingfish, sea trout, ocean perch, cunner, tautog, halibut, tuna, dolphin, chub, perch, jack, lookdown, crevalle, and John Dory.

*Response:* While the purpose of this final rule is to include all fisheries and gear currently in use, an attempt to list all species that may be retained might unintentionally exclude some minor species caught incidentally and retained. Therefore, this rule lists fisheries managed under a Fishery Management Plan (FMP), or fisheries not currently managed under an FMP (referred to as Non-FMP fisheries), with authorized gear types for a given area. This rule is designed to include all gear currently in use in a given area. Each area contains various Non-FMP fisheries and two general fishery categories, ''Commercial Fishery (Non-FMP)'' and ''Recreational Fishery (Non-FMP).'' If a given species is not included in an FMP's list of managed species (*i.e.,* management unit), and does not fit under a specific Non-FMP (*e.g.,* only groundfish would fit under a ''Groundfish Non-FMP''), then that species fits under one of these two general fishery categories. For example, in the case of the comment received about species harvested off New York, crabs fit under the ''Crab Fishery (Non-FMP),'' menhaden fit under the ''Atlantic Menhaden Fishery (Non-FMP),'' possession of striped bass is prohibited in the EEZ, spiny dogfish fit under ''Spiny Dogfish Fishery (FMP),'' lobster fits under ''American Lobster Fishery (FMP),'' conch fits under the ''Whelk Fishery (Non-FMP),'' Spanish mackerel and dolphin fit under the ''South Atlantic Coastal Migratory Pelagics Fishery (FMP),'' skates (all species) fit under ''Atlantic Skate Fishery (Non-FMP),'' possession of Atlantic sturgeon is prohibited in the EEZ, Atlantic herring fits under ''Atlantic Herring (FMP),'' sea trout fits under ''Weakfish Fishery (Non-FMP),'' tautog fits under ''Tautog Fishery (Non-FMP),'' and Atlantic halibut fits under ''Northeast Multispecies Fishery (FMP).'' The rest of these species fit under the ''Commercial Fishery (Non-FMP)'' or the ''Recreational Fishery (Non-FMP).''

*Comment 2:* One commenter listed an array of species that the commenter felt should be allowed to be harvested by various gear (dredge, gigs, spear, trawl, longline, hook and line, handline, rod and reel, pots and traps, and gillnets) in the EEZ off North Carolina under the jurisdiction of the Mid-Atlantic Fishery Management Council (MAFMC).

*Response:* For the purposes of this rule, ''gig'' is considered to fit under ''spear.'' All of the other gear listed by the commenter is contained under the new category, ''Commercial Fishery (Non-FMP),'' and many are included in various other FMPs and Non-FMPs contained in the ''Mid-Atlantic Fishery Management Council'' portion of the LOF.

*Comment 3:* One commenter requested that a ''Shrimp Trawl Fishery (Non-FMP)'' be added as a fishery under the MAFMC.

*Response:* NMFS does not agree. The ''South Atlantic Shrimp Fishery (FMP)'' managed by the South Atlantic Fishery Management Council (SAFMC) extends at least to the Virginia-North Carolina border, so that fisheries and gear under that fishery should be listed under the MAFMC.

*Comment 4:* One commenter requested that pots and traps be added as an authorized gear type in the ''Marine Life Aquarium Fishery (non-FMP)'' for the waters within the jurisdiction of the South Atlantic Fishery Management Council (SAFMC) and Gulf of Mexico Fishery Management Council (GMFMC). Commercial spiny lobster and stone crab fishermen capture aquarium fishes as incidental catches in traps and pots, and they are allowed to land and sell these fishes under Florida state regulations.

*Response:* Pots and traps have been added to the LOF in the ''Marine Life Aquarium Fishery (non-FMP)'' for the waters within the jurisdiction of the SAFMC and GMFMC.

*Comment 5:* Twenty-seven commenters requested that ''spear'' be added as an authorized gear type for recreational finfish fisheries within the jurisdiction of the New England Fishery Management Council (NEFMC), MAFMC, SAFMC, GMFMC, Caribbean Fishery Management Council (CFMC), Pacific Fishery Management Council (PFMC), and Western Pacific Fishery Management Council (WPFMC). In addition, several commenters requested that spear be added as an authorized gear for Atlantic swordfish, Atlantic billfish, and Atlantic tunas managed by the Secretary. One commenter requested that spear be added as an authorized gear for salmon in waters within the jurisdiction of the PFMC. These commenters pointed out that spearfishing has relatively few participants, there is a long history of spearfishing in Federal waters of the U.S., spear gear is beneficial to the few individuals who actually use it, and spearfishing has negligible impacts on fishery populations because there are so few spear fishermen relative to the total number of recreational and commercial fishermen.

*Response:* NMFS agrees that spearfishing is an important component of many recreational fisheries within the jurisdiction of the Councils. Spear has been added as an authorized gear for many FMP and non-FMP fisheries as indicated in the section of this rule, ''Changes From the Previous Final Rule,'' where spearfishing is not specifically prohibited by other regulations. Recreational salmon fisheries managed by the PFMC allow only hook-and-line gear, so spear was not added as an authorized gear for this fishery. Additionally, on May 28, 1999,

the Secretary issued a final rule, which specified authorized gear for various species under the Atlantic tunas, swordfish, and sharks fisheries, and the Atlantic billfish fishery (64 FR 29090). Spear was not included as an authorized gear for these fisheries.

*Comment 6:* Many commenters requested that ''hand harvest'' be added as an authorized gear type for recreational shellfish and crustacean fisheries within the jurisdiction of the NEFMC, MAFMC, SAFMC, GMFMC, CFMC, PFMC, and WPFMC.

*Response:* NMFS agrees that ''hand harvest'' is an important component of many recreational shellfish and crustacean fisheries within the jurisdiction of the Councils. ''Hand harvest'' has been added as an authorized gear for many FMP and non-FMP recreational shellfish and crustacean fisheries where the practice is not specifically prohibited by other regulations (see ''Changes From the Previous Final Rule'').

*Comment 7:* The listing of fisheries and authorized gear types by Councils is confusing, repetitive, and sometimes contradictory. The American Lobster Fishery is listed under both NEFMC and MAFMC, yet there is no listing for bottom trawl fishery, gillnet fishery, dredge fishery, or a recreational fishery under the jurisdiction of the MAFMC, all of which are listed for fisheries under the jurisdiction of the NEFMC. Fisheries and authorized gear types should be listed only under the primary Council and should cover the full geographic range of the species in question. If this modification cannot be made, then the fishery and authorized gear types should be duplicated exactly and repeated for each Council area in which the species may be harvested.

*Response:* As required by the Magnuson-Stevens Act, NMFS has prepared the LOF so that fisheries and authorized gear are listed separately within each area of authority where they occur. NMFS agrees that the LOF published on January 27, 1999 (64 FR 4030), was inconsistent in a few cases for some fisheries that were listed under more than one Council. The LOF is modified by this final rule so that individual fisheries and their authorized gear under the jurisdiction of each Council are duplicated exactly, when appropriate, and repeated for each Council area in which the species may be harvested. However, Atlantic HMS fisheries managed under Secretarial authority are only listed in the table one time under ''Secretary of Commerce,'' rather than also being listed under each Council area where they occur.

*Comment 8:* There is some confusion in the use of different gear terminology as part of the fishery designation. For instance, under Summer Flounder, Scup, and Black Sea Bass FMP, a pelagic drift gillnet fishery is listed. Does this mean that an anchored gillnet is not authorized? Confusing this issue further is the use of many forms of gillnets within fishery designations. Along with the ''pelagic drift gillnet fishery'' there is a ''gillnet fishery'' (monkfish), a ''coastal gillnet fishery'' (non-FMP), a ''sink gillnet fishery'' (NE multi-species), and a ''coastal/inshore gillnet fishery'' (lobster). To reduce this confusion, all fisheries which use gillnet should be referred to by the use of the generic ''gillnet fishery'' designation.

*Response:* NMFS has revised the LOF so that the more generic term ''gillnet'' is used for most fisheries that utilize gillnets.

*Comment 9:* There is a great deal of confusion over the disposition of bycatch. Can, for example, a fisherman possess and land an unlisted species (such as tautog) while fishing in a listed fishery (such as American lobster) with an authorized gear type (such as pot or trap)? The disposition of bycatch should be clearly defined. If an unlisted species cannot be retained in a listed fishery with an authorized gear, an additional category for a non-FMP species fishery should be added with authorized gear types being all-inclusive.

*Response:* The LOF as revised by this final rule lists all authorized fisheries and fishing gear within the U.S. EEZ, regardless whether the retained species is ''directed'' or ''incidental'' catch. In order to legally harvest a species with a given gear, the species must fit within the management unit of a given FMP or fit within a ''Non-FMP Fishery'' for a given area. FMPs have defined management units in terms of species, while Non-FMP categories do not. However, the ''Crab Non-FMP'' for a given area could include any or all crab species and the ''Groundfish Fishery (Non-FMP)'' could include any or all bottom fish not covered by the management units of that area's FMPs. The ''Commercial Fishery (Non-FMP)'' and the ''Recreational Fishery (Non-FMP)'' are the most general Non-FMP categories for a given area and could include any or all species that: (1) Are not covered in the management unit of an FMP, (2) Do not fit within another more specific Non-FMP Fishery. Therefore, the most general ''Non-FMP Fisheries'' listed for the various Council areas of authority allow harvest of Non-FMP species, and list as authorized gear all the known gear types that are utilized within the EEZ in that geographical area for such Non-FMP species.

*Comment 10:* One commenter pointed out that there is no octocoral recreational fishery in the SAFMC or GMFMC areas of authority and therefore there is no authorized recreational gear for this fishery. This recreational fishery should be removed from the LOF.

*Response:* The octocoral recreational fishery has been deleted from the fisheries of the SAFMC and GMFMC areas.

*Comment 11:* One commenter was concerned that many of the species are listed as ''Non-FMP,'' such as Atlantic striped bass, Weakfish, and Atlantic menhaden, when Interstate Fishery Management Plans are in place under the Atlantic States Marine Fisheries Commission. The commenter suggested it may be more accurate to list any species that has no ''Federal FMP,'' but has an Interstate FMP as a ''Non-Federal FMP.''

*Response:* Since the LOF is only intended to cover fishing practices in the EEZ, the LOF as revised, only lists ''Federal FMPs.''

*Comment 12:* One commenter suggested that the ''Striped Bass Fishery (Non-FMP)'' be eliminated from the list of fisheries under the MAFMC.

*Response:* NMFS has decided to retain several fisheries in the LOF even though current regulations prohibit possession in the EEZ, with a statement to that effect underneath the ''gear heading'' of the table. Such fisheries include ''Striped Bass Fishery (Non-FMP)'' under the New England and Mid-Atlantic Councils, ''Atlantic Red Drum Fishery (FMP)'' under the SAFMC, and ''Gulf of Mexico Red Drum Fishery (FMP)'' under the GMFMC.

*Comment 13:* One commenter noted that jig gear should be added as an authorized gear for the ''Atlantic Squid, Mackerel, and Butterfish Fishery (FMP).''

*Response:* NMFS notes that for the purpose of this rule ''jig gear'' falls under the definition of ''longline.''

*Comment 14:* One commenter stated that monkfish, lobster, multispecies (groundfish), Atlantic skate, and Atlantic herring should have the same gear under both the Mid-Atlantic and New England Councils.

*Response:* NMFS agrees.

*Comment 15:* Several commenters noted that ''trawl'' needs to be added to authorized gear in the ''Tilefish Fishery (Non-FMP)'' under the MAFMC.

*Response:* NMFS agrees.

*Comment 16:* Several commenters stated that a tautog fishery occurs in the EEZ.

*Response:* NMFS agrees and has listed that fishery and associated gear mentioned by the commenters under both the New England and Mid-Atlantic Councils.

*Comment 17:* One commenter stated that the following fisheries should be added to the LOF for the EEZ under jurisdiction of the MAFMC because many species from these FMPs' management units occur in the Mid-Atlantic: South Atlantic Shrimp Fishery (FMP), South Atlantic Snapper-Grouper Fishery FMP, South Atlantic Coastal Migratory Pelagics Fishery (FMP), Calico Scallops Trawl Fishery (Non-FMP), Sargassum Fishery (Non-FMP), NE Multispecies Fishery (FMP), Atlantic Skate Fishery (Non-FMP), Atlantic Herring Fishery (FMP), Crab Fishery (Non-FMP), and Non-Federal FMP with a commercial fishery and recreational fishery. The commenter suggested the following gear for a Non-Federal FMP commercial fishery: dredge, trawl, hand harvest, gillnet, longline, handline, rod and reel, trap, pot, seine, spear, purse seine, bandit gear, powerhead, dip net, bully net, snare, cast net, barrier net, slurp gun, and authorized chemicals. The commenter suggested the following gear for a Non-Federal FMP recreational fishery: hand harvest, rod and reel, handline, spear, pot, trap, gillnet, hook and line, bandit gear, powerhead, dip net, bully net, and snare.

*Response:* NMFS agrees (see ''Changes from the Previous Final Rule''). The Non-Federal FMP Commercial Fishery and Recreational Fishery are being added under each Council area (under the categories: ''Commercial Fishery (Non-FMP)'' and ''Recreational Fishery (Non-FMP)''), in large part to address species, not in management units of FMPs, that are caught and retained.

*Comment 18.* One commenter stated that smooth dogfish and spiny dogfish are caught in waters off South Carolina with gillnet, trawl, longline, bandit gear, rod and reel, and handline.

*Response.* NMFS agrees and has made the changes to the LOF.

*Comment 19.* One commenter requested that the definition for hoop net be revised as follows: ''Hoop net means a cone-shaped or flat net which may or may not have throats and flues stretched over a series of rings or hoops for support, and includes gear used to catch Kona crab.''

*Response.* NMFS agrees with the revised ''hoop net'' definition, and the change has been made in the definitions section. However, the last portion of the requested change, ''and includes gear used to catch Kona crab,'' was not included in the new definition, because no species are listed in the definitions.

*Comment 20.* One commenter requested that a definition be added for ''drop net'' to read: ''a small, usually circular net with weight around the perimeter and a float in the center.'' These nets are used to collect marine life aquarium fishes.

*Response.* NMFS agrees with the addition of a new definition for ''drop net,'' and the addition has been made in the definitions section.

*Comment 21.* One commenter questioned whether this rule would violate section 306 of the Magnuson-Stevens Act by having an adverse effect on a state's authority to regulate its vessels outside its boundaries in the absence of a Federal FMP.

*Response.* Even if a fishery is listed or a gear is authorized in the LOF, this would not affect a state's ability to prohibit the conduct of the fishery in the EEZ or the use of the particular gear therein, by fishing vessels registered under the law of that state, if the fishery or gear use in the EEZ is not regulated under an FMP. However, if a state's regulations authorize the conduct of a fishery in the EEZ or authorize or require the use of gear in the EEZ, that is not listed or authorized in the LOF, then any fisherman intending to fish under such state's regulations must afford the Secretary or appropriate Council with 90 days prior written notice of his/her intent to conduct such a fishery or to use such gear. Whether notice was given to the Secretary or appropriate Council, the Secretary may issue regulations to prohibit the fishery in the EEZ or the use of such gear in the EEZ. In such a case, the Federal regulations prohibiting the fishery or the use of the gear would pre-empt the state regulations authorizing the fishery in the EEZ or authorizing or requiring the use of the gear in the EEZ.

**Changes From the Previous Final Rule (Published on January 27, 1999)**

The following changes have been made to the LOF published on January 27, 1999:

1. Under the New England and Mid-Atlantic Councils, ''Non-FMP'' has been changed to ''FMP'' for ''Monkfish,'' ''Dogfish,'' and ''Atlantic Herring.''

2. Under the NEFMC, ''Atlantic Halibut Fishery (Non-FMP)'' has been removed from the LOF because that species has been added to the management unit for the ''Northeast Multispecies Fishery.''

3. A ''Recreational Fishery (Non-FMP)'' is added under the New England and the Caribbean Councils' listings of fisheries, and a ''Commercial Fishery (Non-FMP)'' is added under each of the Councils, and for HMS, under the Secretary.

4. The following changes have been made under the heading ''New England Fishery Management Council (NEFMC)':

a. The ''Iceland Scallop Fishery (Non-FMP)'' has been added.

b. Under the ''American Lobster Fishery (FMP),'' ''Gillnet fishery'' has been added.

c. Under the ''Atlantic Herring Fishery (FMP),'' the ''Coastal herring trawl fishery'' has been changed to ''Trawl fishery,'' and the ''Herring pair trawl fishery'' and the ''Dredge fishery'' have been added.

d. Under the ''Dogfish Fishery (FMP),'' ''Hook and line fishery,'' ''Longline fishery,'' and ''Dredge fishery'' have been added.

e. ''Spear'' has been added as an authorized gear type under the ''Recreational fishery'' of the ''Dogfish Fishery (FMP),'' ''Atlantic Bluefish Fishery (FMP managed by MAFMC),'' ''Atlantic Mackerel, Squid, and Butterfish Fishery (FMP managed by MAFMC),'' ''Weakfish Fishery (Non-FMP),'' ''Monkfish Fishery (FMP),'' and ''Summer Flounder, Scup, Black Sea Bass Fishery (FMP managed by MAFMC).''

f. Under the ''Atlantic Bluefish Fishery (FMP),'' ''Pelagic drift gillnet fishery'' has been changed to ''Gillnet fishery.''

g. Under the ''Atlantic Mackerel, Squid, and Butterfish Fishery (FMP),'' ''Dip net fishery'' has been added.

h. ''Hand harvest'' has been added as an authorized gear type to the ''Surf Clam and Ocean Quahog Fishery (FMP).''

i. Under the ''Atlantic Mussel/Sea Urchin Fishery (Non-FMP),'' ''Recreational fishery'' has been added.

j. Under the ''Atlantic Skate Fishery (Non-FMP),'' ''Recreational fishery'' has been added.

k. Under the ''Crab Fishery (Non-FMP),'' ''Trawl fishery,'' and ''Trap and pot fishery'' have been added.

l. Under the ''Monkfish Fishery (FMP),'' ''Recreational fishery'' has been added.

m. Under the ''Summer Flounder, Scup, and Black sea Bass Fishery (FMP),'' ''Dredge fishery'' has been added, and ''Pelagic drift gillnet fishery'' has been changed to the more general category of ''Gillnet fishery.''

n. The ''Tautog Fishery (Non-FMP)'' has been added.

5. The following changes have been made under the heading ''Mid-Atlantic Fishery Management Council':

a. Under the ''Summer Flounder, Scup, and Black Sea Bass Fishery (FMP),'' ''Dredge fishery'' has been

added, and ''Pelagic drift gillnet fishery,'' has been changed to ''Gillnet fishery.''

b. Under the ''Atlantic Bluefish Fishery (FMP),'' ''Pelagic drift gillnet fishery'' has been changed to ''Gillnet fishery.''

c. ''Spear'' has been added as an authorized gear type to the ''Recreational fishery'' category for the following: ''Summer Flounder, Scup, Black Sea Bass (FMP),'' ''Atlantic Bluefish (FMP),'' ''Atlantic Mackerel, Squid, and Butterfish Fishery (FMP),'' ''Weakfish Fishery (Non-FMP),'' ''Tilefish Fishery (Non-FMP),'' and ''Dogfish Fishery (FMP).''

d. Under the ''Surf Clam/Ocean Quahog Fishery (FMP),'' the ''Dredge fishery'' has been changed to ''Commercial fishery'' to include gear of ''dredge'' and ''hand harvest.''

e. Under the ''Sea Scallop Fishery (FMP),'' ''Recreational fishery'' has been added.

f. Under the ''American Lobster Fishery (FMP),'' ''Trawl fishery,'' ''Dredge fishery,'' ''Gillnet fishery,'' and ''Recreational fishery'' have been added.

g. Under the ''Whelk Fishery (Non-FMP),'' ''Dredge fishery'' and ''Recreational fishery'' have been added.

h. Under the ''Monkfish Fishery (FMP),'' ''Gillnet fishery,'' ''Dredge fishery,'' ''Trap and pot fishery,'' and ''Recreational fishery'' have been added.

i. Under ''Tilefish Fishery (Non-FMP),'' ''Trawl fishery'' has been added.

j. Under ''Dogfish Fishery (FMP),'' ''Hook and line fishery,'' ''Dredge fishery,'' and ''Longline fishery'' have been added.

k. The following fisheries have been added: ''Tautog Fishery (Non-FMP),'' ''NE Multispecies Fishery (FMP),'' ''Atlantic Skate Fishery (Non-FMP),'' ''Crab Fishery (Non-FMP),'' ''Atlantic Herring Fishery (FMP),'' ''Shrimp Trawl (Non-FMP),'' ''South Atlantic Snapper-Grouper Fishery (FMP),'' ''South Atlantic Coastal Migratory Pelagics (FMP),'' ''Calico Scallops Trawl Fishery (Non-FMP),'' ''Sargassum Fishery (Non-FMP),'' and ''South Atlantic Shrimp Fishery (FMP).''

l. ''Spear,'' ''hook and line,'' ''bandit gear,'' ''powerhead,'' ''gillnet,'' ''cast net,'' and ''hand harvest'' have been added as authorized gear types to the ''Recreational Fishery (Non-FMP).''

m. ''Mixed Species Trawl Fishery (Non-FMP)'' has been removed and should be considered part of the new category, ''Commercial Fisheries (Non-FMP).''

6. The following changes have been made under the heading ''South Atlantic Fishery Management Council'':

a. ''Crab Fishery (Non-FMP)'' has been added.

b. Under the ''Coral and Coral Reef Fishery (FMP),'' ''Octocoral recreational fishery'' has been removed because it is not allowed.

c. The word ''only'' has been deleted from ''hand harvest only'' under the Coral and Coral Reef Fishery (FMP).

d. ''Spear'' has been added as an authorized gear type to the ''Recreational fishery'' under the ''South Atlantic Coastal Migratory Pelagics Fishery (FMP),'' and ''Weakfish Fishery (Non-FMP).''

e. ''Hand harvest'' has been added as an authorized gear under ''Recreational fishery'' for ''South Atlantic Spiny Lobster Fishery (FMP).''

f. ''Bait fishery (Non-FMP)'' has been added.

g. ''Trap, pot, and trawl'' have been added as authorized gear under the ''Marine Life Aquarium Fishery (Non-FMP).''

h. ''Spear,'' ''hook and line,'' ''powerhead,'' ''gillnet,'' ''cast net,'' and ''hand harvest'' have been added as authorized gear types to the Recreational Fishery (Non-FMP).

i. ''Summer Flounder Fishery (FMP managed by the Mid-Atlantic Fishery Management Council)'' has been added. Summer flounder are part of an important fishery south of the northern border of the SAFMC (Virginia-North Carolina border). Scup and black sea bass in this area are in the management unit of the South Atlantic Snapper-Grouper FMP.

j. ''Octopus Fishery (Non-FMP)'' has been added.

k. ''Smooth Dogfish Fishery (Non-FMP)'' has been added.

7. The following changes have been made under the heading ''Gulf of Mexico Fishery Management Council':

a. The word ''only'' has been deleted from ''hand harvest only'' under the ''Coral Reef Fishery (FMP).''

b. ''Hand harvest'' has been added as an authorized gear type to the ''Recreational Fishery'' under the ''Gulf of Mexico Spiny Lobster Fishery (FMP),'' and ''Stone Crab Fishery (FMP).''

c. The ''Blue Crab Fishery (Non-FMP)'' has been added.

d. ''Spear'' has been added as an authorized gear type to the ''Recreational fishery'' under the ''Mullet Fishery (Non-FMP)'' and the ''Gulf of Mexico Groundfish Fishery (Non-FMP).''

e. ''Cast net'' has been added to the commercial and recreational fisheries under the ''Mullet Fishery (Non-FMP).''

f. ''Hook and line'' and ''hand harvest'' have been added as authorized gear types to the ''Recreational Fishery (Non-FMP).''

g. ''Tong'' has been added as an authorized gear under the ''Oyster Fishery (Non-FMP).''

8. The following changes have been made under the heading ''Caribbean Fishery Management Council'':

a. ''Snare'' has been added as an authorized gear type to the ''hand harvest fishery'' under the ''Caribbean Spiny Lobster Fishery (FMP).''

b. ''Hand harvest'' has been added as an authorized gear type to the ''Recreational fishery'' under the ''Coral and Reef Resources Fishery (FMP).''

c. The word ''only'' has been deleted from ''hand harvest only'' under the ''Queen Conch Fishery (FMP).''

d. The ''Recreational Fishery (Non-FMP)'' has been added.

e. ''Commercial Fishery (Non-FMP)'' has been added.

9. Under the heading ''Pacific Fishery Management Council'', ''hand harvest'' has been added as an authorized gear type to the ''Recreational Fishery (Non-FMP).''

10. Under the heading ''North Pacific Fishery Management Council'' ''Commercial Fishery (Non-FMP)'' has been added.

11. Under the heading ''Western Pacific Fishery Management Council'' the following changes have been made:

a. Under ''Western Pacific Crustacean Fishery (FMP)'' ''hand harvest'' and ''hoop net'' have been added as authorized gear types.

b. The word ''only'' has been deleted from ''hand harvest only'' under the ''Western Pacific Precious Corals (FMP).''

c. ''Hand harvest'' has been added as an authorized gear type to the ''Bottomfish hook and line fishery'' and ''hook and line'' has been added as authorized gear type to the ''Bottom longline fishery'' under the ''Western Pacific Bottomfish and Seamount Groundfish Fishery (FMP).''

d. ''Hand harvest'' and ''slurp gun'' have been added as authorized gear types to the ''Recreational fishery'' under the ''Western Pacific Bottomfish and Seamount Groundfish Fishery (Non-FMP).''

e. The ''Western Pacific Shallow Reef (Non-FMP)'' has been renamed ''Western Pacific Coral Reef Fishery (Non-FMP).''

f. ''Spear'', ''rod and reel'', and ''hook and line'' have been added as authorized gear types under the ''Western Pacific Coral Reef Fishery (Non-FMP).''

g. ''Recreational Fishery (Non-FMP)'' has been added, with authorized gear types of rod and reel, hook and line, handline, hand harvest, and spear.

h. ''Commercial Fishery (Non-FMP)'' has been added.

12. Under the ''Secretary of Commerce,'' ''Atlantic Swordfish (FMP),'' ''Atlantic Sharks (FMP),'' and ''Atlantic Tunas (Non-FMP),'' have been combined into the ''Atlantic Tunas, Swordfish, and Sharks (FMP)'' to reflect changes made to 50 CFR parts 600, 630, and 635 in a final rule published on May 28, 1999 (64 FR 29090).

**Classification**

This final rule has been determined to be not significant for purposes of E.O. 12866.

The public has had several opportunities (the original proposed rule; the 180-day period following publication of the final rule; and the additional 45-day comment period when the effectiveness of that final rule was delayed) to submit comments on the content of the LOF in section 600.725(v). Accordingly, the Assistant Administrator for Fisheries, NOAA, pursuant to 5 U.S.C. 553(b)(B), for good cause, namely the opportunities for public comment provided previously, finds that providing prior notice and opportunity for prior public comment is unnecessary. NMFS published a LOF on January 27, 1999, that was scheduled to become effective on July 26, 1999. The effective date of the LOF was postponed until December 1, 1999 (64 FR 40781). This final rule makes additions to the LOF that make it less restrictive on fishermen. Therefore, under 5 U.S.C. 553(d)(1), it is not subject to a 30-day delay in effective date.

This final rule makes minor revisions to a previous final rule published on January 27, 1999, for which the Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration when that rule was proposed, that if adopted, it would not have a significant impact on a substantial number of small entities. Therefore, initial and final regulatory flexibility analyses were not prepared under the Regulatory Flexibility Act for the previous LOF. However, a regulatory impact review was prepared by NMFS; that analysis includes a description of the extent to which small entities are affected by this rulemaking. A summary of that description appears in the preamble of the final rule published on January 27, 1999. Because notice and comment for the changes made by this final rule to the previous LOF are not required by 5 U.S.C. 553 or by any other law, the analytical requirements of the Regulatory Flexibility Act do not apply.

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 Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number.

This rule itself does not contain collection-of-information requirements under the PRA. However, it does revise another final rule that contained collection-of-information requirements subject to the PRA that were approved by OMB under control number 0648–0346. The public reporting burdens under that rule have an average estimate of 1½ hours per response for notification of entry into a new fishery or use of a new gear in a current fishery, including the tile for reviewing instructions, searching existing data, sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden to NMFS and OMB (see **ADDRESSES**).

**List of Subjects in 50 CFR Part 600**

Administrative practice and procedure, Confidential business information, Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics.

Dated: November 26, 1999.

**Penelope D. Dalton,**

*Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR chapter VI is amended as follows:

*50 CFR Chapter VI*

## PART 600—MAGNUSON-STEVENS ACT PROVISIONS

1. The authority citation for part 600 continues to read as follows:

**Authority:** 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

2. In section 600.10, the definitions for ''Drop net'' is added and ''Hoop net'' is revised in alphabetical order as follows:

**§ 600.10 Definitions.**

* * * * *

*Drop net* means a small, usually circular net with weight around the perimeter and a float in the center.

* * * * *

*Hoop net* means a cone-shaped or flat net which may or may not have throats and flues stretched over a series of rings or hoops for support.

* * * * *

3. In § 600.725, paragraph (v) is revised to read as follows:

**§ 600.725 General prohibitions.**

* * * * *

(v) The use of any gear or participation in a fishery not on the following list of authorized fisheries and gear is prohibited after December 1, 1999. A fish, regardless whether targeted, may be retained only if it is taken within a listed fishery, is taken with a gear authorized for that fishery, and is taken in conformance with all other applicable regulations. Listed gear can only be used in a manner that is consistent with existing laws and regulations. The list of fisheries and authorized gear does not, in any way, alter or supersede any definitions or regulations contained elsewhere in this chapter. A person or vessel is prohibited from engaging in fishing or employing fishing gear when such fishing gear is prohibited or restricted by regulation under an FMP or other applicable law. However, after December 1, 1999, an individual fisherman may notify the appropriate Council, or the Director, in the case of Atlantic highly migratory species, of the intent to use a gear or participate in a fishery not already on the list. Ninety days after such notification, the individual may use the gear or participate in that fishery unless regulatory action is taken to prohibit the use of the gear or participate in the fishery (*e.g.,* through emergency or interim regulations). The list of authorized fisheries and gear is as follows:

| Fishery | Authorized gear types |
|---|---|
| **I. New England Fishery Management Council (NEFMC)** | |
| 1. Atlantic Sea Scallop Fishery (FMP): | |
| A. Dredge fishery | A. Dredge. |
| B. Trawl fishery | B. Trawl. |

| Fishery | Authorized gear types |
|---|---|
| C. Hand harvest fishery | C. Hand harvest. |
| D. Recreational fishery | D. Hand harvest. |
| 2. Iceland Scallop Fishery (Non-FMP): | |
| A. Dredge fishery | A. Dredge. |
| B. Trawl fishery | B. Trawl. |
| 3. Atlantic Salmon Fishery (FMP) | No harvest or possession in the EEZ. |
| 4. Striped Bass Fishery (Non-FMP) | No harvest or possession in the EEZ. |
| 5. Northeast (NE) Multispecies Fishery (FMP): | |
| A. NE multispecies sink gillnet fishery | A. Gillnet. |
| B. North Atlantic bottom trawl fishery | B. Trawl. |
| C. Groundfish hook and line fishery | C. Longline, handline, rod and reel. |
| D. Mixed species trap and pot fishery | D. Trap, pot. |
| E. Dredge fishery | E. Dredge. |
| F. Seine fishery | F. Seine. |
| G. Recreational fishery | G. Rod and reel, handline, spear. |
| 6. American Lobster Fishery (FMP): | |
| A. Lobster pot and trap fishery | A. Pot, trap. |
| B. North Atlantic bottom trawl fishery | B. Trawl. |
| C. Dredge fishery | C. Dredge. |
| D. Hand harvest fishery | D. Hand harvest. |
| E. Gillnet fishery | E. Gillnet. |
| F. Recreational fishery | F. Pot, trap, hand harvest. |
| 7. Atlantic Herring Fishery (FMP): | |
| A. Trawl fishery | A. Trawl. |
| B. Purse seine fishery | B. Purse seine. |
| C. Gillnet fishery | C. Gillnet. |
| D. Herring pair trawl fishery | D. Pair trawl. |
| E. Dredge fishery | E. Dredge. |
| F. Recreational fishery | F. Hook and line, gillnet. |
| 8. Spiny Dogfish Fishery (FMP jointly managed by MAFMC and NEFMC): | |
| A. Gillnet fishery | A. Gillnet. |
| B. Trawl fishery | B. Trawl. |
| C. Hook and line fishery | C. Hook and line, rod and reel, spear. |
| D. Dredge fishery | D. Dredge. |
| E. Longline fishery | E. Longline. |
| F. Recreational fishery | F. Hook and line, rod and reel, spear. |
| 9. Atlantic Bluefish Fishery (FMP managed by MAFMC): | |
| A. Pelagic longline and hook and line fishery | A. Longline, handline. |
| B. Seine fishery | B. Purse seine, seine. |
| C. Mixed species pot and trap fishery | C. Pot, trap. |
| D. Bluefish, croaker, flounder trawl fishery | D. Trawl. |
| E. Gillnet fishery | E. Gillnet. |
| F. Dredge fishery | F. Dredge. |
| G. Recreational fishery | G. Rod and reel, handline, trap, pot, spear. |
| 10. Atlantic Mackerel, Squid and Butterfish Fishery (FMP managed by the MAFMC): | |
| A. Mackerel, squid, and butterfish trawl fishery | A. Trawl. |
| B. Gillnet fishery | B. Gillnet. |
| C. Longline and hook-and-line fishery | C. Longline, handline, rod and reel. |
| D. Purse seine fishery | D. Purse seine. |
| E. Mixed species pot and trap fishery | E. Pot, trap. |
| F. Dredge fishery | F. Dredge. |
| G. Dip net fishery | G. Dip net. |
| H. Bandit gear fishery | H. Bandit gear. |
| I. Recreational fishery | I. Rod and reel, handline, pot, spear. |
| 11. Surf Clam and Ocean Quahog Fishery (FMP managed by the MAFMC): | |
| A. Commercial fishery | A. Dredge, hand harvest. |
| B. Recreational fishery | B. Hand harvest. |
| 12. Atlantic Menhaden Fishery (Non-FMP): | |
| A. Purse seine fishery | A. Purse seine. |
| B. Trawl fishery | B. Trawl. |
| C. Gillnet fishery | C. Gillnet. |
| D. Commercial hook-and-line fishery | D. Hook and line. |
| E. Recreational fishery | E. Hook and line, snagging, cast nets. |
| 13. Weakfish Fishery (Non-FMP): | |
| A. Commercial fishery | A. Trawl, gillnet, hook and line. |
| B. Recreational fishery | B. Hook and line, spear. |
| 14. Atlantic Mussel and Sea Urchin Fishery (Non-FMP): | |
| A. Dredge fishery | A. Dredge. |
| B. Hand harvest fishery | B. Hand harvest. |
| C. Recreational fishery | C. Hand harvest. |
| 15. Atlantic Skate Fishery (Non-FMP): | |

| Fishery | Authorized gear types |
|---|---|
| A. Trawl fishery | A. Trawl. |
| B. Gillnet fishery | B. Gillnet. |
| C. Hook-and-line fishery | C. Longline and handline. |
| D. Dredge fishery | D. Dredge. |
| E. Recreational fishery | E. Rod and reel. |
| 16. Crab Fishery (Non-FMP): | |
| A. Dredge fishery | A. Dredge. |
| B. Trawl fishery | B. Trawl. |
| C. Trap and pot fishery | C. Trap, pot. |
| 17. Northern Shrimp Fishery (Non-FMP): | |
| A. Shrimp trawl fishery | A. Trawl. |
| B. Shrimp pot fishery | B. Pot. |
| 18. Monkfish Fishery (FMP jointly managed by NEFMC and MAFMC): | |
| A. Trawl fishery | A. Trawl. |
| B. Gillnet fishery | B. Gillnet. |
| C. Longline fishery | C. Longline. |
| D. Dredge fishery | D. Dredge. |
| E. Trap and pot fishery | E. Trap, pot. |
| F. Recreational fishery | F. Rod and reel, spear. |
| 19. Summer Flounder, Scup, Black Sea Bass Fishery (FMP managed by MAFMC): | |
| A. Trawl fishery | A. Trawl. |
| B. Longline and hook and line fishery | B. Longline, handline. |
| C. Mixed species pot and trap fishery | C. Pot, trap. |
| D. Gillnet fishery | D. Gillnet. |
| E. Dredge fishery | E. Dredge. |
| F. Recreational fishery | F. Rod and reel, handline, pot, trap, spear. |
| 20. Hagfish Fishery (Non-FMP) | Trap, pot. |
| 21. Tautog Fishery (Non-FMP): | |
| A. Gillnet fishery | A. Gillnet. |
| B. Pot and trap fishery | B. Pot, trap. |
| C. Rod and reel, hook and line fishery | C. Rod and reel, handline, hook and line. |
| D. Trawl fishery | D. Trawl. |
| E. Spear fishery | E. Spear. |
| F. Fyke net fishery | F. Fyke net. |
| G. Recreational fishery | G. Rod and reel, hook and line, handline, spear. |
| 22. Recreational Fishery (Non-FMP) | Rod and reel, handline, spear, hook and line, hand harvest, bandit gear, powerhead, gillnet, cast net, pot, trap, dip net, bully net, snare. |
| 23. Commercial Fishery (Non-FMP) | Trawl, pot, trap, gillnet, pound net, dredge, seine, handline, longline, hook and line, rod and reel, hand harvest, purse seine, spear, bandit gear, powerhead, dip net, bully net, snare, cast net, barrier net, slurp gun, allowable chemicals. |
| **II. Mid-Atlantic Fishery Management Council (MAFMC)** | |
| 1. Summer Flounder, Scup, Black Sea Bass Fishery (FMP): | |
| A. Trawl fishery | A. Trawl. |
| B. Pelagic longline and hook and line fishery | B. Longline, handline, rod and reel. |
| C. Mixed species pot and trap fishery | C. Pot, trap. |
| D. Gillnet fishery | D. Gillnet. |
| E. Dredge fishery | E. Dredge. |
| F. Recreational fishery | F. Rod and reel, handline, pot, trap, spear. |
| 2. Atlantic Bluefish Fishery (FMP): | |
| A. Bluefish, croaker, and flounder trawl fishery | A. Trawl. |
| B. Pelagic longline and hook and line fishery | B. Longline, handline, bandit gear, rod and reel. |
| C. Mixed species pot and trap fishery | C. Pot, trap. |
| D. Gillnet fishery | D. Gillnet. |
| E. Seine fishery | E. Purse seine, seine. |
| F. Dredge fishery | F. Dredge. |
| G. Recreational fishery | G. Rod and reel, handline, trap, pot, spear. |
| 3. Atlantic Mackerel, Squid, and Butterfish Fishery (FMP): | |
| A. Mackerel, squid, and butterfish trawl fishery | A. Trawl. |
| B. Gillnet fishery | B. Gillnet. |
| C. Longline and hook-and-line fishery | C. Longline, handline, rod and reel. |
| D. Purse seine fishery | D. Purse seine. |
| E. Mixed species pot and trap fishery | E. Pot, trap. |
| F. Dredge fishery | F. Dredge. |
| G. Dip net fishery | G. Dip net. |
| H. Bandit gear fishery | H. Bandit gear. |
| I. Recreational fishery | I. Rod and reel, handline, pot, spear. |
| 4. Surf Clam and Ocean Quahog Fishery (FMP): | |
| A. Commercial fishery | A. Dredge, hand harvest. |
| B. Recreational fishery | B. Hand harvest. |
| 5. Atlantic Sea Scallop Fishery (FMP managed by NEFMC): | |

| Fishery | Authorized gear types |
|---|---|
| A. Dredge fishery | A. Dredge. |
| B. Trawl fishery | B. Trawl. |
| C. Hand harvest fishery | C. Hand harvest. |
| D. Recreational fishery | D. Hand harvest. |
| 6. Atlantic Menhaden Fishery (Non-FMP): | |
| A. Purse seine fishery | A. Purse seine. |
| B. Trawl fishery | B. Trawl. |
| C. Gillnet fishery | C. Gillnet. |
| D. Commercial hook-and-line fishery | D. Hook and line. |
| E. Recreational fishery | E. Hook and line, snagging, cast nets. |
| 7. Striped Bass Fishery (Non-FMP) | No harvest or possession in the EEZ. |
| 8. Northern Shrimp Trawl Fishery (Non-FMP) | Trawl. |
| 9. American Lobster Fishery (FMP managed by NEFMC): | |
| A. Pot and trap fishery | A. Pot, trap. |
| B. Hand harvest fishery | B. Hand harvest. |
| C. Trawl fishery | C. Trawl. |
| D. Dredge fishery | D. Dredge. |
| E. Gillnet fishery | E. Gillnet. |
| F. Recreational fishery | F. Pot, trap, hand harvest. |
| 10. Weakfish Fishery (Non-FMP): | |
| A. Commercial fishery | A. Trawl, gillnet, hook and line, rod and reel. |
| B. Recreational fishery | B. Hook and line, spear. |
| 11. Whelk Fishery (Non-FMP): | |
| A. Trawl fishery | A. Trawl. |
| B. Pot and trap fishery | B. Pot, trap. |
| C. Dredge | C. Dredge. |
| D. Pound net, gillnet, seine | D. Pound net, gillnet, seine. |
| E. Recreational fishery | E. Hand harvest. |
| 12. Monkfish Fishery (FMP jointly managed by NEFMC and MAFMC): | |
| A. Trawl fishery | A. Trawl. |
| B. Longline fishery | B. Longline, rod and reel. |
| C. Gillnet fishery | C. Gillnet. |
| D. Dredge fishery | D. Dredge. |
| E. Trap and pot fishery | E. Trap and pot. |
| F. Recreational fishery | F. Rod and reel, spear. |
| 13. Tilefish Fishery (Non-FMP): | |
| A. Groundfish hook-and-line fishery | A. Longline, handline, rod and fishery reel. |
| B. Trawl fishery | B. Trawl. |
| C. Recreational fishery | C. Rod and reel, spear. |
| 14. Spiny Dogfish Fishery (FMP jointly managed by MAFMC and NEFMC): | |
| A. Gillnet fishery | A. Gillnet. |
| B. Trawl fishery | B. Trawl. |
| C. Hook and line fishery | C. Hook and line, rod and reel, spear. |
| D. Dredge fishery | D. Dredge. |
| E. Longline fishery | E. Longline. |
| F. Recreational fishery | F. Hook and line, rod and reel, spear. |
| 15. Tautog Fishery (Non-FMP): | |
| A. Gillnet fishery | A. Gillnet. |
| B. Pot and trap fishery | B. Pot, trap. |
| C. Rod and reel, hook and line handline fishery | C. Rod and reel, hook and line, handline. |
| D. Trawl fishery | D. Trawl. |
| E. Spear fishery | E. Spear. |
| F. Fyke net fishery | F. Fyke net. |
| G. Recreational fishery | G. Rod and reel, handline, hook and line, spear. |
| 16. Coastal Gillnet Fishery (Non-FMP): | Gillnet |
| 17. Recreational Fishery (Non-FMP) | Rod and reel, handline, spear, hook and line, hand harvest, bandit gear, powerhead, gillnet, cast net. |
| 18. NE Multispecies Fishery (FMP managed by NEFMC): | |
| A. NE multispecies sink gillnet fishery | A. Gillnet. |
| B. North Atlantic bottom trawl fishery | B. Trawl. |
| C. Groundfish hook and line | C. Longline, handline, rod and fishery reel. |
| D. Mixed species trap and pot fishery | D. Trap, pot. |
| E. Dredge fishery | E. Dredge. |
| F. Seine fishery | F. Seine. |
| G. Recreational fishery | G. Rod and reel, handline, spear. |
| 19. Atlantic Skate Fishery (Non-FMP): | |
| A. Trawl fishery | A. Trawl. |
| B. Gillnet fishery | B. Gillnet. |
| C. Hook-and-line fishery | C. Longline and handline. |
| D. Dredge fishery | D. Dredge. |
| E. Recreational fishery | E. Rod and reel. |
| 20. Crab Fishery (Non-FMP): | |
| A. Dredge fishery | A. Dredge. |

| Fishery | Authorized gear types |
|---|---|
| B. Trawl fishery | B. Trawl. |
| C. Trap and pot fishery | C. Trap, pot. |
| 21. Atlantic Herring Fishery (FMP managed by the NEFMC): | |
| A. Trawl fishery | A. Trawl. |
| B. Purse seine fishery | B. Purse seine. |
| C. Gillnet fishery | C. Gillnet. |
| D. Herring pair trawl fishery | D. Pair trawl. |
| E. Dredge fishery | E. Dredge. |
| F. Recreational fishery | F. Hook and line, gillnet. |
| 22. South Atlantic Snapper-Grouper Fishery (FMP managed by the SAFMC): | |
| A. Commercial fishery | A. Longline, rod and reel, bandit gear, handline, spear, powerhead. |
| B. Black sea bass trap and pot fishery | B. Pot, trap. |
| C. Wreckfish fishery | C. Rod and reel, bandit gear, handline. |
| D. Recreational fishery | D. Handline, rod and reel, bandit gear, spear, powerhead. |
| 23. South Atlantic Coastal Migratory Pelagics Fishery (FMP managed by the SAFMC): | |
| A. Commercial Spanish mackerel fishery | A. Handline, rod and reel, bandit gear, gillnet, cast net. |
| B. Commercial king mackerel fishery | B. Handline, rod and reel, bandit gear. |
| C. Other commercial coastal migratory pelagics fishery | C. Longline, handline, rod and reel, bandit gear. |
| D. Recreational fishery | D. Bandit gear, rod and reel, handline, spear. |
| 24. Calico Scallops Fishery (Non-FMP): | |
| A. Trawl fishery | A. Trawl. |
| B. Dredge fishery | B. Dredge. |
| C. Recreational fishery | C. Hand harvest. |
| 25. Sargassum Fishery (Non-FMP) | Trawl. |
| 26. South Atlantic Shrimp Fishery (FMP) | Trawl. |
| 27. Commercial Fishery (Non-FMP) | Trawl, pot, trap, gillnet, pound net, dredge, seine, handline, longline, hook and line, rod and reel, spear. |
| **III. South Atlantic Fishery Management Council** | |
| 1. Golden Crab Fishery (FMP) | Trap. |
| 2. Crab Fishery (Non-FMP): | |
| A. Dredge fishery | A. Dredge. |
| B. Trawl fishery | B. Trawl. |
| C. Trap and pot fishery | C. Trap, pot. |
| 3. Atlantic Red Drum Fishery (FMP) | No harvest or possession in the EEZ. |
| 4. Coral and Coral Reef Fishery (FMP): | |
| A. Octocoral commercial fishery | Hand harvest. |
| B. Live rock aquaculture fishery | Hand harvest. |
| 5. South Atlantic Shrimp Fishery (FMP) | Trawl. |
| 6. South Atlantic Snapper-Grouper Fishery (FMP): | |
| A. Commercial fishery | A. Longline, rod and reel, bandit gear, handline, spear, powerhead. |
| B. Black sea bass trap and pot fishery | B. Pot, trap. |
| C. Wreckfish fishery | C. Rod and reel, bandit gear, handline. |
| D. Recreational fishery | D. Handline, rod and reel, bandit gear, spear, powerhead. |
| 7. South Atlantic Spiny Lobster Fishery (FMP): | |
| A. Commercial fishery | A. Trap, pot, dip net, bully net, snare, hand harvest. |
| B. Recreational fishery | B. Trap, pot, dip net, bully net, snare, hand harvest. |
| 8. South Atlantic Coastal Migratory Pelagics Fishery (FMP): | |
| A. Commercial Spanish mackerel fishery | A. Handline, rod and reel, bandit gear, gillnet, cast net. |
| B. Commercial king mackerel fishery | B. Handline, rod and reel, bandit gear. |
| C. Other commercial coastal migratory pelagics fishery | C. Longline, handline, rod and reel, bandit gear. |
| D. Recreational fishery | D. Bandit gear, rod and reel, handline, spear. |
| 9. Spiny Dogfish Fishery (FMP jointly managed by NEFMC and SAFMC): | |
| A. Gillnet fishery | A. Gillnet. |
| B. Trawl fishery | B. Trawl. |
| C. Hook and line fishery | C. Hook and line, rod and reel, spear, bandit gear. |
| D. Dredge fishery | D. Dredge. |
| E. Longline fishery | E. Longline. |
| F. Recreational fishery | F. Hook and line, rod and reel, spear. |
| 10. Smooth Dogfish Fishery (Non-FMP): | |
| A. Gillnet fishery | A. Gillnet. |
| B. Trawl fishery | B. Trawl. |
| C. Hook and line fishery | C. Hook and line, rod and reel, spear, bandit gear. |
| D. Dredge fishery | D. Dredge. |
| E. Longline fishery | E. Longline. |
| F. Recreational fishery | F. Hook and line, rod and reel, spear. |
| 11. Atlantic Menhaden Fishery (Non-FMP): | |
| A. Purse seine fishery | A. Purse seine. |
| B. Trawl fishery | B. Trawl. |
| C. Gillnet fishery | C. Gillnet. |

| Fishery | Authorized gear types |
|---|---|
| D. Commercial hook-and-line | D. Hook and line fishery. |
| E. Recreational fishery | E. Hook and line, snagging, cast nets. |
| 12. Atlantic Mackerel, Squid, and Butterfish Trawl Fishery (Non-FMP) | Trawl. |
| 13. Bait Fisheries (Non-FMP) | Purse seine. |
| 14. Weakfish Fishery (Non-FMP): | |
| A. Commercial fishery | A. Trawl, gillnet, hook and line. |
| B. Recreational fishery | B. Hook and line, spear. |
| 15. Whelk Fishery (Non-FMP): | |
| A. Trawl fishery | A. Trawl. |
| B. Pot and trap fishery | B. Pot, trap. |
| C. Dredge fishery | C. Dredge. |
| D. Recreational fishery | D. Hand harvest. |
| 16. Marine Life Aquarium Fishery (Non-FMP) | Dip net, slurp gun, barrier net, drop net, allowable chemical, trap, pot, trawl. |
| 17. Calico Scallop Fishery (Non-FMP): | |
| A. Dredge fishery | A. Dredge. |
| B. Trawl fishery | B. Trawl. |
| C. Recreational fishery | C. Hand harvest. |
| 18. Summer Flounder Fishery (FMP managed by MAFMC): | |
| A. Commercial fishery | A. Trawl, longline, handline, rod and reel, pot, trap, gillnet, dredge. |
| B. Recreational fishery | B. Rod and reel, handline, pot, trap, spear. |
| 19. Bluefish, Croaker, and Flounder Trawl and Gillnet Fishery (Bluefish FMP managed by MAFMC). | Trawl, gillnet. |
| 20. Commercial Fishery (Non-FMP) | Trawl, gillnet, longline, handline, hook and line, rod and reel, bandit gear, cast net, pot, trap, lampara net, spear. |
| 21. Recreational Fishery (Non-FMP) | Rod and reel, handline, spear, hook and line, hand harvest, bandit gear, powerhead, gillnet, cast net. |
| 22. Sargassum Fishery (Non-FMP) | Trawl. |
| 23. Octopus Fishery (Non-FMP) | Trap, pot. |
| **IV. Gulf of Mexico Fishery Management Council** | |
| 1. Gulf of Mexico Red Drum Fishery (FMP) | No harvest or possession in the EEZ. |
| 2. Coral Reef Fishery (FMP): | |
| A. Commercial fishery | A. Hand harvest. |
| B. Recreational fishery | B. Hand harvest. |
| 3. Gulf of Mexico Reef Fish Fishery (FMP): | |
| A. Snapper-Grouper reef fish longline and hook and line fishery | A. Longline, handline, bandit gear, rod and reel, buoy gear. |
| B. Pot and trap reef fish fishery | B. Pot, trap. |
| C. Other commercial fishery | C. Spear, powerhead, cast net, trawl. |
| D. Recreational fishery | D. Spear, powerhead, bandit gear, handline, rod reel, cast net. |
| 4. Gulf of Mexico Shrimp Fishery (FMP): | |
| A. Gulf of Mexico commercial fishery | A. Trawl butterfly net, skimmer, cast net. |
| B. Recreational fishery | B. Trawl. |
| 5. Gulf of Mexico Coastal Migratory Pelagics Fishery (FMP): | |
| A. Large pelagics longline fishery | A. Longline. |
| B. King/Spanish mackerel gillnet fishery | B. Gillnet. |
| C. Pelagic hook and line fishery | C. Bandit gear, handline, rod and reel. |
| D. Pelagic species purse seine fishery | D. Purse seine. |
| E. Recreational fishery | E. Bandit gear, handline, rod and reel, spear. |
| Gulf of Mexico Spiny Lobster Fishery (FMP): | |
| A. Commercial fishery | A. Trap, pot, dip net, bully net, hoop net, trawl, snare, hand harvest. |
| C. Recreational fishery | C. Dip net, bully net, pot, trap, snare, hand harvest. |
| 6. Stone Crab Fishery (FMP): | |
| A. Trap and pot fishery | A. Trap, pot |
| B. Recreational fishery | B. Trap, pot, hand harvest. |
| 7. Blue Crab Fishery (Non-FMP) | Trap, pot. |
| 8. Golden Crab Fishery (Non-FMP) | Trap. |
| 9. Mullet Fishery (Non-FMP): | |
| A. Trawl fishery | A. Trawl. |
| B. Gillnet fishery | B. Gillnet. |
| C. Pair trawl fishery | C. Pair trawl. |
| D. Cast net fishery | D. Cast net. |
| E. Recreational fishery | E. Bandit gear, handline, rod and reel, spear, cast net. |
| 10. Inshore Coastal Gillnet Fishery (Non-FMP) | Gillnet. |
| 11. Octopus Fishery (Non-FMP) | Trap, pot. |
| 12. Marine Life Aquarium Fishery (Non-FMP) | Dip net, slurp gun, barrier net, drop net, allowable chemical, trap, pot, trawl. |
| 13. Coastal Herring Trawl Fishery (Non-FMP) | Trawl. |
| 14. Butterfish Trawl Fishery (Non-FMP) | Trawl. |
| 15. Gulf of Mexico Groundfish (Non-FMP): | |
| A. Commercial fishery | A. Trawl, purse seine, gillnet. |
| B. Recreational fishery | B. Hook and line, rod and reel, spear. |
| 16. Gulf of Mexico Menhaden Purse Seine Fishery (Non-FMP) | Purse seine. |

| Fishery | Authorized gear types |
|---|---|
| 17. Sardine Purse Seine Fishery (Non-FMP) | Purse seine. |
| 18. Oyster Fishery (Non-FMP) | Dredge, tongs. |
| 19. Commercial Fishery (Non-FMP) | Trawl, gillnet, hook and line, longline, handline, rod and reel, bandit gear, cast net, lampara net, spear. |
| 20. Recreational Fishery (Non-FMP) | Bandit gear, handline, rod and reel, spear, bully net, gillnet, dip net, longline, powerhead, seine, slurp gun, trap, trawl, harpoon, cast net, hoop net, hook and line, hand harvest. |
| **V. Caribbean Fishery Management Council** | |
| 1. Caribbean Spiny Lobster Fishery (FMP): | |
| A. Trap/pot fishery | A. Trap/pot. |
| B. Dip net fishery | B. Dip net. |
| C. Entangling net fishery | C. Gillnet, trammel net. |
| D. Hand harvest fishery | D. Hand harvest, snare. |
| E. Recreational fishery | E. Dip net, trap, pot, gillnet, trammel net. |
| 2. Caribbean Shallow Water Reef Fish Fishery (FMP): | |
| A. Longline/hook and line fishery | A. Longline, hook and line. |
| B. Trap/pot fishery | B. Trap, pot. |
| C. Entangling net fishery | C. Gillnet, trammel net. |
| D. Recreational fishery | D. Dip net, handline, rod and reel, slurp gun, spear. |
| 3. Coral and Reef Resources Fishery (FMP): | |
| A. Commercial fishery | A. Dip net, slurp gun. |
| B. Recreational fishery | B. Dip net, slurp gun, hand harvest. |
| 4. Queen Conch Fishery (FMP): | |
| A. Commercial fishery | A. Hand harvest. |
| B. Recreational fishery | B. Hand harvest. |
| 5. Caribbean Pelagics Fishery (Non-FMP): | |
| A. Pelagics drift gillnet fishery | A. Gillnet. |
| B. Pelagics longline/hook and line fishery | B. Longline/hook and line. |
| C. Recreational fishery | C. Spear, handline, longline, rod and reel. |
| 6. Commercial Fishery (Non-FMP) | Trawl, gillnet, hook and line, longline, handline, rod and reel, bandit gear, cast net, spear. |
| 7. Recreational Fishery (Non-FMP) | Rod and reel, hook and line, spear, powerhead, handline, hand harvest, cast net. |
| **VI. Pacific Fishery Management Council** | |
| 1. Washington, Oregon, and California Salmon Fisheries (FMP): | |
| A. Salmon set gillnet fishery | A. Gillnet. |
| B. Salmon hook and line fishery | B. Hook and line. |
| C. Trawl fishery | C. Trawl. |
| D. Recreational fishery | D. Rod and reel. |
| 2. West Coast Groundfish Fisheries (FMP): | |
| A. Pacific groundfish trawl fishery | A. Trawl. |
| B. Set gillnet fishery | B. Gillnet. |
| C. Groundfish longline and setline fishery | C. Longline. |
| D. Groundfish handline and hook and line fishery | D. Handline, hook and line. |
| E. Groundfish pot and trap fishery | E. Pot, trap. |
| F. Recreational fishery | F. Rod and reel, handline, spear, hook and line. |
| 3. Northern Anchovy Fishery (FMP) | Purse seine, lampara net. |
| 4. Angel Shark, White Croaker, California Halibut, White Sea Bass, Pacific Mackerel Large-Mesh Set Net Fishery (Non-FMP). | Gillnet. |
| 5. Thresher Shark and Swordfish Drift Gillnet Fishery (Non-FMP) | Gillnet. |
| 6. Pacific Shrimp and Prawn Fishery (Non-FMP): | |
| A. Pot and trap fishery | A. Pot, trap. |
| B. Trawl fishery | B. Trawl. |
| 7. Lobster and Rock Crab Pot and Trap Fishery (Non-FMP) | Pot, trap. |
| 8. Pacific Halibut Fishery (Non-FMP): | |
| A. Longline and setline fishery | A. Longline. |
| B. Hook-and-line fishery | B. Hook and line. |
| 9. California Halibut Trawl and Trammel Net Fishery | Trawl, trammel net. |
| 10. Shark and Bonito Longline and Setline Fishery (Non-FMP) | Longline. |
| 11. Dungeness Crab Pot and Trap Fishery (Non-FMP) | Pot, trap. |
| 12. Hagfish Pot and Trap Fishery (Non-FMP) | Pot, trap. |
| 13. Pacific Albacore and Other Tuna Hook-and-line Fishery (Non-FMP) | Hook and line. |
| 14. Pacific Swordfish Harpoon Fishery (Non-FMP) | Harpoon. |
| 15. Pacific Scallop Dredge Fishery (Non-FMP) | Dredge. |
| 16. Pacific Yellowfin, Skipjack Tuna, Purse Seine Fishery, (Non-FMP) | Purse seine. |
| 17. Market Squid Fishery (Non-FMP) | Purse seine, dip net. |
| 18. Pacific Sardine, Pacific Mackerel, Pacific Saury, Pacific Bonito, and Jack Mackerel Purse Seine Fishery (Non-FMP). | Purse seine. |
| 19. Finfish and Shellfish Live Trap, Hook-and-line, and Handline Fishery (Non-FMP). | Trap, handline, hook and line. |

| Fishery | Authorized gear types |
|---|---|
| 20. Recreational Fishery (Non-FMP) | Spear, trap, handline, pot, hook and line, rod and reel, hand harvest. |
| 21. Commercial Fishery (Non-FMP) | Trawl, gillnet, hook and line, longline, handline, rod and reel, bandit gear, cast net, spear. |
| **VII. North Pacific Fishery Management Council** | |
| 1. Alaska Scallop Fishery (FMP) | Dredge. |
| 2. Bering Sea (BS) and Aleutian Islands (AI) King and Tanner Crab Fishery (FMP): | |
| Pot fishery | Pot. |
| 3. BS and AI King and Tanner Crab Fishery (Non-FMP): | |
| Recreational fishery | Pot. |
| 4. BS and AI Groundfish Fishery (FMP): | |
| A. Groundfish trawl fishery | A. Trawl. |
| B. Bottomfish hook-and-line, and handline fishery | B. Hook and line, handline. |
| C. Longline fishery | C. Longline. |
| D. BS and AI pot and trap fishery | D. Pot, trap. |
| 5. BS and AI Groundfish Recreational Fishery (Non-FMP) | Handline, rod and reel, hook and line, pot, trap. |
| 6. Gulf of Alaska (GOA) Groundfish Fishery (FMP): | |
| A. Groundfish trawl fishery | A. Trawl. |
| B. Bottomfish hook-and-line and handline fishery | B. Hook and line, handline. |
| C. Longline fishery | C. Longline. |
| D. GOA pot and trap fishery | D. Pot, trap. |
| E. Recreational fishery | E. Handline, rod and reel, hook and line, pot, trap. |
| 7. Pacific Halibut Fishery (Non-FMP): | |
| Hook-and-line, Jig, and Troll Fishery | Hook and line. |
| 8. Alaska High Seas Salmon Hook and Line Fishery (FMP) | Hook and line. |
| 9. Alaska Salmon Fishery (Non-FMP): | |
| A. Hook-and-line fishery | A. Hook and line. |
| B. Gillnet fishery | B. Gillnet. |
| C. Purse seine fishery | C. Purse seine. |
| D. Recreational fishery | D. Handline, rod and reel, hook and line. |
| 10. Finfish Purse Seine Fishery (Non-FMP) | Purse seine. |
| 11. Octopus/Squid Longline Fishery (Non-FMP) | Longline. |
| 12. Finfish Handline and Hook-and-line Fishery (Non-FMP) | Handline, hook and line. |
| 13. Recreational Fishery (Non-FMP) | Handline, rod and reel, hook line. |
| 14. Commercial Fishery (Non-FMP) | Trawl, gillnet, hook and line, longline, handline, rod and reel, bandit gear, cast net, spear. |
| **VIII. Western Pacific Fishery Management Council** | |
| 1. Western Pacific Crustacean Fishery (FMP) | Trap, hand harvest, hoop net. |
| 2. Western Pacific Crustacean Fishery (Non-FMP): | |
| A. Commercial fishery | A. Gillnet, hand harvest, hoop net, spear, snare, trap, trawl. |
| B. Recreational fishery | B. Gillnet, hand harvest, hoop net, spear, snare, trap. |
| C. Charter fishery | C. Hand harvest, spear. |
| 3. Western Pacific Precious Corals Fishery (FMP): | |
| A. Tangle net dredge fishery | A. Tangle net dredge. |
| B. Submersible fishery | B. Submersible. |
| C. Dive fishery | C. Hand harvest. |
| D. Recreational fishery | D. Hand harvest. |
| 4. Western Pacific Precious Corals Fishery (Non-FMP) | Hand harvest, submersible, tangle net dredge. |
| 5. Western Pacific Bottomfish and Seamount Groundfish Fishery (FMP): | |
| A. Bottomfish hook-and-line fishery | A. Bandit gear, buoy gear, handline, hook and line, rod and reel, hand harvest. |
| B. Seamount groundfish fishery | B. Longline, trawl. |
| C. Bottom longline fishery | C. Longline, hook and line. |
| D. Trap fishery | D. Trap. |
| E. Spear fishery | E. Spear, powerhead. |
| 6. Western Pacific Bottomfish and Seamount Groundfish Fishery (Non-FMP): | |
| A. Commercial fishery | A. Bandit gear, buoy gear, gillnet, handline, hook-and-line, longline, rod and reel, spear, trap. |
| B. Recreational fishery | B. Bandit gear, buoy gear, Gillnet, handline, hook and line, longline, rod and reel, spear, trap, slurp gun, hand harvest. |
| C. Charter fishery | C. Bandit gear, buoy gear, handline, hook-and-line, rod and reel, spear. |
| 7. Western Pacific Pelagics Fishery (FMP): | |
| A. Longline Fisher | A. Longline. |
| B. Hook and line fishery | B. Bandit gear, buoy gear, handline, hook and line, rod and reel. |
| C. Purse seine fishery | C. Lampara net, purse seine. |
| D. Spear fishery | D. Spear, powerhead. |

| Fishery | Authorized gear types |
|---|---|
| 8. Western Pacific Pelagics Fishery (Non-FMP): | |
| A. Recreational fishery | A. Bandit gear, buoy gear, dip net, handline, hook and line, hoop net, powerhead, rod and real, spear. |
| B. Commercial fishery | B. Bandit gear, buoy gear, dip net, handline, hook and line, hoop net, powerhead, rod and reel, spear. |
| C. Charter fishery | C. Bandit gear, buoy gear, dip net, handline, hook and line, hoop net, powerhead, rod and reel, spear. |
| 9. Western Pacific Coastal Pelagics Fishery (Non-FMP) | Bandit gear, buoy gear, dip net, gillnet, handline, hook and line, hoop net, lampara net, purse seine, rod and reel, spear. |
| 10. Western Pacific Squid and Octopus Fishery (Non-FMP) | Bandit gear, hand harvest, hook and line, rod and reel, spear, trap. |
| 11. Western Pacific Coral Reef Fishery (Non-FMP) | Allowable chemical, barrier net, dip net, gillnet, hand harvest, seine, slurp gun, trap, spear, rod and reel, hook and line. |
| 12. Recreational Fishery (Non-FMP) | Rod and reel, hook and line, handline, hand harvest, spear. |
| 13. Commercial Fishery (Non-FMP) | Trawl, gillnet, hook and line, longline, handline, rod and reel, bandit gear, cast net, spear. |
| **IX. Secretary of Commerce** | |
| 1. Atlantic Tunas, Swordfish, and Sharks Fisheries (FMP): | |
| A. Swordfish handgear fishery | A. Rod and reel, harpoon, handline, bandit gear. |
| B. Pelagic longline fishery | B. Longline. |
| C. Shark drift gillnet fishery | C. Gillnet. |
| D. Shark bottom longline fishery | D. Longline. |
| E. Shark handgear fishery | E. Rod and reel, handline, bandit gear. |
| F. Tuna purse seine fishery | F. Purse seine. |
| G. Tuna recreational fishery | G. Rod and reel, handline. |
| H. Tuna handgear fishery | H. Rod and reel, harpoon, handline, bandit gear. |
| I. Tuna harpoon fishery | I. Harpoon. |
| 2. Atlantic Billfish Fishery (FMP): | |
| Recreational fishery | Rod and reel. |
| 3. Commercial Fisheries (Non-FMP) | Rod and reel, handline, longline, gillnet, harpoon, bandit gear, purse seine |

[FR Doc. 99–31227 Filed 11–29–99; 3:33 pm]

**BILLING CODE 3510–22–P**

# Proposed Rules

Federal Register
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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 99–AWA–3]**

**RIN: 2120–AA66**

## Proposed Revocation of the Sacramento McClellan Air Force Base (AFB) Class C Airspace Area, Establishment of the Sacramento McClellan AFB Class E Surface Area; and Modification of the Sacramento International Airport Class C Airspace Area; CA

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to revoke the Sacramento McClellan AFB, CA, Class C airspace area, establish a Class E surface area at Sacramento McClellan AFB, and modify the Sacramento International Airport, CA, Class C airspace area. Specifically, the FAA is proposing to revoke the Sacramento McClellan AFB Class C airspace area due to a reduction in the number of air traffic operations at McClellan AFB. The FAA also proposes to establish a Class E surface area that would replace the existing Class C airspace and provide controlled airspace for the protection of instrument approach operations to McClellan AFB. In addition, this notice proposes to modify the Sacramento International Airport Class C airspace area to provide additional airspace for the management of aircraft operations to and from the Sacramento International Airport. The FAA is proposing these changes to enhance safety, reduce the risk of midair collision, and improve the management of air traffic operations in the Sacramento terminal airspace area.

**DATES:** Comments must be received on or before January 17, 2000.

**ADDRESSES:** Send comments on the proposal in triplicate to the FAA, Office of Chief Counsel, Attention: Rules Docket, AGC–200, Airspace Docket No. 99–AWA–3, 800 Independence Avenue, SW., Room 915, Washington, DC 20591. The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 915, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

An informal docket may also be examined during normal business hours at the FAA Western-Pacific Regional Office, AWP–500, 1500 Aviation Boulevard, Lawndale, CA 90261.

**FOR FURTHER INFORMATION CONTACT:** Ken McElroy, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, FAA, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket 99–AWA–3.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

### Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of Air Traffic Airspace Management, Attention: Airspace and Rules Division, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA, Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

### Related Rulemaking

On December 17, 1991, the FAA published the Airspace Reclassification Final Rule (56 FR 65638). This rule, in part, discontinued the use of the term ''Airport Radar Service Area (ARSA)'' and replaced it with the designation ''Class C airspace area.'' This change in terminology is reflected in the remainder of this NPRM.

### History

On April 22, l982, the National Airspace Review (NAR) plan was published in the **Federal Register** (47 FR 17448). The plan encompassed a review of airspace use and procedural aspects of the Air Traffic Control (ATC) system. Among the main objectives of the NAR was the improvement of the ATC system by increasing efficiency and reducing complexity. In its review of terminal airspace, NAR Task Group 1–2 concluded that Terminal Radar Service Areas (TRSA's) should be replaced. Four types of airspace configurations were considered as replacement candidates, and Model B, the ARSA configuration, was recommended by a consensus of the task group.

The FAA published NAR Recommendation 1–2.2.1, ''Replace Terminal Radar Service Areas with Model B Airspace and Service'' in Notice 83–9 (48 FR 34286; July 28, 1983) proposing the establishment of ARSA's at the Robert Mueller Municipal Airport, Austin, TX, and the Port of Columbus International Airport, Columbus, OH. ARSA's were designated at these airports on a temporary basis by

SFAR No. 45 (48 FR 50038; October 28, 1983) to provide an operational confirmation of the ARSA concept for potential application on a national basis.

Following a confirmation period of more than a year, the FAA adopted the NAR recommendation and, on March 6, 1985, the FAA published a final rule in the **Federal Register** (50 FR 9252) that defines Class C airspace, and prescribes operating rules for aircraft, ultralight vehicles, and parachute jump operations in Class C airspace areas. The final rule provides, in part, that all aircraft arriving at any airport in Class C airspace or flying through Class C airspace must: (1) Prior to entering the Class C airspace, establish two-way radio communications with the ATC facility having jurisdiction over the area; and (2) While in Class C airspace, maintain two-way radio communications with that ATC facility. For aircraft departing from the primary airport within Class C airspace, or a satellite airport with an operating control tower, two-way radio communications must be established and maintained with the control tower and thereafter as instructed by ATC while operating in Class C airspace. For aircraft departing a satellite airport without an operating control tower and within Class C airspace, two-way radio communications must be established with the ATC facility having jurisdiction over the area as soon as practicable after takeoff and thereafter maintained while operating within the Class C airspace area.

Concurrently, on March 6, 1985, by separate rulemaking action, ARSA's were permanently established at the Austin, TX, Columbus, OH, and the Baltimore/Washington International Airports (50 FR 9250). The FAA stated that future notices would propose ARSA's for other airports at which TRSA procedures were in effect.

Additionally, the NAR Task Group recommended that the FAA develop quantitative criteria for proposing to establish ARSA's at locations other than those which were included in the TRSA replacement program. The task group recommended that these criteria include, among other things, traffic mix, flow and density, airport configuration, geographical features, collision risk assessment, and ATC capabilities to provide service to users. These criteria have been developed and are being published via the directives system (Order 7400.2, Procedures for Handling Airspace Matters.

The NAR Task Group also recommended that each ARSA be of the same airspace configuration insofar as is practicable. The FAA adopted this recommendation. The standard ARSA consists of airspace within 5 nautical miles (NM) of the primary airport, extending from the surface to an altitude of 4,000 feet above airport elevation (AAE), and that airspace between 5 and 10 NM from the primary airport from 1,200 feet above ground level to an altitude of 4,000 feet AEE. Proposed deviations from this standard have been necessary at some airports because of adjacent regulatory airspace, international boundaries, topography, or unusual operational requirements.

**Pre-NPRM Public Input**

As announced in the **Federal Register** on October 13, 1998 (63 FR 54637) a pre-NPRM meeting was held on November 17, 1998, at Sacramento McClellan AFB, CA. The purpose of this meeting was to provide airspace users with an opportunity to present input on the FAA's planned modification to the Sacramento, CA, terminal airspace area. Those attending the meeting expressed general support for the planned modification. In the ensuing comment period, which closed on December 31, 1998, the FAA received no comments, either verbal or written, that objected to or opposed the proposed action.

**The Proposal**

The FAA is proposing to amend part 71 of the Code of Federal Regulations (14 CFR part 71) to revoke the Sacramento McClellan AFB Class C airspace area and establish a Class E surface area at Sacramento McClellan AFB. The FAA is proposing this action because the number of air traffic operations at McClellan AFB have decreased significantly as a result of the permanent closure of the airport traffic control tower (ATCT). The United States Air Force closed McClellan AFB tower on October 1, 1998 as part of its Base Realignment and Closing process. McClellan AFB is scheduled to be completely closed July 2001. Recent air traffic statistics clearly show that air traffic operations into McClellan AFB do not justify retention of the Class C airspace designation. These remaining operations are expected to further decline with the complete closure of McClellan. Thus, the FAA is proposing to replace the Sacramento McClellan AFB Class C airspace area with a Class E surface area to provide controlled airspace for the protection of instrument approach operations to McClellan AFB.

This notice also proposes to modify the current Sacramento International Airport Class C airspace area by expanding its eastern boundary. This proposed modification would ensure that the airspace overlying the Rio Linda airport, located in the revoked McClellan AFB Class C airspace area, retains Class C airspace protection. This is necessary to maintain the safety level previously afforded by part of the McClellan Class C airspace area.

The coordinates for this airspace docket are based on North American Datum 83. Class C and Class E airspace designations are published, respectively, in paragraphs 4000 and 6002 of FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class C and E airspace designations listed in this document would be published subsequently in the Order.

**Regulatory Evaluation Summary**

Changes to Federal Regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act requires agencies to analyze the economic effect of regulatory changes on small businesses and other small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this proposed rule: (1) Would generate benefits that justify its minimal costs and is not a ''significant regulatory action'' as defined in the Executive Order; (2) Is not significant as defined in the Department of Transportation's Regulatory Policies and Procedures; (3) Would not have a significant impact on a substantial number of small entities; (4) Would not constitute a barrier to international trade; and (5) Would not contain any Federal intergovernmental or private sector mandate. These analyses are summarized here in the preamble, and the full Regulatory Evaluation is in the docket.

The proposed rule would revoke the Class C airspace area at Sacramento McClellan AFB, establish a Class E surface area at McClellan AFB, and modify the existing Class C airspace area at Sacramento International Airport. The Sacramento International Airport Class C airspace area would be modified by expanding its boundary to the east. This modification is necessary to retain Class C airspace protection overlying the Rio Linda airport located in the revoked McClellan AFB Class C airspace area.

The FAA has determined that the modification of the Sacramento terminal area would result in negligible costs to the agency and no additional costs to airspace users. The proposed rule would impose a one-time cost of approximately $200 on the agency in order to inform pilots of the airspace changes. Changes to sectional charts would occur during the chart cycle and would cause no additional costs beyond the normal update of the charts. Any additional FAA administrative demands (personnel, equipment, and facilities) generated by this action would be absorbed by existing resources. Aircraft owners and operators would not incur costs for additional equipment because they are already operating in Class C airspace area at Sacramento International Airport and at McClellan AFB.

The modification of the Sacramento terminal area would enhance operational efficiency while maintaining aviation safety. The revocation of the McClellan Class C airspace area would allow visual flight rule users additional airspace in which to transition to and from satellite airports and around the proposed Sacramento Class C airspace area. The FAA contends that the proposed rule would reduce circumnavigation cost for some general aviation (GA) operators and improve the flow of air traffic operations into, out of, and through the Sacramento terminal area. As a result of the negligible costs and safety and efficiency benefits, the FAA has determined that the proposed rule would be cost-beneficial.

**Initial Regulatory Flexibility Determination**

The Regulatory Flexibility Act of 1980 (the ACT) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principal, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rational for their actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis (RFA) as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 act provides that the head of the agency may so certify and an RFA is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This proposed rule is not expected to have a significant impact on commercial and GA operators who presently use the Sacramento International Airport and are already equipped to operate within the proposed Sacramento Class C airspace area. As for aircraft that regularly fly through the existing McClellan AFB terminal area, the revocation of the Class C airspace area and establishment of a Class E surface area would not impose any additional equipment or navigational costs on these operators. Therefore, there would be no additional cost to these entities.

Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the FAA certifies that this rule would not have a significant economic impact on a substantial number of small entities. The FAA solicits comments from affected entities with respect to this finding and determination.

**International Trade Impact Assessment**

The proposed rule would not constitute a barrier to international trade, including the export of U.S. goods and services to foreign countries or the import of foreign goods and services into the United States.

**Unfunded Mandates Assessment**

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure of $100 million or more (when adjusted annually for inflation) in any one year by State, local, and tribal governments in the aggregate, or by the private sector. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed ''significant intergovernmental mandate.'' A ''significant intergovernmental mandate'' under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon State, local, and tribal governments in the aggregate of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that, before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan, which, among other things, must provide for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity for these small governments to provide input in the development of regulatory proposals.

This proposed rule does not contain any Federal intergovernmental or private sector mandates. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

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

Airspace, Incorporation by reference, Navigation (air).

**The Proposed Amendment**

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

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

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

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

**§ 71.1 [Amended]**

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

*Paragraph 4000–Subpart C—Class C Airspace.*

* * * * *

**AWP CA C Sacramento, McClellan AFB, CA [Removed]**

* * * * *

**AWP CA C Sacramento International Airport, CA [Revised]**

Sacramento International Airport, CA
(Lat. 38°41′44″ N., long. 121°35′27″ W.)
Riego Flight Strip
(Lat. 38°45′15″ N., long. 121°33′47″ W.)
Natomas Field

(Lat. 38°38′18″ N., long. 121°30′55″ W.)

That airspace extending upward from the surface to and including 4,100 feet MSL within a 5-mile radius of the Sacramento International Airport, excluding that airspace within a 2-mile radius of Riego Flight Strip, and that airspace within a 2-mile radius of Natomas Field, and that airspace east of the 002( bearing from Natomas Field; and that airspace extending upward from 1,600 feet MSL to 4,100 feet MSL within a 10-mile radius of Sacramento International Airport.

* * * * *

*Paragraph 6002—Class E Airspace Designated as Surface Areas.*

* * * * *

**AWP CA E2 Sacramento, McClellan AFB, CA [New]**

Sacramento, McClellan AFB, CA
(Lat. 38°40′04″ N., long. 121°24′02″ W.)

That airspace extending upward from the surface within a 4.5-mile radius of McClellan AFB excluding that airspace within the Sacramento International Airport Class C surface area.

* * * * *

Issued in Washington, DC on November 23, 1999.

**Reginald C. Matthews,**

*Manager, Airspace and Rules Division.*

[FR Doc. 99–31283 Filed 12–1–99; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 3

**RIN 2900–AJ44**

### Well-grounded Claims

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) is proposing to amend its adjudication regulations concerning a claimant's statutory responsibility to support his or her claim with adequate evidence to make the claim ''well grounded.'' The proposed rule also addresses VA's duty to help claimants who have filed well-grounded claims obtain evidence pertinent to their claims. The intended effect of this amendment is to establish clear guidelines regarding the types of evidence that make a claim well grounded; VA's duty to help claimants obtain evidence; and exceptions to the well-grounded claim requirement.

**DATES:** Comments must be received on or before January 31, 2000.

**ADDRESSES:** Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to ''RIN 2900–AJ44.'' All written comments received will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

**FOR FURTHER INFORMATION CONTACT:** Janice Jacobs, Consultant, Policy and Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, telephone (202) 273–7223.

**SUPPLEMENTARY INFORMATION:** Section 5107(a) of title 38, United States Code, states that, except when otherwise provided by the Secretary, a person who submits a claim for benefits under a law administered by VA shall have the burden of submitting evidence sufficient to justify a belief by a fair and impartial individual that the claim is well grounded. Section 5107(a) further requires the Secretary of Veterans Affairs to assist ''such a claimant'' in developing the facts pertinent to the claim. Both the United States Court of Appeals for Veterans Claims (CAVC) and the United States Court of Appeals for the Federal Circuit (Federal Circuit) have construed this statutory language as requiring a claimant to submit a well-grounded claim before VA has a duty to help him or her obtain any additional evidence it needs to decide the claim on its merits.

Although VA has not defined the term ''well grounded,'' CAVC and the Federal Circuit have issued a number of decisions defining that term. A well-grounded claim is ''a plausible claim, one which is meritorious on its own or capable of substantiation. Such a claim need not be conclusive but only possible to satisfy the initial burden of [5107(a)].'' *Murphy* v. *Derwinski*, 1 Vet. App. 78, 81 (1990). The Federal Circuit has affirmed CAVC decisions holding that VA's statutory duty to assist attaches only after a claimant submits a well-grounded claim. *Epps* v. *Gober*, 126 F.3d 1464, 1468–69 (Fed. Cir. 1997), *cert. denied sub. nom. Epps* v. *West*, ____ U.S. ____, 118 S.Ct. 2348 (1998). In *Morton* v. *West*, 12 Vet. App. 477, 486 (1999), the CAVC held that VA has no authority to issue regulations inconsistent with the statutory requirement that claimants submit enough evidence to well ground their claims before VA is required to assist in developing the claims. The *Morton* decision, in effect, invalidated any internal VA directives or procedures which purport to volunteer VA assistance in all claims, even if they are not well grounded, by holding that such directives or procedures are inconsistent with section 5107(a).

In a number of cases, both the Board of Veterans' Appeals (BVA) and CAVC have found that claims developed and adjudicated at VA's regional offices were not well grounded. The Veterans' Claims Adjudication Commission, established under Public Law 103–446, questioned the prudence of investing time and resources in developing claims that are not well grounded. Furthermore, the CAVC has noted that if the Secretary, as a matter of policy, volunteers assistance to establish well groundedness, grave questions of due process can arise if there is apparent disparate treatment among claimants in this regard. See *Grivois* v. *Brown*, 6 Vet. App. 136 (1994).

Recognizing the need for clear guidelines that can be consistently applied both on well-grounded claims and VA's duty to assist, VA published an advance notice of proposed rulemaking in the **Federal Register** on October 30, 1998 (63 FR 58336). This notice invited comments on the proposed policy and procedures VA should adopt with respect to these issues. We received comments from the American Legion (AL); Disabled American Veterans (DAV); the State of Florida Department of Veterans Affairs (FDVA); joint comment from AMVETS, the National Organization of Veterans Advocates (NOVA), and the Paralyzed Veterans of America (PVA); Vietnam Veterans of America (VVA); and three concerned individuals.

**Need to Write Regulations**

Several commenters, maintaining that the courts have misconstrued section 5107(a) by holding that a well-grounded claim is a prerequisite to VA's duty to assist claimants in developing evidence, stated that VA should not undertake rulemaking on these issues and thereby ingrain the error of the courts in its regulations. VA does not agree that the courts have misconstrued section 5107(a) in this respect. Moreover, VA is bound by the precedent decisions of the courts and their interpretations of statutes. We are, therefore, proposing to revise the regulations to incorporate the courts' interpretation of section 5107(a).

Another commenter stated that there is no need for VA to undertake rulemaking on this issue because it already has binding rules in its Adjudication Procedures Manual, M21–1; in agency circulars; in precedential general counsel opinions; in agency

guides; and in agency transmittal sheets. However, the *Morton* decision expressly concluded that provisions that volunteer VA assistance in all claims even if they are not well grounded, conflict with the statute and therefore create no enforceable rights for claimants. Although section 5107(a) allows the Secretary to establish exceptions, those exceptions must be established by regulation and must be consistent with the statute; it is, therefore, necessary for VA to undertake rulemaking on this issue. Provisions in VA manuals or other internal documents that are inconsistent with section 5107(a) will be revised or eliminated as necessary.

**Definition of a Well-Grounded Claim**

One commenter suggested that we define a well-grounded claim as one accompanied by ''sufficient supporting evidence'' to establish the possibility of entitlement. While VA agrees in principle with this concept, in our view the ''sufficient supporting evidence'' language is too vague for practical implementation.

A person submitting a claim for benefits under this part must submit sufficient evidence to justify a belief by a fair and impartial individual that the claim is well grounded. 38 U.S.C. 5107. The legislative history of 38 U.S.C. 5107 indicates that Congress intended that ''the claimant would have the burden of adducing some evidence on each element necessary to warrant the granting of the benefit at issue.'' S.Rep. No. 418, 100th Cong., 2d Sess. 32 (1988). Consistent with the legislative history, we propose to define a well-grounded claim as one for which there is some competent evidence with respect to each element necessary to establish entitlement to the particular benefit sought. We believe that it is reasonable to require a claimant to show the possibility that he or she meets a benefit's eligibility requirements before the government commits its limited resources to the time and expense of developing further evidence.

Although the criteria for entitlement to the various benefits administered by VA differ depending upon the benefit sought, the proposed general definition of a well-grounded claim is simple and flexible enough to provide a workable standard for determining whether evidence well grounds a claim. Furthermore, a simple and clear definition will not only help claimants understand what they have to submit to show they may be qualified for the benefits sought, but it will promote consistent treatment of claims by all VA decision makers.

Certain statutory and regulatory presumptions relieve claimants of having to present evidence on one or more of the elements, usually the nexus requirement, necessary to well ground a claim by presuming the establishment of those elements. To establish a well-grounded claim for any such benefit, the claimant must submit some evidence on each of the other remaining elements necessary to establish entitlement to the benefit under the applicable statute or regulation.

**Claimant's Obligations and Evidentiary Requirements**

One commenter suggested that the rule should state the specific types of evidence a claimant must submit to well ground a claim. We agree and propose to include in the rule examples addressing the types of evidence needed to well ground claims for the most commonly claimed benefits. Another commenter stated that requiring a claimant to establish a well-grounded claim is essentially requiring the claimant to prove entitlement on the merits. We do not agree. While evidence that is sufficient to grant a claim on its merits is unquestionably sufficient to well ground the claim, the well-grounded requirement is a minimal threshold, requiring only enough evidence to show that a claim is plausible.

The claimant's responsibility is to submit enough evidence to justify a belief that he or she plausibly meets the eligibility requirements for the specific benefit sought. While the requirements, and therefore the nature of the evidence, will vary depending on the benefit sought, we are proposing that the claimant must, at a minimum, establish the possibility of entitlement through competent lay or medical evidence.

We propose to state that medical evidence is competent when it is offered by a person who, through education, is qualified to offer a medical opinion on a matter requiring medical expertise. We are not proposing that a medical opinion, to be competent, must in all cases be rendered by an individual who is licensed as an ''M.D.'' or who is board certified in a particular field. We propose to state that lay evidence is competent when it is offered by a person who has first-hand knowledge of facts or circumstances and relates matters that can be observed and described by a lay person. A lay person is not qualified to offer medical opinions or to diagnose a medical condition. For purposes of well grounding a claim, competent lay and medical evidence would be accepted as credible unless it is incredible on its face or beyond the expertise of the person making the statement. See *Robinette* v. *Brown*, 8 Vet. App. 69, 75–76 (1995), quoting *King* v. *Brown*, 5 Vet. App.19, 21 (1993).

In our view, it would not be feasible to state specific standards for each type of VA benefit in light of the variety of benefits available. However, it is important to establish a workable general definition of a well-grounded claim which can be applied to a claim for any benefit. In this regard, we propose to state that a claim is well grounded if the claimant has submitted some competent evidence with respect to each element necessary to establish entitlement to the particular benefit sought.

We propose to define more specifically the elements that evidence must address in order to well ground claims for service-connected disability compensation, nonservice-connected disability pension (pension), and claims for increased compensation for a service-connected disability because they are the types of benefits for which we receive the most claims.

**Well-Grounded Claim for Service-Connected Disability Compensation**

We propose to state that to well ground a claim for service connected disability compensation the claimant must submit (1) competent medical evidence of a current disability; (2) competent lay or medical evidence that a disease or injury was incurred in or aggravated by service; and (3) competent medical evidence showing a nexus or relationship between the in-service disease or injury and the current disability. See *Caluza* v. *Brown*, 7 Vet. App. 498 (1995), aff'd 78 F.3d 604 (Fed. Cir.1996) (per curiam). Medical evidence is required to establish the first element, that the veteran have a current disability, because the determinative issue involves a medical diagnosis and lay testimony is not competent evidence on this issue. *Heuer* v. *Brown*, 7 Vet. App. 379, 384 (1995); *Grottveit* v. *Brown*, 5 Vet. App. 91, 93 (1995).

The second element, in-service incurrence or aggravation, may be established by either medical or lay evidence depending on the facts of the case. Lay evidence would be sufficient where, for instance, it consists of statements by the claimant describing circumstances surrounding an in-service injury which are of a nature that could be observed by a lay person. As previously noted, such lay testimony, for purposes of well grounding a claim, would be accepted as credible on its face. Medical evidence in service medical records, if available, could also

suffice to show that there was inservice diagnosis or treatment of a disability or injury. *Caluza*.

The third requirement, a link or ''nexus'' between the in-service incident and the current disability, requires competent medical evidence. Again, while such medical evidence need not be conclusive, it must indicate the medical plausibility of such a nexus, it must be more than speculative and assert more than a possibility of a link. See *Tirpak* v. *Derwinski*, 2 Vet. App. 609, 611 (1992); *Beausoleil* v. *Brown*, 8 Vet. App. 459, 463 (1996). This evidence may be contained, for example, as a notation in VA outpatient treatment records, in VA or private hospital reports, or in a statement from a private physician.

Alternatively, a claimant can establish service connection for a disability under the chronicity and continuity criteria stated in 38 CFR 3.303(b). The chronicity provision of § 3.303(b) applies where evidence, regardless of its date, shows that the veteran had a chronic condition in service or during an applicable presumption period and has current signs and symptoms which are present manifestations of the same chronic disability. *Savage* v. *Gober*, 10 Vet. App. 488, 495 (1997). The evidence to establish chronicity must be medical unless it relates to a condition for which lay observation is competent. If the chronicity provision does not apply, a claim may also be well grounded under the continuity provision of § 3.303(b) if there is medical evidence of a current disability, competent lay or medical evidence that a condition was noted in service or during any presumption period; competent lay or medical evidence of post-service continuity of symptoms; and competent medical, or in some circumstances lay, evidence of a nexus between the present disability and the post service symptoms. Medical evidence would usually be required to establish a nexus. *Savage*, 10 Vet. App. at 498.

**Well-Grounded Claim for Pension**

We propose to state that to well ground a pension claim, a claimant must submit evidence of (1) qualifying wartime service; (2) income within the statutory requirements of 38 U.S.C. 1521; (3) medical evidence that the claimant has a permanent disability; and (4) competent medical or lay evidence that the claimant is unable to work because of that disability. See *Vargas-Gonzalez* v. *West*, 12 Vet. App. 321 (1999) (stating the requirements for entitlement to pension). Lay evidence, such as a claimant's statement that he or she had war time service, could establish the first element to well ground a claim for pension. The claimant's statement or other evidence of current household income would suffice to meet the second element. The third element, that the claimant has a permanent medical condition(s), would require competent medical evidence. The fourth element, that the claimant is unable to work because of that disability, would require either competent medical evidence or competent lay evidence, such as a statement from the claimant or another individual with first-hand knowledge of that fact.

**Well-Grounded Claim for Increased Compensation**

We propose to state that a claimant's statement that his/her medical condition has worsened is enough to well ground a claim for an increased evaluation of a service connected disability. The courts have held that a claim that a condition has become more severe is well grounded where the condition was previously service connected and rated, and the claimant subsequently asserts that a higher rating is justified due to an increase in severity since the last evaluation. *Proscelle* v. *Derwinski*, 2 Vet. App. 629, 632 (1992); *McCaffrey* v. *Brown*, 6 Vet. App. 377, 381 (1994).

**VA's Duty To Assist**

It is only after a claim for benefits is well grounded that VA's duty arises to assist a claimant in developing additional evidence needed to decide the claim on its merits. 38 U.S.C. 1507; *Epps, supra; Morton, supra.* Because the evidence needed to well ground a claim is minimal, VA often will need additional evidence to decide the merits of the claim.

We propose that when a claim is well grounded, VA will help the claimant obtain the evidence specified in the regulation needed to fully decide the claim on its merits. This evidence may include records from federal, state or local government agencies as well as private medical, employment and other non-government records. To prevent misuse of time and resources, and to expedite an efficient request for such evidence, we propose to require the claimant to (1) identify where any such evidence may be located; (2) specify the approximate time frame covered by the records; and (3) authorize the release of the records in a format acceptable to the person or agency holding them. We also propose that if VA is unable to obtain these records after reasonable effort and after a reasonable period of time, it must notify the claimant of that fact and the reason, if known, as to why the records have not been received. It would also notify the claimant that although VA has a duty to help him or her obtain evidence, the claimant has the ultimate responsibility for producing it, and that unless VA hears from the claimant within 30 days from the date on the notice, VA will proceed to decide the claim on the basis of the evidence of record. VA would not pay any fees required by custodians for furnishing requested records; VA has no statutory authority to do so. This represents no change from the current requirement under 38 CFR 3.159 regarding payment of fees.

As part of its duty to assist, VA would also schedule a VA examination if medical evidence accompanying the claim is not adequate for rating purposes. See 38 CFR 3.326.

**Informing Claimants of Evidence Needed To Well Ground Claims**

Almost all of the commenters urged us to require VA to inform claimants of the evidence they need to submit in order to well ground their claims. We agree it is fair and equitable for VA to do so. Accordingly, when a claimant applies for a VA benefit, but the claim is not well grounded, we propose to require VA to (1) notify the claimant, in writing, of that fact; (2) notify the claimant as to the types of evidence necessary to well ground the claim; and (3) allow the claimant thirty (30) days from the date on the notice to submit it. VA believes it is fair and not unduly burdensome to allow the claimant 30 days in which to furnish evidence sufficient to well ground a claim because the ''threshold of plausibility to make a claim well grounded 'is rather low.' '' *Robinette*, 8 Vet. App. at 76, citing *White* v. *Derwinski*, 1 Vet. App. 519, 521 (1991).

We believe that the ''duty to inform'' proposed here will further the claimant's understanding of his or her responsibility to well ground a claim. This proposed procedure, moreover, should afford the claimant an early determination as to whether the claim is well grounded.

**Initial Claims Processing**

We propose that VA determine whether a claim is well grounded before taking any further action. If a claim is not well grounded upon an initial review, the 30-day time period will permit the claimant an opportunity to gather and submit the limited supporting documentation needed to well ground the claim.

Three commenters suggested that as part of the initial claims processing, VA

should obtain service medical records and VA medical records as well as records from other federal agencies. One commenter stated that VA should distinguish between VA records and non-VA evidence, and require the claimant to submit only non-VA records. Another commenter stressed that VA should require claimants to specifically identify any relevant VA records to include year of treatment and type of records related to the claimed disability. We agree, in part, and propose to authorize VA to request VA medical records which the claimant has identified as relevant to the claim, but only if the claimant has clearly identified the VA facilities and approximate treatment dates for the claimed conditions. We believe it is reasonable to obtain VA treatment records in all claims where the claimant asserts their relevance, because these records are in VA custody, even though they may not be in the custody of the office responsible for deciding the claim. We believe it is reasonable to require claimants to identify the location and approximate dates of VA treatment because it would otherwise be extremely difficult for VA to determine whether a claimant had ever received treatment at any of VA's numerous medical facilities and to identify and locate all records of such treatment.

We also propose to authorize VA to request service medical records in claims for service-connected disability or death where they have not already been associated with the claims file. Service medical records are records of medical treatment during active duty. Since 1992, these records have been routinely sent to VA's Records Management Center (RMC) by the military units at the time of discharge, but were not routinely sent to VA for veterans discharged prior to that date. Existing claims processing procedure already provides for the immediate transmission of these records to a VA Regional Office when it establishes a claims file for a veteran; preventing VA from taking advantage of the availability of these records would serve no purpose but to delay claims processing. In view of the long-standing practice of obtaining service medical records in all cases, we believe it would be in the best interests of claimants, as well as VA and the service departments, if VA were to continue to obtain these records in all cases, rather than requiring claimants to seek to obtain them from the service departments. Further, because service medical records are highly relevant to VA claims, it is preferable for VA to obtain these records to ensure that it has a complete and accurate copy of such records. VA believes that in some cases, service medical records may contain evidence that will well ground certain elements of a claim, e.g., evidence of a current medical condition in the case of clearly permanent conditions, such as missing extremities, or clearly chronic conditions. See *Hampton* v. *Gober*, 10 Vet. App. 481 (1997) (service medical records provided evidence of current knee condition).

Because VA does not have a duty to assist a claimant who has not established a well-grounded claim, we propose that during the 30-day period during which the claimant would be allowed to submit the evidence necessary to well ground the claim, VA would not schedule a VA examination or attempt to obtain any private medical or non-medical records, or other federal or state agency records. Deferring development until the claim is well grounded is consistent with 38 U.S.C. 5107, which states that VA's duty to assist does not arise until that time. Furthermore, it will promote administrative efficiency, by allowing VA to schedule general and special exams at one time after the 30-day period has expired, avoiding the ''piecemeal'' development which delays claims processing and decision making.

We propose that at the end of 30 days, VA will review VA medical records and service medical records together with any evidence the claimant has submitted to determine if a claim is well grounded. If it is not well grounded, VA would deny the claim as not well grounded, notify the claimant which threshold requirements for the benefit have not been met, and advise the claimant of his or her right to appeal the decision.

In cases where a claimant submits an application for benefits that contains multiple claims, some of which are well grounded and others which are not, we propose that VA notify the claimant of the types of evidence necessary to well ground each claim that is not well grounded, and allow the claimant 30 days from the date on the notice in which to submit it. During this 30-day period, VA will request service medical records. It will also request any VA medical records the claimant has identified as relevant to any of the claims, but only if the claimant has clearly identified the VA facilities and approximate dates of treatment for the claimed conditions. VA will not schedule a VA examination on the well grounded claims until the expiration of 30 days. If, after 30 days, VA has not received evidence that well grounds each claim, it will deny the claims that are not well grounded and will help the claimant obtain any additional evidence that it needs to determine entitlement to benefits for the well grounded claims, including the scheduling of a VA exam, if necessary. We believe this policy will allow VA to avoid ''piecemeal'' development and promote administrative efficiency, by allowing it to schedule general and special exams at one time after the 30-day period has expired.

Although we propose to allow a claimant 30 days to submit evidence to well ground his or her claim before VA denies it, 38 U.S.C. 5103 and its implementing regulation, 38 CFR 3.109(a), allow a claimant one year to submit evidence to complete an application for benefits, calculated from the date that VA requests the evidence. In our view, the provisions of § 3.109(a) would apply to evidence that VA advised a claimant is necessary to well ground a claim. In the event that a claimant has difficulty obtaining the evidence needed to well ground his or her claim, or there is a delay in the receipt of VA medical records or service medical records, we propose that VA would review any evidence received after the 30-day period, but within one year of the date the evidence was requested. This review would be conducted even if a prior decision within that one year previously determined that the claim was not well grounded. VA would then determine, based on all the evidence of record, whether the claim is well grounded. If the additional evidence well grounds the claim, VA will proceed to help the claimant by requesting any additional evidence needed to decide the claim on its merits. If the additional evidence does not make the claim well grounded, VA will deny the claim as not well grounded, inform the claimant of which threshold requirements for the benefit have not been met, and advise the claimant of his or her right to appeal the decision.

**Exceptions to the Requirement To File a Well-Grounded Claim**

Section 5107(a) provides that claimants have the burden of submitting evidence sufficient to justify a belief that the claim is well grounded, ''[e]xcept when otherwise provided by the Secretary in accordance with the provisions of this title.'' In *Morton*, the court held that VA manual provisions and other internal documents volunteering VA assistance in all claims, even when they are not well grounded, would be inconsistent with section 5107(a). VA agrees. A regulation offering VA assistance in all cases

would not merely state an exception to the general requirements of section 5107(a), but would, in effect, negate the requirements of section 5107(a).

In authorizing VA to create exceptions to the well-grounded-claim requirements, Congress plainly intended that that requirement would continue to govern most cases, and that any exceptions would be reasonably based on special circumstances. Accordingly, we have concluded that any exceptions to the well-grounded-claim requirement must be narrow, reasonably based, and not inconsistent with any statutory provision. We propose to create five exceptions to the requirement that anyone seeking VA benefits file a well-grounded claim.

First, we propose to relieve a veteran who files a claim for disability compensation within one year of his or her release from active duty from having to submit a well-grounded claim. The intent of Congress, as reflected throughout Title 38, is to afford recently-released veterans assistance in achieving a rapid social and economic readjustment to civilian life and attaining a higher standard of living for themselves and their dependents. Experience with World War II veterans has shown that it may be very difficult, many years after the fact, for a veteran to establish entitlement to compensation based on disabilities existing at the time of his or her discharge. Development of claims filed within one year of discharge will provide a disability baseline which could be helpful in adjudicating any claims for service connection filed in the future. This procedure would allow VA to compile evidence of veterans' medical conditions at the time of discharge. The one year time period is also consistent with the time period for the manifestation of most of the presumptive chronic disabilities listed in 38 CFR 3.309(a). For these reasons, we believe it is simply good policy to help veterans recently released from active duty to obtain the evidence needed to establish entitlement to disability compensation.

Second, we propose to relieve terminally ill claimants from having to submit a well-grounded claim. For this purpose, we would define a ''terminally ill person'' as one who has a medical condition that, in the opinion of a physician, is incurable, and will likely result in death within one year. VA believes it is reasonable to require some competent medical evidence supporting a claimant's entitlement to this exception because the claimant with a medical prognosis of less than a one year life expectancy is likely to be receiving treatment for the terminal illness and would have readily available medical records. We believe this exception is justified because a terminally ill claimant is likely to be too incapacitated to actively participate in the evidence-gathering process, and it is in his or her best interest for VA to determine as quickly as possible whether he or she is entitled to the claimed benefit. Furthermore, a quick determination of entitlement may be necessary to entitle the claimant to VA medical care. Finally, a quick determination of entitlement in this situation will increase the likelihood that the veteran will have the benefit of VA compensation during his or her lifetime, and in some instances, may forestall the need to apply the limitation on the payment of accrued benefits.

As one commenter noted, claimants who could not afford private medical treatment and have no access to VA medical care may be disadvantaged by a requirement that they submit medical evidence of a current disability or evidence of nexus. We agree. Therefore, as a third exception, we propose to relieve a claimant who submits evidence from a medical provider that he or she has been denied medical treatment within the past 12 months for lack of funds, from the requirement to submit a well-grounded claim.

Fourth, we propose to relieve a veteran who files a claim for service connection for post traumatic stress disorder (PTSD) from submitting a well-grounded claim if he or she submits competent evidence that he or she was engaged in combat with the enemy, and competent medical evidence that he or she is experiencing symptoms of PTSD. Medical evidence of a nexus would not be required for the purposes of well grounding the claim. While the requirement to well ground a claim is a low threshold, we are concerned that veterans who underwent the stress of combat and currently are diagnosed with PTSD not suffer additional stress in attempting to gather evidence during the claims process and should be afforded special assistance in developing the claim prior to it being determined to be well grounded.

Fifth, we propose to relieve a veteran from submitting a well-grounded claim for service connection for PTSD if he or she submits competent evidence that he or she was a victim of sexual assault in service and competent medical evidence that he or she is experiencing symptoms of PTSD. Medical evidence of a nexus would not be required for the purposes of well grounding the claim. Competent evidence would include a lay statement describing the claimed in-service incident of sexual assault. VA is aware that sexual assault in service is often undocumented. It has provided special guidance to its Regional Office personnel on developing the evidence to support such claims. VA believes that veterans who have been traumatized by sexual assault should not suffer additional stress by attempting to gather evidence during the claims process and should be afforded assistance in developing the claim prior to it being determined to be well grounded.

Consistent with these proposed changes, we also propose to revise 38 CFR 3.103 to clarify that VA's duty to assist arises after a claimant submits a well-grounded claim. The adoption of the proposed provision as a final rule would also necessitate corresponding changes in Manual M21–1, including but not limited to Part III paragraphs 1.01(a); 1.03(a); 2.01; 5.19; 5.20; Part VI, paragraphs 1.01(b), 2.08, and 2.10 which relate to VA developing all pertinent facts to well ground a claim; fully developing claims before a decision is made on well groundedness; types of evidence that may serve to establish reasonable probability of a well-grounded claim; and prohibiting the denial of a claim before all efforts to assist have been exhausted.

**Applications**

Claims are initiated by submitting to VA completed application forms. The forms have been approved by OMB (VA form 21–526, OMB Control No. 2900–0001; VA form 21–527, OMB Control No. 2900–0002; VA form 21–534, OMB Control No. 2900–0004; VA form 21–551, OMB Control No. 2900–0027; VA Form 21–0304, OMB Control No. 2900–0572; VA Form 21–4138, OMB Control No. 2900–0075.

**Unfunded Mandates**

The Unfunded Mandates Reform Act requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any given year. This final rule will have no consequential effect on State, local, or tribal governments.

**Executive Order 12866**

This proposed rule has been reviewed by OMB under Executive Order 12866.

**Regulatory Flexibility Act**

The Secretary hereby certifies that the adoption of these amendments will not have a significant economic impact on a substantial number of small entities as

they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The reason for this certification is that these amendments would not directly affect any small entities. Only individuals could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of section 603 and 604.

**Catalog of Federal Domestic Assistance Program Numbers**

The Catalog of Federal Domestic Assistance program numbers are 64.100, 64.101, 64.104, 64.105, 64.106, 64.109, and 64.110.

**List of Subjects in 38 CFR Part 3**

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Veterans, Vietnam.

Approved: November 18, 1999.

**Togo D. West, Jr.,**

*Secretary of Veterans Affairs.*

For the reasons set forth in the preamble, 38 CFR Part 3 is proposed to be amended as follows:

## PART 3—ADJUDICATION

### Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

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

**Authority:** 38 U.S.C. 501(a), unless otherwise noted.

**§ 3.103 [Amended]**

2. In § 3.103, paragraph (a) is amended by adding ''who has filed a well-grounded claim'' immediately after ''to assist a claimant''.

3. Section 3.159 is revised to read as follows:

**§ 3.159 Claimant's responsibility to submit a well-grounded claim and VA's duty to help a claimant obtain evidence.**

(a) *Definitions.* For purposes of this section, the following definitions apply:

(1) *Well-grounded claim* means:

(i) A claim meeting the provisions of paragraphs (b)(2), (b)(3), or (b)(4) of this section; and

(ii) For any benefit under this part for which VA has not established specific criteria for determining whether a claim for that benefit is well grounded, means a claim for which there is some competent evidence with respect to each element necessary to establish entitlement to the particular benefit sought.

(2) *Competent evidence* means evidence offered by an individual who is qualified by training or experience to offer an opinion on a matter. Lay evidence is competent when it is offered by a person who has first-hand knowledge of facts or circumstances and relates matters that can be observed and described by a lay person. Medical evidence is competent when it is offered by a person who, through education, is qualified to offer a medical opinion on a matter requiring medical expertise.

(3) A *terminally ill* person means one who has a medical condition that in the opinion of a physician is incurable, and will likely result in death within twelve months.

(b) *Claimant's responsibility to file a well-grounded claim.* A person claiming VA benefits must submit sufficient evidence to justify a belief by a fair and impartial individual that the claim is well grounded. Evidence does not have to prove entitlement to a benefit in order to well ground a claim, but there must be some competent evidence addressing each element necessary to establish entitlement to the benefit. VA will presume evidence is credible for the purpose of making a claim well grounded unless it is incredible on its face or beyond the expertise of the person making the statement. If a regulatory or statutory presumption relieves a claimant from having to submit evidence on specific elements to establish entitlement to a benefit, the claimant need not submit evidence on those elements to well ground the claim. See, e.g., 38 CFR 3.304(f); 3.309; 3.316; 3.317.

(1) *Exceptions.* VA will help the claimant obtain additional evidence pertinent to the claim even though the claim is not well grounded:

(i) If a claimant files a claim for disability compensation within one year of his or her release from active military, naval, or air service;

(ii) If a claimant submits evidence from a medical provider that he or she has been denied medical treatment within the past 12 months due to lack of funds;

(iii) If a claimant submits competent medical evidence that he or she is terminally ill;

(iv) If a claimant submits competent evidence that he or she was engaged in combat with the enemy, and competent medical evidence that he or she is experiencing symptoms of post traumatic stress disorder; or

(v) If a claimant submits competent evidence that he or she was a victim of sexual assault in service and competent medical evidence that he or she is experiencing symptoms of PTSD.

(2) *Disability compensation.* A claimant may well-ground a claim for disability compensation in one of three ways:

(i) Generally, by submitting competent medical evidence of a current disability; competent medical or, in cases where the condition is observable by a lay person, lay evidence, that a disease or injury was incurred in or aggravated by service or during an applicable presumption period; and, in the case of inservice disease or injury, competent medical evidence indicating that there is a plausible link between the current disability and the inservice disease or injury.

(ii) Where the claimant claims service connection for a chronic disability, by submitting competent medical evidence that he or she currently has a chronic disability; competent medical or where the disability is observable by a lay person, lay evidence that the chronic disability existed in service or during an applicable presumption period; and competent medical evidence that he or she has current signs and symptoms which are manifestations of the same chronic disability. 38 CFR 3.303(b).

(iii) Where the claimant claims service connection for a disability whose symptoms have existed continuously since service, by submitting competent medical or where the disability is observable by a lay person, lay evidence that a disability existed during service or any applicable presumptive period; competent medical or where the disability is observable by a lay person, lay evidence that signs or symptoms of that disability have existed continuously from the time of service to the time the disability was first definitely diagnosed; and competent medical evidence that the claimant currently has the same disability. 38 CFR 3.303(b).

(3) *Increased disability compensation.* A veteran's statement that his or her service-connected disability has worsened is sufficient, on its own, to well ground a claim for increased compensation benefits.

(4) *Disability Pension.* To well ground a claim for nonservice-connected disability pension, a claimant must submit:

(i) Evidence of qualifying wartime service;

(ii) Evidence of income within the statutory requirements of 38 U.S.C. 1521;

(iii) Competent medical evidence that the claimant has a permanent disability; and

(iv) Competent medical or, where the disability is observable by a lay person, lay evidence that the claimant is unable to work because of that disability.

(c) *VA's duty to help claimants obtain evidence.* Upon receipt of any claim, VA will determine whether it is well grounded before taking any further action.

(1) *If a claim is well grounded,* except as otherwise provided in paragraph (c)(3) of this section for certain multiple claims, VA will help the claimant, as specified in this paragraph, obtain additional relevant lay or medical evidence, of which it is reasonably aware, that is needed to establish entitlement to the benefit sought. VA will obtain service medical records in claims for service-connected disability or death. Provided the claimant has provided enough information to identify and locate the evidence including the location and approximate dates and time frame covered by the records, VA will request, directly from the source, relevant existing evidence which is in the custody of military authorities, other Federal agencies, state and local governmental authorities, VA medical facilities, private medical providers, current and former employers, and other non-governmental individuals and entities. If necessary for such record requests, the claimant must authorize the release of records in a form acceptable to the person or agency holding the records. VA will not pay any fees charged for providing the evidence. If VA is unable to obtain any evidence it has requested after reasonable effort and after a reasonable period of time, it will advise the claimant of that fact, and of the reasons why, if known. VA will also advise the claimant that he or she is ultimately responsible for providing the evidence and that unless VA hears from the claimant within 30 days from the date on the notice, VA will proceed to decide the claim on the basis of the evidence of record.

(2) *If a claim is not well grounded,* VA will notify the claimant of the types of evidence necessary to well ground the claim, and allow him or her 30 days from the date on the notice to submit it. During this 30-day period, VA will request service medical records in claims for service-connected disability or death. It will also request VA medical records that the claimant has identified as relevant to the claim, provided the claimant has provided enough information to identify and locate the evidence including the location and approximate dates covered by the records. VA will not schedule a VA examination or request any other evidence during this period. If, after 30 days, VA has not received evidence that well grounds the claim, it will deny the claim as not well grounded.

(3) *If an application for benefits includes multiple claims* with at least one claim that is well grounded and one that is not, VA will notify the claimant of the types of evidence necessary to well ground each claim that is not well grounded, and allow the claimant 30 days from the date on the notice to submit it. During this 30-day period, VA will request service medical records. It will also request any VA medical records the claimant has identified as relevant to the claim(s), but only if the claimant has provided enough information to identify and locate the evidence including the location and approximate dates covered by the records. VA will not request any other evidence or schedule VA examinations for any of the claims during the 30-day period. If, after 30 days, VA has not received evidence that well grounds each claim, it will deny the claims that are not well grounded and will help the claimant obtain any additional evidence as set forth in paragraph (c)(1) of this section that it needs to determine entitlement to the benefits for which he or she has filed well-grounded claims.

(4) *If a claim has been denied as not well grounded,* VA will review any evidence relevant to that claim that it receives within one year from the date of notification to the claimant under paragraph (c)(2) or (c)(3) of this section to determine whether, based on all the evidence of record, the claim is well grounded. See 38 CFR 3.109(a). If the evidence received does not well ground the claim, VA will again deny the claim as not well grounded. If the evidence received well grounds the claim, VA will help the claimant obtain any additional evidence as set forth in paragraph (c)(1) of this section that it needs to determine entitlement to the benefit sought.

(Authority: 38 U.S.C. 5107)

[FR Doc. 99–31076 Filed 12–1–99; 8:45 am]

**BILLING CODE 8320–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[GA–40–9929b; FRL–6472–9]**

### Approval and Promulgation of Revisions to the Georgia State Implementation Plan

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA proposes to approve the State Implementation Plan (SIP) revisions submitted by the State of Georgia on July 10, 1998. These revisions adopt two new rules for reducing nitrogen oxides emissions in the Atlanta ozone nonattainment area: a rule requiring specific gasoline formulation in 25 counties and a rule establishing unit-specific emission limits at certain Georgia Power generating units. The revisions also incorporate federal requirements related to permitting and wood furniture finishing and cleaning operations and make technical corrections to certain air quality rules. In addition, the revisions clarify requirements of Georgia's Clean Fueled Fleets Program. EPA will act on the rule requiring specific gasoline formulation in 25 counties and revisions submitted for regulating air emissions and operating practices of existing hospital/medical/infectious waste incinerators that commenced construction, reconstruction or modification on or before June 20, 1996 in a separate **Federal Register** document at a later date. In the Final Rules section of this **Federal Register**, the EPA is approving the State's SIP revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

**DATES:** Written comments must be received on or before January 3, 2000.

**ADDRESSES:** All comments should be addressed to: Michele Notarianni, Air Planning Branch, Air, Pesticides, and Toxics Management Division, EPA Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303.

Copies of the documents relative to this action are available for inspection at the following locations during normal business hours. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

EPA Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303. (To make an appointment, please contact Michele Notarianni at 404–562–9031.)

Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354.

**FOR FURTHER INFORMATION CONTACT:** Michele Notarianni, Air Planning Branch, Air, Pesticides, and Toxics Management Division, EPA Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303. The telephone number is 404–562–9031.

**SUPPLEMENTARY INFORMATION:** For additional information, see the direct final rule which is published in the Final Rules section of this **Federal Register**.

Dated: October 12, 1999.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 99–29446 Filed 12–1–99; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[RI–028–01–6974b; A–1–FRL–6483–7]**

### Approval and Promulgation of Air Quality Implementation Plans: Rhode Island; VOC Regulations and RACT Determinations

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve several State Implementation Plan (SIP) revisions submitted by the State of Rhode Island. These revisions establish requirements for certain facilities which emit volatile organic compounds (VOCs). In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP revisions as a direct final rule without prior proposal because the Agency anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this proposal. Any parties interested in commenting on this proposal should do so at this time.

**DATES:** Comments must be received on or before January 3, 2000.

**ADDRESSES:** Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA and Division of Air and Hazardous Materials, Department of Environmental Management, 291 Promenade Street, Providence, RI 02908–5767.

**FOR FURTHER INFORMATION CONTACT:** Anne E. Arnold, (617) 918–1047.

**SUPPLEMENTARY INFORMATION:** For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

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

Dated: November 23, 1999.

**John P. DeVillars,**

*Regional Administrator, Region I.*

[FR Doc. 99–31289 Filed 12–1–99; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[DA 99–2422; MM Docket No. 99–326; RM–9755]**

### Radio Broadcasting Services; Bowling Green and Bardstown, KY

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by WRUS, Inc., proposing the substitution of Channel 244C3 for Channel 244A at Bowling Green, Kentucky, and the modification of Station WBVR–FM's license accordingly. To accommodate the upgrade, petitioner also requests the substitution of Channel 244A for Channel 297A at Bardstown, Kentucky, and the modification of Station WOKH(FM)'s license accordingly. Channel 244C3 can be allotted to Bowling Green in compliance with the Commission's minimum distance separation requirements with a site restriction of 15.1 kilometers (9.4 miles) west at petitioner's requested site. The coordinates for Channel 244C3 at Bowling Green are 37–01–33 North Latitude and 86–37–06 West Longitude. *See* Supplementary Information, *infra.*

**DATES:** Comments must be filed on or before December 27, 1999, and reply comments on or before January 11, 2000.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Allan G. Moskowitz, Esq., Kaye, Scholer, Fierman, Hays & Handler, L.L.P., 901 15th Street, NW., Suite 1100, Washington, DC 20005 (Counsel for Petitioner).

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

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–326, adopted October 27, 1999, and released November 5, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Additionally, Channel 297A can be allotted to Bardstown with a site restriction of 11.8 kilometers (7.4 miles) west at petitioner's requested site. The coordinates for Channel 297A at Bardstown are 37–47–00 and 85–35–28 West Longitude. In accordance with Section 1.420(g)(3) of the Commission's Rules, we will not accept competing expressions of interest for the use of Channel 244C3 at Bowling Green, Kentucky, or require petitioner to demonstrate the availability of an equivalent class channel for use by such parties.

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

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

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

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

Radio broadcasting.

Federal Communications Commission.

**John A. Karousos,**

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

[FR Doc. 99–30170 Filed 12–1–99; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 226

**[Docket No. 991116305–9305–01; I.D. No. 110599D]**

**RIN 0648–AL82**

## Designated Critical Habitat: Re-proposed Critical Habitat for Johnson's Seagrass

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

**ACTION:** Proposed rule; notice of hearing; request for comments.

**SUMMARY:** NMFS re-proposes to designate critical habitat for Johnson's seagrass (*Halophila johnsonii*) pursuant to section 4 of the Endangered Species Act (ESA). Johnson's seagrass is found on the east coast of Florida from Sebastian Inlet to central Biscayne Bay. Within this range, 10 areas are proposed for critical habitat: a portion of the Indian River Lagoon, north of the Sebastian Inlet Channel; a portion of the Indian River Lagoon, south of the Sebastian Inlet Channel; a portion of the Indian River Lagoon near the Fort Pierce Inlet; a portion of the Indian River Lagoon, north of the St. Lucie Inlet; a portion of Hobe Sound; a site on the south side of Jupiter Inlet; a site in central Lake Worth Lagoon; a site in Lake Worth Lagoon, Boynton Beach; a site in Lake Wyman, Boca Raton; and a portion of the Biscayne Bay Aquatic Preserve.

The designation of critical habitat provides explicit notice to Federal agencies and the public that these areas and features are vital to the conservation of the species.

**DATES:** Comments on this proposed rule must be received by January 3, 2000. A public hearing on this proposed action is scheduled for Thursday, December 16, 1999, from 7:00 p.m.–9:00 p.m.

**ADDRESSES:** Written comments on this proposed designation of critical habitat should be addressed to Mr. Charles Oravetz, Assistant Regional Administrator, Protected Resources Division, NMFS, Southeast Regional Office, 9721 Executive Center Drive North, St. Petersburg, Florida 33702–2432. Comments may be sent via facsimile (fax) to 727–570–5517. Comments will not be accepted if submitted via e-mail or Internet. A public hearing on this proposal will be held at the South Florida Water Management District auditorium, 3301 Gun Club Road, West Palm Beach, Florida, 33416–4680 (see **DATES**).

**FOR FURTHER INFORMATION CONTACT:** Layne Bolen, Southeast Region, Protected Resources Division, NMFS, 727–570–5312, *layne.bolen@noaa.gov* or Marta Nammack, Office of Protected Resources, NMFS, 301–713–1401, *marta.nammack@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

NMFS published a proposed rule to list Johnson's seagrass as a threatened species on September 15, 1993 (58 FR 48326) and a proposed rule to designate critical habitat on August 4, 1994 (59 FR 39716). A public hearing on both the proposed listing and critical habitat designation was held in Vero Beach, Florida, on September 20, 1994. As a result of public input during the comment period, NMFS postponed further action on listing. NMFS reopened the comment period for the proposed listing on April 20, 1998 (63 FR 19468). In order to update the original status report (Kenworthy, 1993) and to include information from new field and laboratory research on species distribution, ecology, genetics and phylogeny, NMFS convened a workshop on the biology, distribution, and abundance of *H. johnsonii*. The results of this workshop were summarized in the proceedings (Kenworthy, 1997) submitted to NMFS on October 15, 1997. The final rule to list Johnson's seagrass as a threatened species was published by NMFS on September 14, 1998 (63 FR 49035).

On February 23, 1999, NMFS established and convened a recovery team to prepare a recovery plan and develop recommendations for critical habitat for Johnson's seagrass. Based on these recommendations and the best available scientific data on the distribution, ecology and genetics of this species, NMFS has developed a new proposal to designate critical habitat for Johnson's seagrass. A draft recovery plan for Johnson's seagrass is anticipated by January 2000.

The proposed designation identifies those physical and biological features of the habitat that are essential to the conservation of the species and that may require special management consideration or protection. The economic and other impacts resulting from designating critical habitat, over and above those that result from listing the species, are expected to be minimal.

NMFS has completed a conference opinion with the U.S. Army Corps of Engineers (COE) on maintenance dredging which will be used to fulfill the ESA section 7 consultation requirement. NMFS expects that normal maintenance dredging activities and routine operations on ports will not be negatively impacted by this proposed critical habitat designation.

### Critical Habitat

Section 4(a)(3)(A) of the ESA requires that, to the maximum extent prudent and determinable, NMFS designate critical habitat concurrently with a determination that a species is endangered or threatened. NMFS has determined that sufficient information exists to propose designating critical habitat for Johnson's seagrass currently listed as threatened under the ESA. NMFS will consider all available information and data in finalizing this proposal.

The use of the term ''essential habitat'' within this document refers to critical habitat as defined by the ESA and should not be confused with the requirement to describe and identify Essential Fish Habitat pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*

### Definition of Critical Habitat

Critical habitat is defined in section 3(5)(A) of the ESA as ''(i) the specific areas within the geographical area occupied by the species * * * on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species * * * upon a determination by the Secretary of Commerce (Secretary) that such areas are essential for the conservation of the species.'' The term ''conservation'', as defined in section 3(3) of the ESA, means ''* * * to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary.''

In designating critical habitat, NMFS must consider the requirements of the species, including: (1) space for individual and population growth, and for normal behavior; (2) food, water, air,

light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for breeding, reproduction, or rearing of offspring; and, generally, (5) habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of the species (50 CFR 424.12(b)).

In addition, NMFS must focus on and list the known physical and biological features (primary constituent elements) within the designated area(s) that are essential to the conservation of the species and that may require special management considerations or protection. These essential features may include, but are not limited to, food resources, water quality or quantity, and vegetation and sediment types and stability (50 CFR 424.12(b)).

**Consideration of Economic and Other Factors**

The economic, environmental and other impacts of a designation must also be evaluated and considered. NMFS must identify present and future activities that may adversely modify the proposed critical habitat or be affected by a designation. An area may be excluded from a critical habitat designation if NMFS determines that the overall benefits of exclusion outweigh the benefits of designation, unless the exclusion will result in the extinction of the species (16 U.S.C. 1533(b)(2)).

The impacts considered in this analysis are only those incremental impacts that specifically result from designating critical habitat above the economic and other impacts attributable to listing the species or resulting from other authorities. These incremental impacts are expected to be minimal (see Significance of Designating Critical Habitat section). In general, the designation of critical habitat highlights geographical areas of concern and reinforces the substantive protection resulting from the listing itself.

Impacts attributable to listing include those resulting from the ''take'' prohibitions under section 9 of the ESA and associated regulations. The term ''take'', as defined in the ESA, means ''to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.'' (16 U.S.C. 1532(19)). Harm can occur through destruction or modification of habitat (whether or not designated as critical) that significantly impairs essential behaviors, including breeding, feeding, rearing or migration (64 FR 60727; November 8, 1999).

Section 9 of the ESA prohibits certain activities that directly or indirectly affect endangered species. These prohibitions apply to all individuals, organizations, and agencies subject to U.S. jurisdiction. Section 9 prohibitions apply automatically to endangered species; as described here, this is not the case for threatened species. Section 4(d) of the ESA directs the Secretary to implement regulations ''to provide for the conservation of [threatened] species'' that may include extending any or all of the prohibitions of section 9 to threatened species.

Section 9(a)(2)(E) of the ESA also prohibits violations of protective regulations for threatened species of plants implemented under section 4(d). NMFS may issue protective regulations pursuant to section 4(d) for Johnson's seagrass in a future rulemaking.

Impacts attributable to listing also include those resulting from the responsibility of all Federal agencies under section 7 of the ESA to ensure that their actions are not likely to jeopardize endangered or threatened species. An action could be likely to jeopardize the continued existence of a listed species through the destruction or adverse modification of its habitat, whether or not that habitat has been designated as critical.

As indicated above, NMFS has completed a conference opinion with the COE on maintenance dredging. This conference opinion included an analysis of the effects of maintenance dredging on proposed critical habitat. NMFS concluded that normal maintenance dredging activities and routine operations on ports are not likely to destroy or adversely modify proposed critical habitat.

**Significance of Designating Critical Habitat**

The designation of critical habitat does not, in itself, restrict state or private activities within the area or mandate any specific management or recovery actions. A critical habitat designation contributes to species conservation primarily by identifying important areas and describing the features within those areas that are essential to the species, thus alerting public and private entities to the importance of the area. Under the ESA, the only regulatory impact of a critical habitat designation is through the provisions of section 7. Section 7 applies only to actions with Federal involvement (*e.g.*, authorized, funded, or conducted by a Federal agency) and does not affect exclusively state or private activities.

Under the ESA section 7 provisions, a designation of critical habitat would require Federal agencies to ensure that any action they authorize, fund, or carry out is not likely to destroy or adversely modify the designated critical habitat. Activities that destroy or adversely modify critical habitat are defined as those actions that ''appreciably diminish the value of critical habitat for both the survival and recovery'' of the species (50 CFR 402.02). Regardless of a critical habitat designation, Federal agencies must ensure that their actions are not likely to jeopardize the continued existence of the listed species. Activities that jeopardize a species are defined as those actions that ''reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery'' of the species (50 CFR 402.02). Using these definitions, activities that are likely to destroy or adversely modify critical habitat would also be likely to jeopardize the species. Therefore, the protection provided by a critical habitat designation generally duplicates the protection provided under the section 7 jeopardy provision. Critical habitat may provide additional benefits to a species in cases where areas outside of the species' current range have been designated. In these cases, Federal agencies are required to consult with NMFS under section 7 (50 CFR 402.14 (a)), when these designated areas may be affected by their actions. The effects of these actions on designated areas may not have been recognized but for the critical habitat designation.

A designation of critical habitat provides Federal agencies with a clearer indication as to when consultation under section 7 of the ESA is required, particularly in cases where the action would not result in direct mortality, injury, or harm to individuals of a listed species (*e.g.*, an action occurring within the critical habitat area when or where Johnson's seagrass is not present). The critical habitat designation, in describing the essential features of the habitat, also helps determine which activities conducted outside the designated area are subject to ESA section 7 (*i.e.*, activities that may affect essential features of the designated area). For example, disposal of waste material in water adjacent to a critical habitat area may affect an essential feature of the designated habitat (water quality) and would be subject to the provisions of section 7 of the ESA.

A critical habitat designation also assists Federal agencies in planning future actions because the designation establishes, in advance, those habitats that will be given special consideration in ESA section 7 consultations. This is particularly true in cases where there

are alternative areas that would provide for the conservation of the species and the success of the action. With a designation of critical habitat, potential conflicts between Federal actions and endangered or threatened species can be identified and possibly avoided early in the agency's planning process.

Another indirect benefit of designating critical habitat is that it helps focus Federal, state and private conservation and management efforts in those areas. Recovery efforts may address special considerations needed in critical habitat areas, including conservation regulations that restrict private as well as Federal activities. The economic and other impacts of these actions would be considered at the time regulations are proposed, and, therefore, are not considered in the critical habitat designation process. Other Federal, state and local laws or regulations, such as zoning or wetlands protection, may also provide special protection for critical habitat areas.

**Process for Designating Critical Habitat**

Developing a proposed critical habitat designation involves three main considerations. First, the biological needs of the species are evaluated and essential habitat areas and features are identified. If alternative areas exist that would provide for the conservation of the species, such alternatives are also identified. Second, the need for special management considerations or protection of the area(s) or features is evaluated. Finally, the probable economic and other impacts of designating these essential areas as critical habitat are evaluated. After considering the requirements of the species, the need for special management, and the impacts of the designation, a notification of the proposed critical habitat is published in the **Federal Register** for comment. After considering all comments and any new information received on the proposal, the final critical habitat designation is published. Final critical habitat designations may be revised, using the same process, as new data become available.

A description of the critical habitat, need for special management considerations, and impacts of designating critical habitat for Johnson's seagrass and the proposed action, are described in the following sections.

**Critical Habitat of Johnson's Seagrass**

The biology of Johnson's seagrass is discussed in the final rule to list the species as threatened (63 FR 49035, September 14, 1998) and includes information on the current status of the species, its life history characteristics and habitat requirements, as well as projects, activities and other factors affecting the species. The physical habitat that supports Johnson's seagrass includes both shallow intertidal as well as deeper subtidal zones. The species prospers and is able to colonize and maintain stable populations either in water that is clear and deep (2–5 m) or in water that is shallow and turbid. In tidal channels, it inhabits coarse sand substrates.

Based on published reports and discussions with seagrass experts, the distributional range of Johnson's seagrass is limited to the east coast of Florida from central Biscayne Bay (25°45′ N. lat.) to Sebastian Inlet (27°51′ N. lat.). There have been no reports of healthy populations of this species outside the presently known range. Although the species occurs throughout the Indian River Lagoon and Lake Worth, the 10 specific areas proposed for critical habitat encompass the largest known contiguous populations of Johnson's seagrass, those areas known to have persistent populations, those populations known to have persistent flowering, those populations found to have unique genetic variability, and/or populations that include the northern and southern limits of the species' range.

The species is distributed in patches within its range. The dimensions of patches range from a few square centimeters to approximately 327 square meters (sq.m.). The survival of the species likely depends on maintaining its existing viable populations, especially the areas where the larger patches are found. The Sebastian Inlet population is believed to be the northern limit of its distribution and includes flowering patches that have a known persistence of at least 10 years. Ft. Pierce Inlet and Jupiter Inlet are also found to have persistent and flowering populations. The other areas proposed for critical habitat designation represent the core range of the species where Johnson's seagrass is found to be abundant compared to other parts of its range, exhibits unique genetic make-up, or comprises the southern limit of its range. Spread of the species into new areas is limited by its reproductive potential. Johnson's seagrass possesses only female flowers; thus vegetative propagation, most likely through asexual branching, appears to be its only means of reproduction and dispersal. If an established community is disturbed, regrowth and reestablishment are extremely unlikely. If extirpated from an area, it is doubtful that the species would be capable of repopulation. This species' method of reproduction impedes the ability to increase distribution as establishment of new vegetation requires considerable stability in environmental conditions and protection from human-induced disturbances.

Based on the best available information, general physical and biological features of the areas proposed for critical habitat designation include adequate water quality, salinity levels, water transparency, and stable, unconsolidated sediments that are free from physical disturbance. The specific areas occupied by Johnson's seagrass are those with one or more of the following criteria: (1) Locations with populations that have persisted for 10 years; (2) locations with persistent flowering populations; (3) locations at the northern and southern range limits of the species; (4) locations with unique genetic diversity; and (5) locations with a documented high abundance of Johnson's seagrass compared to other areas in the species' range. Explanations for these criteria are:

1. Persistent populations. Surveys of *H. johnsonii* distribution and abundance in the Indian River Lagoon indicate that populations fluctuate dramatically. In some areas populations disappear and re-appear on both intra- and inter-annual time scales (Virnstein *et al.*, 1997). Some populations have disappeared and not returned. Since sexual reproduction and seed dispersal are unknown, this species may rely on vegetative fragmentation for recruitment and establishment of new populations. Recruitment from fragmentation and migration are random processes which do not guarantee the persistence of the species in any one location. Perennial populations which have persisted for 10 years exist in several locations, including Sebastian Inlet, Fort Pierce Inlet, Jupiter Inlet and Hobe Sound. Environmental characteristics of these sites appear favorable to the species, while in other locations in the lagoon, populations have disappeared. Locations where populations have persisted should receive critical habitat consideration.

2. Persistent flowering populations. The existence of male flowers or recruitment by seed have not been documented for *H. johnsonii*. These observations suggest that this species does not reproduce sexually, and if it does, it is a very rare event. Yet, large clones of mature female plants flower prolifically at several locations, including Sebastian Inlet, Fort Pierce Inlet, Jupiter Inlet and Lake Worth Lagoon. The environmental conditions at these sites appears to be suitable for

flowering, and if there are any males present, these would be likely habitats for successful reproduction. Locations where there are persistent flowering populations should receive critical habitat consideration.

3. Northern and southern ranges of the populations. The geographical limits of the distributional range of a species can indicate a reduction or expansion of the species' range. Greater adaptative stresses can occur at the limits of the species' range. If the range extension were shrinking, the edges should be protected to prevent further loss. Second, the distribution limits may be a point where the populations are expanding and invading new environments. The unique phenotypic and genotypic characteristics of these populations could be an important reservoir for characteristics resistant to extinction and conducive to survival and growth. The northern and southern ranges of Johnson's seagrass are defined as Sebastian Inlet and central Biscayne Bay, respectively. These limits to the species' range should receive critical habitat consideration.

4. Populations with unique genetic variability. The Boca Raton and Boynton Beach sites have populations which are distinguished by a higher index of genetic variation than any of the central and northern populations examined to date. These two sites possibly represent a genetically semi-isolated group which could be the reservoir of a large part of the overall genetic variation found in this species. Information is lacking on the geographic extent of this genetic variability. Locations with populations that have unique genetic variability should receive critical habitat consideration.

5. Areas of abundance. The Lake Worth Lagoon and Palm Beach County seagrass populations represent an abundant core of *Halophila* species, including Johnson's seagrass. Previously a freshwater lake, Lake Worth, was transformed into a lagoon beginning in 1877 when an ocean inlet was stabilized. With dredging of the Intracoastal Waterway, shoreline development, and sewage disposal, the lagoon was permanently altered. Presently, there are about 2000 acres of seagrass in the lagoon covering 35 percent of the bottom. It is estimated that between 20 and 25 percent of the seagrass coverage is comprised of mixed assemblages of *H. decipiens* and *H. johnsonii*. This is proportionately more *Halophila* coverage than occurs elsewhere along the southeast coast of Florida. Presently, conditions within Lake Worth Lagoon and in Palm Beach County in general appear to be conducive to the survival of *H. johnsonii*. Locations within Lake Worth and Palm Beach County should be considered as critical habitat.

The area proposed for critical habitat in Lake Worth Lagoon, near Bingham Island, consists of the largest recorded contiguous patch of Johnson's seagrass: a 30-acre meadow of Johnson's seagrass intermixed with sparse coverage of *H. decipiens* and *Halodule wrightii* (Smith and Mezich, 1991 and 1999).

**Need for Special Management Consideration or Protection**

NMFS has determined that the essential areas and features described here are at risk and may require special management consideration or protection. Special management may be required because of the following activities: (1) Vessel traffic and the resulting propeller dredging and anchor mooring; (2) dredging; (3) dock, marina, and bridge construction and shading from these structures; (4) water pollution; and (5) land use practices including shoreline development, agriculture, and aquaculture. Activities associated with recreational boat traffic account for the majority of human use associated with the proposed critical habitat areas. The destruction of the benthic community due to boating activities, propeller dredging, anchor mooring, and dock and marina construction was observed at all sites during a study by NMFS from 1990 to 1992. These activities severely disrupt the benthic habitat, breaching root systems, severing rhizomes, and significantly reducing the viability of the seagrass community. Propeller dredging and anchor mooring in shallow areas are a major disturbance to even the most robust seagrasses. This destruction is expected to worsen with the predicted increase in boating activity. Trampling of seagrass beds, a secondary effect of recreational boating, also disturbs seagrass habitat. Populations of Johnson's seagrass inhabiting shallow water and water close to inlets, where vessel traffic is concentrated, will be most affected.

The constant sedimentation patterns in and around inlets require frequent maintenance dredging, which could either directly remove essential seagrass habitat or indirectly affect it by redistributing sediments, burying plants and destabilizing the bottom structure. Altering benthic topography or burying the plants may remove them from the photic zone.

Permitted dredging of channels, basins, and other in-and on-water construction projects cause loss of Johnson's seagrass and its habitat through direct removal of the plant, fragmentation of habitat, and shading. Docking facilities that, upon meeting certain provisions, are exempt from state permitting also contribute to loss of Johnson's seagrass through construction impacts and shading. Fixed add-ons to exempt docks (such as finger piers, floating docks, or boat lifts) have recently been documented as an additional source of seagrass loss due to shading (Smith and Mezich, 1999).

Decreased water transparency caused by suspended sediments, water color, and chlorophylls could have significant detrimental effects on the distribution and abundance of the deeper water populations of Johnson's seagrass. A distribution survey in Hobe and Jupiter Sounds indicates that the abundance of this seagrass diminishes in the more turbid interior portion of the lagoon where reduced light limits photosynthesis.

Other areas of concern include seagrass beds located in proximity to rivers and canal mouths where low salinity, highly colored water is discharged. Freshwater discharge into areas adjacent to seagrass beds may provoke physiological stress upon the plants by reducing the salinity levels. Additionally, colored waters released into these areas reduce the amount of sunlight available for photosynthesis by rapidly attenuating shorter wavelengths of Photosynthetically Active Radiation.

Also, continuing and increasing degradation of water quality due to increased land use and water management threatens the welfare of seagrass communities. Nutrient over-enrichment caused by inorganic and organic nitrogen and phosphorous loading via urban and agricultural land run-off stimulates increased algal growth that may smother Johnson's seagrass, shade rooted vegetation, and diminish the oxygen content of the water. Low oxygen conditions have a demonstrated negative impact on seagrasses and associated communities.

Special consideration and protection for these and other habitat features are evaluated in the ESA section 7 consultation process. Special management needs and the protection of these habitat features are being addressed in the development and implementation of the recovery plan.

**Activities That May Affect Critical Habitat**

A wide range of activities funded, authorized or carried out by Federal agencies may affect the essential habitat requirements of Johnson's seagrass. These include authorization by the COE for beach nourishment, dredging, and

related activities including construction of docks and marinas; bridge construction projects funded by the Federal Highway Administration; actions by the U.S. Environmental Protection Agency and the COE to manage freshwater discharges into waterways; regulation of vessel traffic by the U.S. Coast Guard; management of national refuges and protected species by the U.S. Fish and Wildlife Service; management of vessel traffic (and other activities) by the U.S. Navy; approval of changes to Florida's coastal zone management plan by NOAA's National Ocean Service, and management of commercial fishing and protected species by NMFS.

**Expected Impacts of Designating Critical Habitat**

This designation will identify specific habitat areas that have been determined to be essential for the conservation of Johnson's seagrass and that may be in need of special management considerations or protection. It will require Federal agencies to evaluate their activities with respect to the critical habitat of this species and to consult with NMFS pursuant to section 7 of the ESA before engaging in any action that may affect the critical habitat.

As discussed in the section on activities that may impact essential habitat and features, the Federal activities that may affect critical habitat are the same activities that may affect the species itself. For plants, this is particularly true when analyzing the impacts of designating critical habitat. For example, the activities that affect water quality, an essential feature of critical habitat, will also be considered in terms of how they affect the species itself.

Should this proposed designation of critical habitat be adopted, Federal agencies will continue to engage in ESA section 7 consultations to determine if the actions they authorize, fund or carry out are likely to jeopardize the continued existence of Johnson's seagrass; however, with designation, they would also need to address explicitly impacts to the species' critical habitat. This is not expected to affect materially the scope of future consultations or result in greater economic impacts, since most impacts to Johnson's seagrass habitat will already be considered in ESA section 7 consultations.

The economic costs to be considered in a critical habitat designation are the incremental costs of designation above the economic impacts attributable to listing or attributable to authorities other than the ESA. NMFS has determined that there are few, if any, incremental net costs for areas within the species' current distribution, and no areas outside the current range are proposed for critical habitat designation.

**Proposed Critical Habitat; Geographic Extent**

Based on available information, NMFS proposes to designate critical habitat that is considered essential for the survival and that may require special management consideration or protection. The critical habitat designation proposed by this rule includes: (1) Locations with populations that have persisted for 10 years; (2) locations with persistent flowering populations; (3) locations at the northern and southern range limits of the species; (4) locations with unique genetic diversity; and (5) core locations with a documented high abundance of Johnson's seagrass compared to other areas in the species' range.

NMFS is not including in the proposed designation any areas outside the species' currently known geographical area. NMFS has concluded that, at this time, proper management of the essential features of the areas around Sebastian and Ft. Pierce Inlet, Hobe Sound, Jupiter Inlet, Lake Worth, Boca Raton, and northern Key Biscayne will be sufficient to provide for the survival and recovery of this species. NMFS may reconsider this evaluation and propose additional areas for critical habitat at any time. Johnson's seagrass occurs in numerous locations throughout its range in areas outside of those currently being proposed for critical habitat. Information on genetic variability and persistence of Johnson's seagrass is currently lacking in these areas. Future research, however, involving genetic studies and comprehensive, long-term field surveys, could identify additional areas that are essential to the conservation of the species and require special management considerations, and would, therefore, warrant designation as critical habitat. Also, if a male flower of Johnson's seagrass is identified in an area, this area should be designated as critical habitat.

The 10 areas proposed for critical habitat designation include:

(1) A portion of the Indian River, Florida, north of Sebastian Inlet Channel, defined by the following coordinates:

Northwest corner: 27°51′15.03″N, 80°27′55.49″W
Northeast corner: 27°51′16.57″N, 80°27′53.05″W
Southwest corner: 27°51′08.85″N, 80°27′50.48″W
Southeast corner: 27°51′11.58″N, 80°27′47.35″W

(2) A portion of the Indian River, Florida, south of the Sebastian Inlet Channel, defined by the following coordinates:

Northwest corner: 27°51′01.32″N, 80°27′46.10″W
Northeast corner: 27°51′02.69″N, 80°27′45.27″W
Southwest corner: 27°50′59.08″N, 80°27′41.84″W
Southeast corner: 27°51′01.07″N, 80°27′40.50″W

(3) A portion of the Indian River Lagoon in the vicinity of the Fort Pierce Inlet. This site is located on the north side of the entrance channel just west of a small mangrove vegetated island where the main entrance channel bifurcates to the north. The area is defined by the following coordinates:

Northwest corner: 27°28′06.00″N, 80°18′48.89″W
Northeast corner: 27°28′04.43″N, 80°18′42.25″W
Southwest corner: 27°28′02.86″N, 80°18′49.06″W
Southeast corner: 27°28′01.46″N, 80°18′42.42″W

(4) A portion of the Indian River Lagoon, Florida, north of the St. Lucie Inlet, from South Nettles Island to the Florida Oceanographic Institute, defined with the following coordinates:

Northwest corner: 27°16′44.04″N, 80°14′00.00″W
Northeast corner: 27°16′44.04″N, 80°12′51.33″W
Southwest corner: 27°12′49.70″N, 80°11′46.80″W
Southeast corner: 27°12′49.70″N, 80°11′02.50″W

(5) Hobe Sound beginning at State Road 708 (27°03′49.90″N, 80°07′20.57″W) and extending south to 27°00′00.00″N, 80°0532.54″W.

(6) Jupiter Inlet at a site located just west of the entrance to Zeek's Marina on the south side of Jupiter Inlet and defined by the following coordinates (note a south central point was included to better define the shape of the southern boundary):

Northwest corner: 26°56′43.34″N, 80°04′47.84″W
Northeast corner: 26°56′40.93″N, 80°04′42.61″W
Southwest corner: 26°56′40.73″N, 80°04′48.65″W
South central point: 26°56′38.11″N, 80°04′45.83″W
Southeast corner: 26°56′38.31″N, 80°04′42.41″W

(7) A portion of Lake Worth, Florida, just north of Bingham Island defined by the following coordinates:

Northwest corner: 26°40′44.00″N, 80°02′39.00″
Northeast corner: 26°40′40.00″N, 80°02′34.00″W
Southwest corner: 26°40′32.00″N, 80°02′44.00″W
Southeast corner: 26°40′33.00″N, 80°02′35.00″W

(8) A portion of Lake Worth Lagoon, Florida, located just north of the Boynton Inlet, on the west side of the Intracoastal Waterway, defined by the following coordinates:
Northwest corner: 26°33′28.00″N, 80°02′54.00″W
Northeast corner: 26°33′30.00″N, 80°03′04.00″W
Southwest corner: 26°32′50.00″N, 80°03′11.00″W
Southeast corner: 26°32′50.00″N, 80°02′58.00″W

(9) A portion of northeast Lake Wyman, Boca Raton, Florida, defined by the following coordinates:
Northwest corner: 26°22′27.00″N, 80°04′23.00″W
Northeast corner: 26°22′27.00″N, 80°04′18.00″W
Southwest corner: 26°22′23.00″N, 80°04′22.00″W
Southeast corner: 26°22′23.00″N, 80°04′19.00″W

(10) A portion of Northern Biscayne Bay, Florida, defined by the following: The northern boundary of Biscayne Bay Aquatic Preserve, N.E. 163rd Street, and including all parts of the Biscayne Bay Aquatics Preserve as defined in 18–18.002 of the Florida Administrative Code (F.A.C.) excluding the Ortega River beyond its mouth, and all Federal navigation channels at the Port of Miami, not including the Intracoastal Waterway, to the currently documented southern-most range of Johnson's seagrass, Central Key Biscayne (25°45′N).

Maps are provided for reference purposes to guide Federal agencies and other interested parties in locating the general boundaries of the proposed critical habitat. They do not constitute the definition of the boundaries of critical habitat. Persons must refer to the regulations at 50 CFR 226.91 for the actual boundaries of the designated critical habitat. Figures 1 through 9 illustrate the ten areas proposed as critical habitat for Johnson's seagrass.

**Request for Comments**

NMFS is soliciting information, comments and/or recommendations on any aspect of this proposal from all interested parties. NMFS will consider all information, comments and recommendations received before reaching a final decision.

The public hearing on this proposed action has been scheduled for Thursday, December 2, 1999. Interested parties will have an opportunity to provide oral and written testimony at the public hearing.

**Special Accommodations**

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Layne Bolen (see **ADDRESSES**).

**References**

The complete citations for the references used in this document are available upon request (see **FOR FURTHER INFORMATION CONTACT**).

**Classification**

NMFS has determined that Environmental Assessments or an Environmental Impact Statement, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared for this critical habitat designation. See *Douglas County* v. *Babbitt*, 48 F.3d 1495 (9th Cir. 1995), cert. denied, 116 S.Ct. 698 (1996).

NMFS proposes to designate 10 areas in the range of Johnson's seagrass as critical habitat. This designation will not impose any additional requirements or economic effects upon small entities beyond those which may accrue from section 7 of the ESA. Section 7 requires Federal agencies to ensure that any action they carry out, authorize, or fund is not likely to jeopardize the continued existence of any listed species or to result in the destruction or adverse modification of critical habitat (ESA section 7(a)(2)). The consultation requirements of section 7 are nondiscretionary and are effective at the time of species' listing. Therefore, Federal agencies must consult with NMFS and ensure that their actions do not jeopardize a listed species, regardless of whether critical habitat is designated.

In the future, should NMFS determine that designation of additional habitat areas in the species' range and/or outside the species' current range is necessary for conservation and recovery, NMFS will analyze the incremental costs of the action and assess its potential impacts on small entities, as required by the Regulatory Flexibility Act.

Accordingly, the Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed critical habitat designation, if adopted, would not have a significant economic impact on a substantial number of small entities, as described in the Regulatory Flexibility Act.

The Assistant Administrator for Fisheries, NOAA, has determined that the proposed designation is consistent to the maximum extent practicable with the approved Coastal Zone Management Program of the State of Florida. This determination has been submitted for review by the responsible State agency under section 307 of the Coastal Zone Management Act.

The Assistant Administrator for Fisheries, NOAA, has determined this rule is not significant for purposes of E.O. 12866.

This proposed rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

In accordance with E.O. 13132, NMFS has prepared the following federalism summary impact statement. When NMFS issued a proposed rule to designate critical habitat for Johnson's seagrass in 1994, NMFS began consulting with the State of Florida. While the State expressed support for protection of Johnson's seagrass, it also expressed concern over the possible economic impacts of a critical habitat designation. NMFS understands the concerns of the State regarding timely maintenance of state and federal navigation channels, ports, and inlets, and NMFS' goal is to protect the species with minimal effects to these activities. Concerns regarding possible economic impacts of a critical habitat designation are addressed in the preamble to this rule. In addition, NMFS has completed a conference opinion with the COE on the effects of maintenance dredging on Johnson's seagrass and its proposed critical habitat. NMFS expects that operations on ports will not be negatively impacted by this proposed critical habitat designation.

BILLING CODE 3510–22–P

**Figure 1**

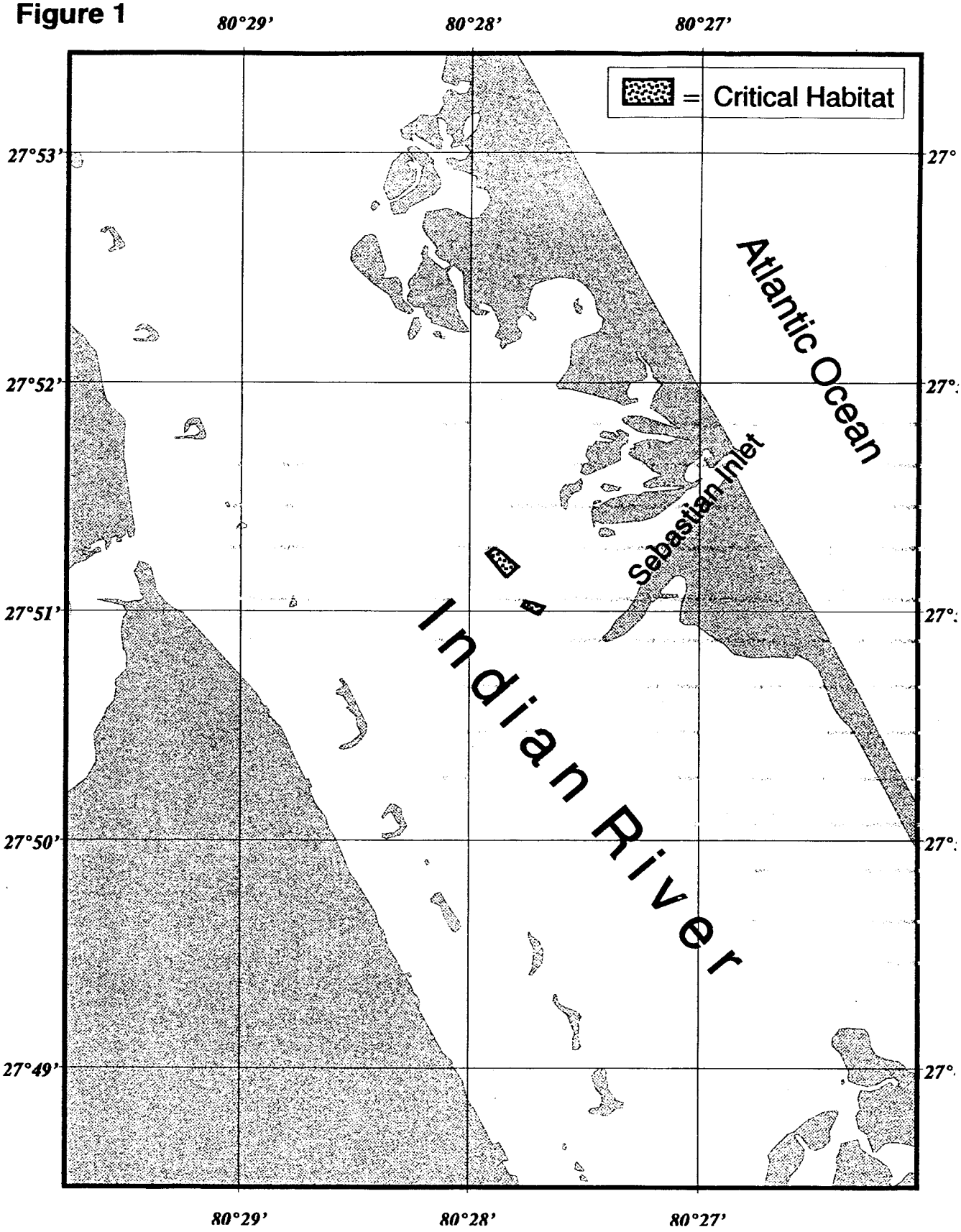

80°29'
80°28'
80°27'
= Critical Habitat
27°53'
27°52'
27°51'
27°50'
27°49'
27°
Atlantic Ocean
Sebastian Inlet
Indian River

**Figure 2**

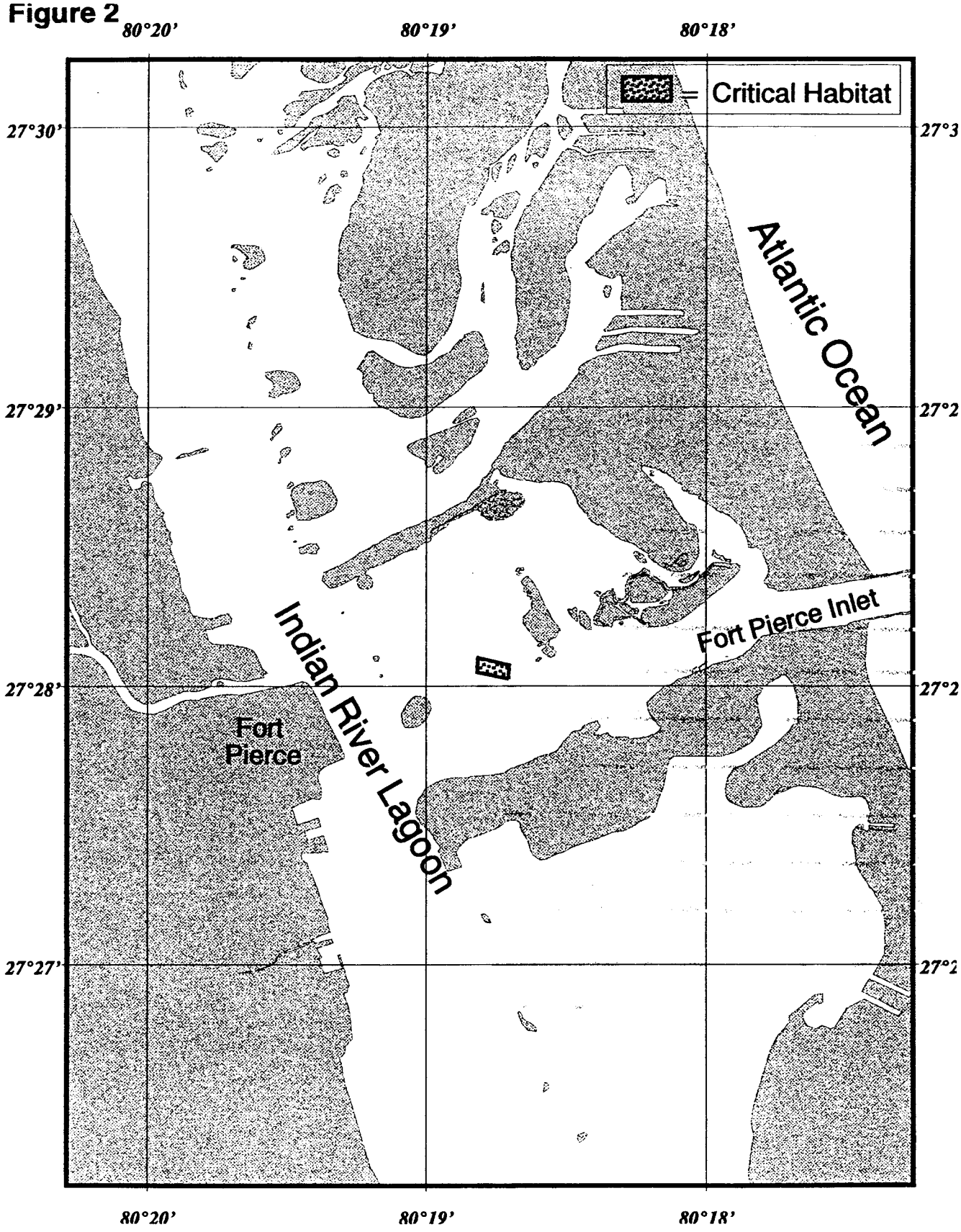

80°20'
80°19'
80°18'
= Critical Habitat
27°30'
27°29'
27°28'
27°27'
27°3
27°2
27°2
27°2
Atlantic Ocean
Fort Pierce Inlet
Indian River Lagoon
Fort Pierce
80°20'
80°19'
80°18'

**Figure 3**

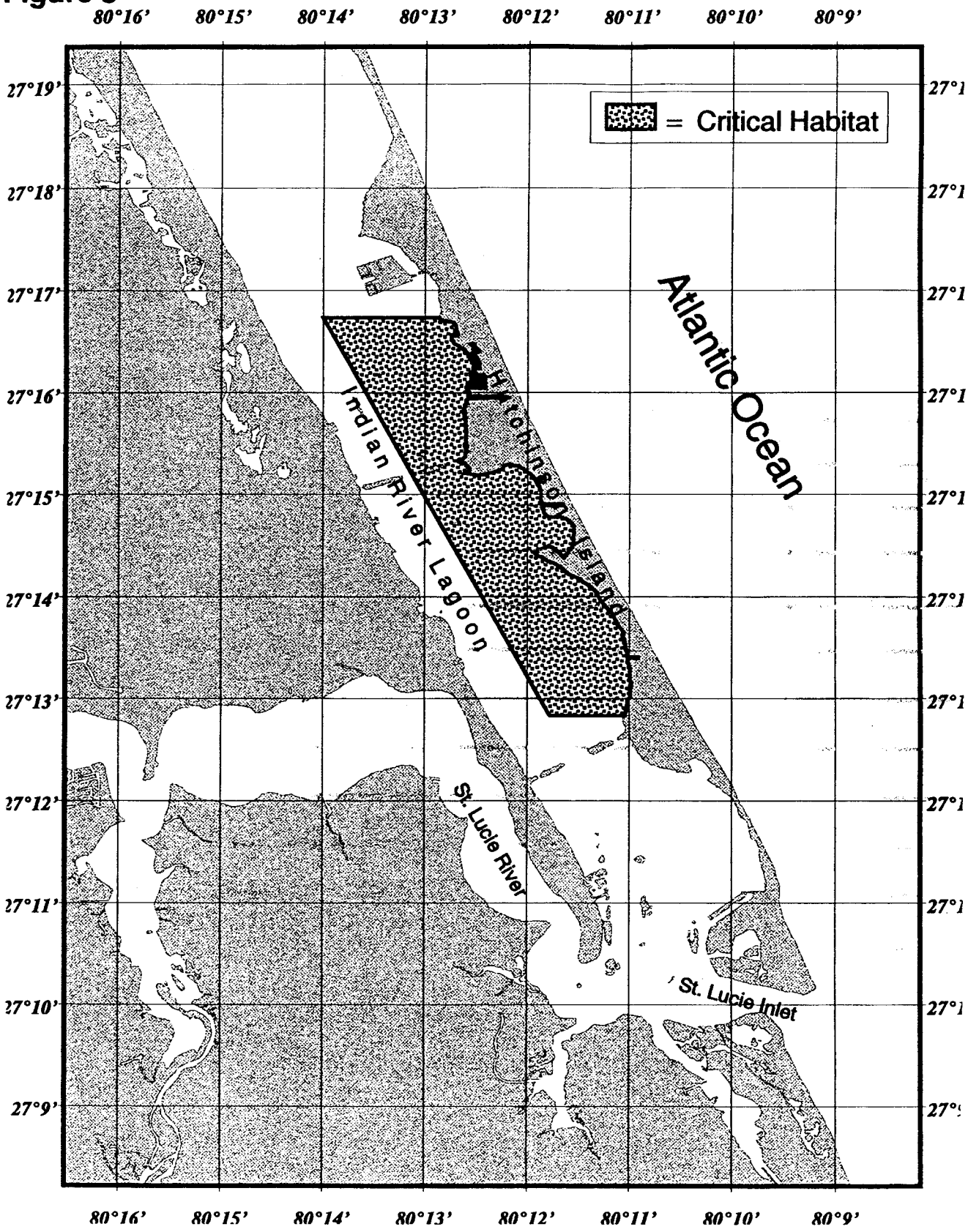

80°16'
80°15'
80°14'
80°13'
80°12'
80°11'
80°10'
80°9'
27°19'
27°18'
27°17'
27°16'
27°15'
27°14'
27°13'
27°12'
27°11'
27°10'
27°9'
= Critical Habitat
Atlantic Ocean
Hutchinson Island
Indian River Lagoon
St. Lucie River
St. Lucie Inlet

**Figure 4**

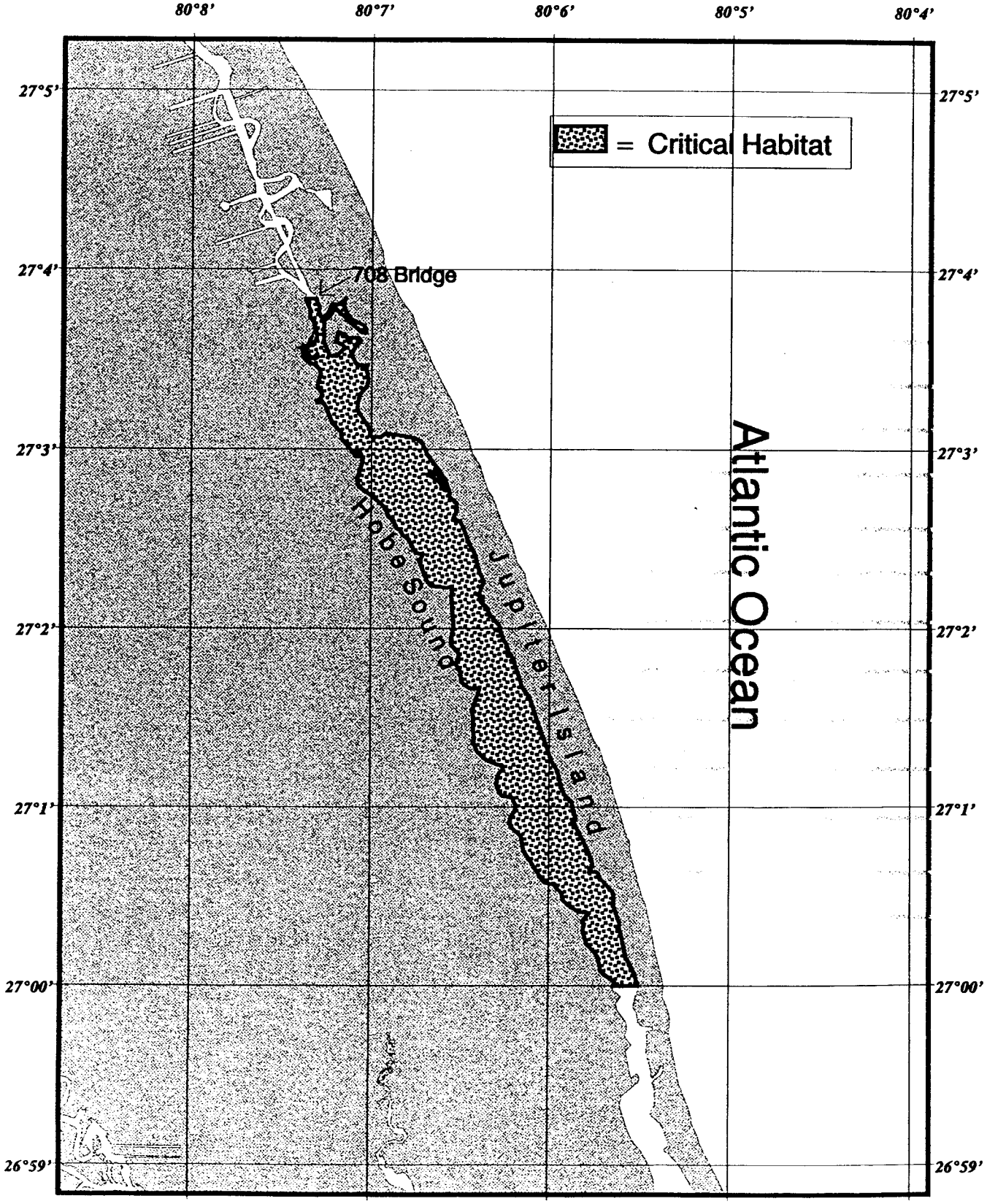

80°8'
80°7'
80°6'
80°5'
80°4'
27°5'
27°4'
27°3'
27°2'
27°1'
27°00'
26°59'
= Critical Habitat
708 Bridge
Jupiter Island
Hobe Sound
Atlantic Ocean

**Figure 5**

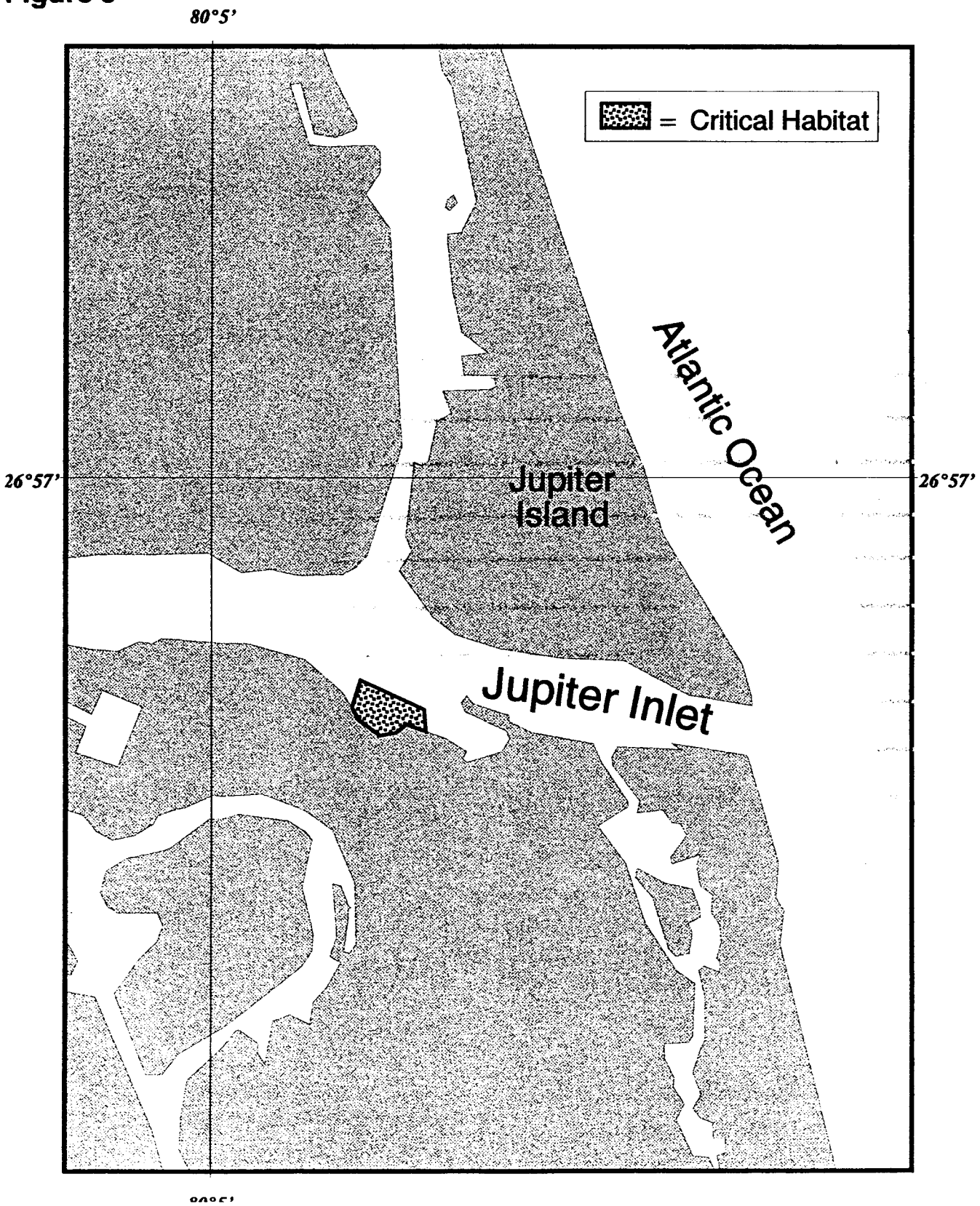

80°5'
= Critical Habitat
Atlantic Ocean
26°57'
Jupiter Island
26°57'
Jupiter Inlet

**Figure 6**

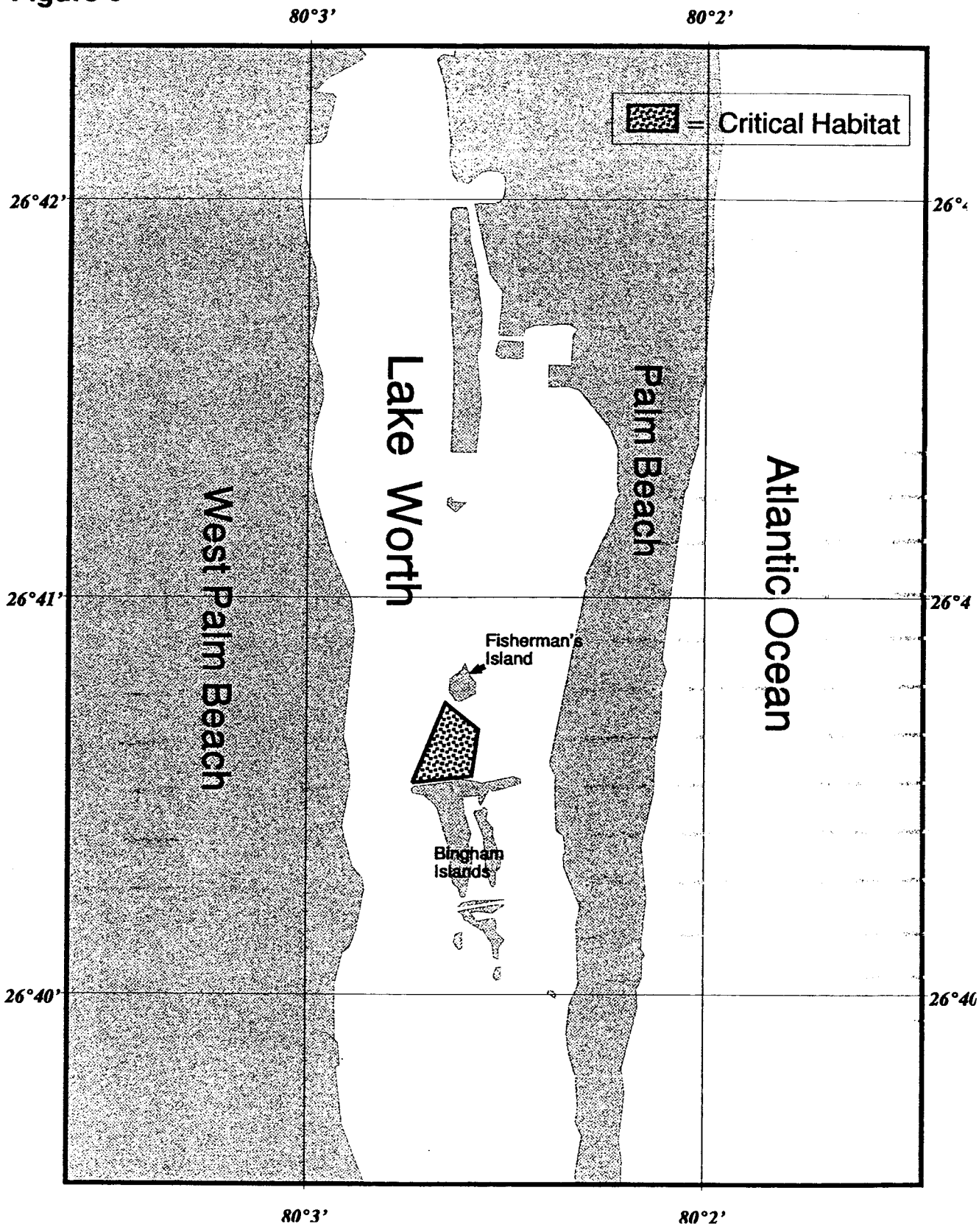

80°3'
80°2'
= Critical Habitat
26°42'
26°41'
26°40'
Lake Worth
Palm Beach
Atlantic Ocean
West Palm Beach
Fisherman's Island
Bingham Islands

**Figure 7**

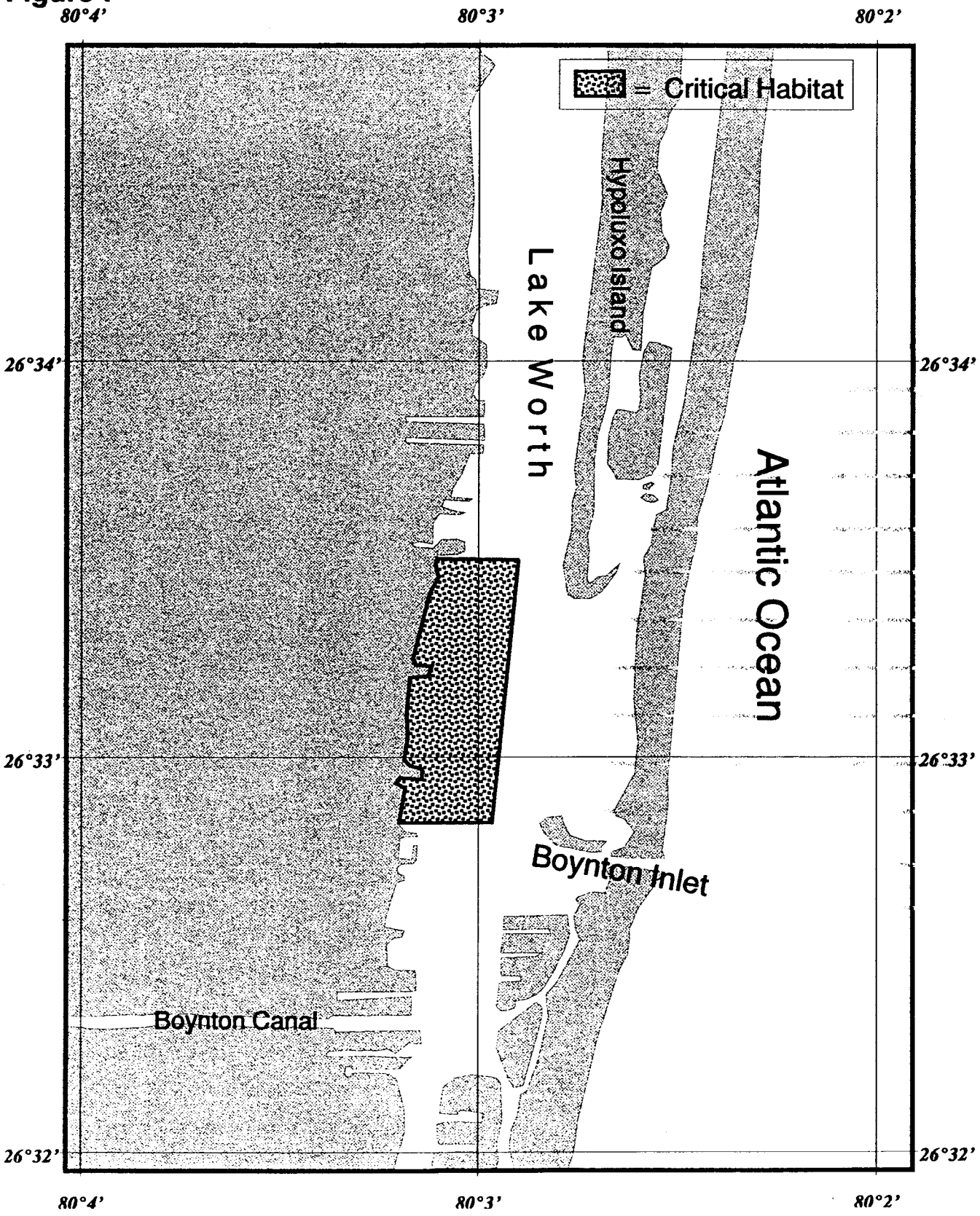

80°4'
80°3'
80°2'
= Critical Habitat
Hypoluxo Island
Lake Worth
Atlantic Ocean
26°34'
26°33'
26°32'
Boynton Inlet
Boynton Canal

**Figure 8**

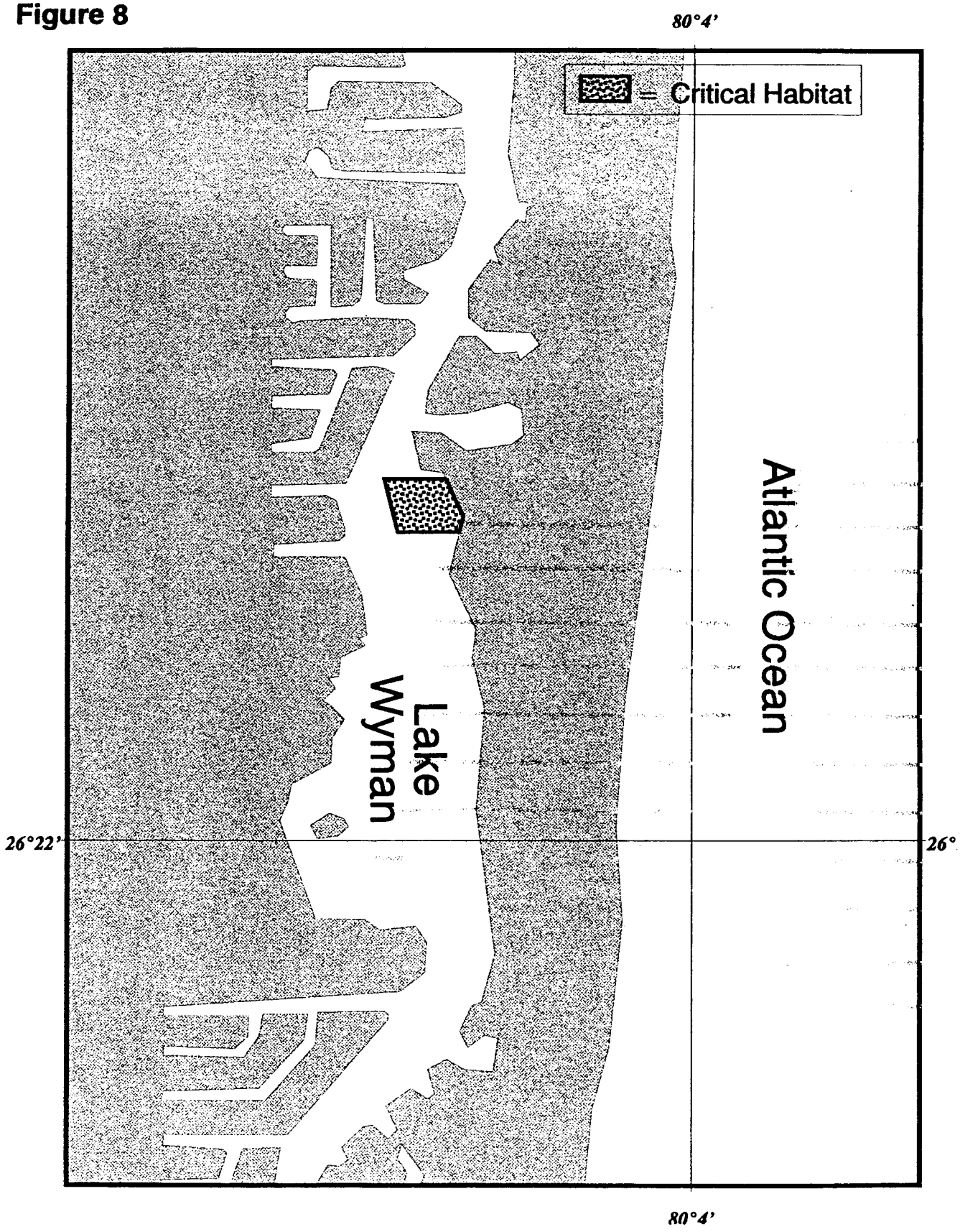
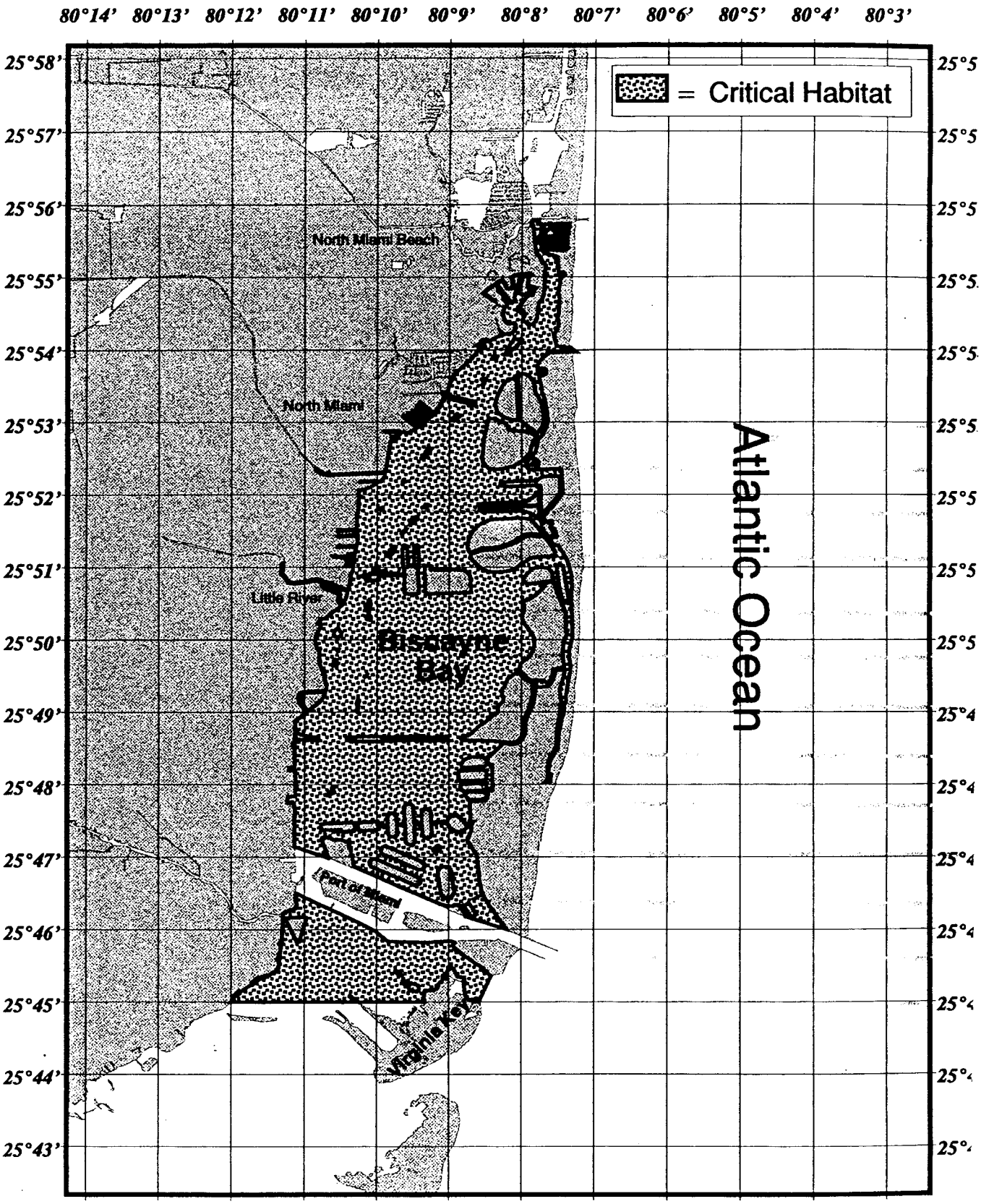


**Figure 9**




BILLING CODE 3510–22–C

**List of Subjects in 50 CFR Part 226**

Endangered and threatened species.

Dated: November 29, 1999.

**Penelope D. Dalton,**

*Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons set forth in the preamble, 50 CFR part 226 is proposed to be amended as follows:

## PART 226—DESIGNATED CRITICAL HABITAT

1. The authority citation for part 226 continues to read as follows:

**Authority:** 16 U.S.C. 1533.

2. Section 226.211 is added to part 226 to read as follows:

### § 226.211 Critical habitat for Johnson's seagrass

Critical habitat is designated to include substrate and water in the following ten portions of the Indian River Lagoon and Biscayne Bay within the current range of Johnson's seagrass.

(a) A portion of the Indian River, Florida, north of Sebastian Inlet Channel, defined by the following coordinates:

Northwest corner: 27°51′15.03″N, 80°27′55.49″W
Northeast corner: 27°51′16.57″N, 80°27′53.05″W
Southwest corner: 27°51′08.85″N, 80°27′50.48″W
Southeast corner: 27°51′11.58″N, 80°27′47.35″W

(b) A portion of the Indian River, Florida, south of the Sebastian Inlet Channel, defined by the following coordinates:

Northwest corner: 27°51′01.32″N, 80°27′46.10″W
Northeast corner: 27°51′02.69″N, 80°27′45.27″W
Southwest corner: 27°50′59.08″N, 80°27′41.84″W
Southeast corner: 27°51′01.07″N, 80°27′40.50″W

(c) A portion of the Indian River Lagoon in the vicinity of the Fort Pierce Inlet. This site is located on the north side of the entrance channel just west of a small mangrove vegetated island where the main entrance channel bifurcates to the north. The area is defined by the following coordinates:

Northwest corner: 27°28′06.00″N, 80°18′48.89″W
Northeast corner: 27°28′04.43″N, 80°18′42.25″W
Southwest corner: 27°28′02.86″N, 80°18′49.06″W
Southeast corner: 27°28′01.46″N, 80°18′42.42″W

(d) A portion of the Indian River Lagoon, Florida, North of the St. Lucie Inlet; from South Nettles Island to the Florida Oceanographic Institute, defined with the following coordinates:

Northwest corner: 27°16′44.04″N, 80°14′00.00″W
Northeast corner: 27°16′44.04″N, 80°12′51.33″W
Southwest corner: 27°12′49.70″N, 80°11′46.80″W
Southeast corner: 27°12′49.70″N, 80°11′02.50″W

(e) Hobe Sound beginning at State Road 708 (27°03′49.90″N, 80°07′20.57″W) and extending south to 27°00′00.00″N, 80°05′32.54″W.

(f) Jupiter Inlet at a site located just west of the entrance to Zeek's Marina on the south side of Jupiter Inlet and defined by the following coordinates (note a south central point was included to better define the shape of the southern boundary):

Northwest corner: 26°56′43.34″N, 80°04′47.84″W
Northeast corner: 26°56′40.93″N, 80°04′42.61″W
Southwest corner: 26°56′40.73″N, 80°04′48.65″W
South central point: 26°56′38.11″N, 80°04′45.83″W
Southeast corner: 26°56′38.31″N, 80°04′42.41″W

(g) A portion of Lake Worth, Florida, just north of Bingham Island defined by the following coordinates:

Northwest corner: 26°40′44.00″N, 80°02′39.00″W
Northeast corner: 26°40′40.00″N, 80°02′34.00″W
Southwest corner: 26°40′32.00″N, 80°02′44.00″W
Southeast corner: 26°40′33.00″N, 80°02′35.00″W

(h) A portion of Lake Worth Lagoon, Florida, located just north of the Boynton Inlet, on the west side of the Intracoastal Waterway, defined by the following coordinates:

Northwest corner: 26°33′28.00″N, 80°02′54.00″W
Northeast corner: 26°33′30.00″N, 80°03′04.00″W
Southwest corner: 26°32′50.00″N, 80°03′11.00″W
Southeast corner: 26°32′50.00″N, 80°02′58.00″W

(i) A portion of northeast Lake Wyman, Boca Raton, Florida, defined by the following coordinates:

Northwest corner: 26°22′27.00″N, 80°04′23.00″W
Northeast corner: 26°22′27.00″N, 80°04′18.00″W
Southwest corner: 26°22′23.00″N, 80°04′22.00″W
Southeast corner: 26°22′23.00″N, 80°04′19.00″W

(j) A portion of Northern Biscayne Bay, Florida, defined by the following: The northern boundary of Biscayne Bay Aquatic Preserve, NE. 163rd Street, and including all parts of the Biscayne Bay Aquatics Preserve as defined in 18–18.002 of the Florida Administrative Code (F.A.C.) excluding the Ortega River beyond its mouth, and all Federal navigation channels at the Port of Miami, not including the Intracoastal Waterway, to the currently documented southernmost range of Johnson's seagrass, Central Key Biscayne (25° 45N).

[FR Doc. 99–31304 Filed 11–29–99; 4:07 pm]

BILLING CODE 3510–22–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 648

**[Docket No. 991104295–9295–01; I.D. 100599D]**

**RIN 0648–AM74**

### Fisheries of the Northeastern United States; Dealer and Vessel Reporting Requirements

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

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

**SUMMARY:** NMFS proposes to amend the existing reporting requirements for dealers and vessels issued a Federal permit to operate in the summer flounder, scup, black sea bass, Atlantic sea scallop, Northeast (NE) multispecies, monkfish, Atlantic mackerel, squid and butterfish, surf clam or ocean quahog fisheries. The provisions of this proposed rule would also be applicable to dealers and vessels federally permitted in the spiny dogfish and Atlantic bluefish fisheries when regulations implementing the Spiny Dogfish Fishery Management Plan (FMP) and Amendment 1 to the Atlantic Bluefish FMP go into effect. This action would improve the collection of fisheries-dependent data by modifying or clarifying several dealer and vessel reporting requirements. Proposed changes to the regulations include increasing the record retention requirement for dealer and vessel records to 3 years; requiring federally permitted dealers to complete all sections of the Annual Processed Products Report; clarifying that a vessel

logbook report needs to be submitted for each trip taken, not for each day of a trip; amplifying the existing requirement that vessel logbook reports must be completed prior to entering port with fish; specifying that the pounds recorded on the vessel logbook reports should be the hail weight, by species, of all fish landed or discarded; adding definitions for ''hail weight,'' ''serial number,'' and ''trip identifier''; requiring vessel owners/operators to provide trip identifier information to dealers; and clarifying the submission schedule for surf clam and ocean quahog dealer and vessel reports.

**DATES:** Comments must be received on or before January 3, 2000.

**ADDRESSES:** Comments on the proposed rule should be sent to Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on Proposed Rule for Dealer and Vessel Reporting.''

Comments on the burden hour estimates for collection-of-information requirements contained in this proposed rule should be sent to Patricia A. Kurkul and to the Office of Information and Regulatory Affairs, Attention: NOAA Desk Officer, Office of Management and Budget, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Kelley McGrath, (978) 281–9307 or Gregory Power, (978) 281–9304.

**SUPPLEMENTARY INFORMATION:** In order to improve the monitoring of commercial landings and enhance the enforceability of the reporting regulations, this action would clarify or modify several of the existing reporting requirements for dealers and vessels federally-permitted in the summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, monkfish, Atlantic mackerel, squid, butterfish, surf clam or ocean quahog fisheries. Regulations implementing the fishery management plans (FMPs) for the summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, monkfish, bluefish, Atlantic mackerel, squid, butterfish, surf clam or ocean quahog fisheries were prepared under the authority of the Magnuson-Stevens Fishery Conservation and Management Act and are found at 50 CFR part 648. NMFS intends to issue in the **Federal Register** in the near future final regulations to implement the Spiny Dogfish FMP and Amendment 1 to the Atlantic Bluefish FMP, which contain reporting requirements for dealers and vessels federally permitted in the spiny dogfish and Atlantic bluefish fisheries, respectively. The provisions of this proposed rule, if approved and implemented, would be incorporated into the final rules implementing that FMP and amendment.

**Dealer Reporting Changes**

This action would modify three requirements affecting summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, monkfish, Atlantic mackerel, squid, butterfish, bluefish, or spiny dogfish dealers and two requirements affecting surf clam or ocean quahog dealers.

Current regulations for summer flounder, scup, black sea bass, Atlantic sea scallops, NE multispecies, monkfish, Atlantic mackerel, squid, and butterfish and proposed regulations for bluefish and spiny dogfish require any dealer to have been issued a Federal dealer permit for that species. Federally permitted dealers must submit, on a weekly basis, comprehensive trip-by-trip written reports listing all species purchased. In order for each fishing trip to be uniquely identifiable and to aid in matching dealer data with the corresponding vessel data, one of the data elements that dealers are required to provide on the weekly reports is a ''trip identifier'' for each trip from which fish are purchased. This action would define a 'trip identifier' to mean the serial number of the vessel logbook completed for that trip, if applicable, or a combination of the date sailed and, if the vessel sailed more than once on the same day, the sequential trip number within that date sailed.

Dealers issued a summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, monkfish, Atlantic mackerel, squid, and butterfish, bluefish, or spiny dogfish permit would be required to complete all sections of the Annual Processed Products Report. Dealers are currently required to complete only the Employment Data section of the report. Most dealers, however, complete the other sections of the report on a voluntary basis. Mandatory completion of the entire report by dealers would provide NMFS with a more accurate database on the processing segment of the industry.

This action would increase the record retention requirement for dealer reports from 1 year to 3 years. All federally permitted dealers would be required to retain copies of reports and records upon which the reports were based for 3 years after the date of the last entry on the report. This timeframe is in keeping with standard business practices and would allow for validation of past landings reported by dealers and vessels.

To ensure that quotas in the surf clam and ocean quahog fisheries are not exceeded, harvest levels must be monitored on a timely basis. Thus, surf clam and ocean quahog dealer reports would be required to be postmarked or received within 3 days of the end of the reporting week. While dealers have historically provided these data on a weekly basis, this action would clarify that reports must be submitted within the specified timeframe.

**Vessel Reporting Changes**

This action would modify four requirements affecting summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, monkfish, Atlantic mackerel, squid, and butterfish vessels and proposed requirements affecting bluefish or spiny dogfish vessels. This action also would modify two requirements affecting surf clam or ocean quahog vessels.

To enable summer flounder, scup, black sea bass, NE multispecies, monkfish, Atlantic mackerel, squid, butterfish, bluefish, and spiny dogfish dealers to meet their requirement to provide a ''trip identifier'' for each trip from which species are purchased, this rule would require vessel owners/operators to supply dealers with the trip identifier information at the time of offloading. To expedite this process, the fishing vessel logbooks include two copies of each report provided expressly for this purpose.

Regulations requiring vessels to submit fishing log reports would be revised to clarify that such reports need to be submitted only for each trip taken, rather than for each day of a trip. The current regulations state that vessels must submit an ''accurate daily fishing log report'' for all trips. To clarify that a report must be submitted only for each fishing trip, the word ''daily'' would be removed.

Under the current regulations, vessel logbooks must be filled out, except for information not yet ascertainable, before offloading or landing has begun. Among other things vessel owners/operators must report the pounds, by species, of all fish landed or discarded. Because many vessel owners/operators interpret the pounds landed to be the exact pounds sold to the dealer, which is not ascertainable prior to offloading or landing, many vessel operators copy the catch information from the dealer receipts after the catch has been sold.

To ensure that catch information is completed on the vessel logbook report prior to entering port with fish, this action would clarify that vessel owners/operators must report an estimated hail weight, by species, of all fish landed or

discarded, rather than an exact weight. ''Hail weight'' would be defined to mean a good-faith estimate, in pounds for commercial vessels and in count for party and charter vessels, by species, of all fish landed or discarded for each trip.

The rule would further require that all information other than that which is unascertainable at the time of entering port with fish (i.e., dealer name, dealer permit number, and date sold) must be completed on the vessel logbook report prior to entering port with fish. The rule would continue to require that information not ascertainable at the time of entering port be completed on the report as soon as the information becomes available. These changes would discourage vessels from copying exact pounds from the dealer weighout after offloading their catch, while also clarifying, for enforcement purposes, which information must be completed prior to vessels entering port.

Current regulations require copies of vessel log reports and records upon which the reports were based to be retained for 1 year after the date of the last entry on the report. This action instead would require vessel log reports and records for any federally permitted vessel to be retained for 3 years after the date of the last entry on the report.

To better monitor harvest levels of surf clams and ocean quahogs, the surf clam and ocean quahog vessel log reports would be required to be postmarked or received within 3 days of the end of the reporting week. While vessel owners have historically provided these data on a weekly basis, this action would clarify that reports must be submitted within the specified time frame.

**Classification**

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number.

This proposed rule contains a collection-of-information requirement subject to review and approval by the OMB under the PRA and clarifies or modifies requirements previously approved under OMB Control No. 0648–0229 (2 minutes per response for dealer purchase reports, 4 minutes for Interactive Voice Response System reports, and 30 minutes for shellfish processor reports); OMB Control No. 0648–0212 (5 minutes per response for vessel logbook reports and 12 minutes for shellfish logs); and OMB Control No. 0648–0018 (30 minutes per response for processed products reports and 15 minutes for fish meal and oil production reports). The requirement to complete all sections of the Annual Processed Products Report has been submitted to OMB for approval under control number 0648–0018. Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Public comment is sought regarding whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility, the accuracy of the burden estimate, 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, including through the use of automated collection techniques or other forms of information technology. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS and OMB (see **ADDRESSES**).

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule, if adopted as proposed, would not have significant impact on a substantial number of small entities as follows:

This action would modify or clarify the collection of fisheries-dependent data by modifying or clarifying existing reporting requirements for dealers and vessels issued a Federal permit for summer flounder, scup, black sea bass, Atlantic sea scallops, Northeast multispecies, monkfish, Atlantic mackerel, squid, butterfish, surf clams or ocean quahogs. The provisions of this proposed rule also would be applicable to dealers and vessels federally permitted in the spiny dogfish and the Atlantic bluefish fisheries when regulations implementing the Spiny Dogfish Fishery Management Plan (FMP) and Amendment 1 to the Atlantic Bluefish FMP go into effect. Proposed changes include: increasing the record retention requirement for dealer and vessel reporting requirements; requiring federally permitted dealers to complete all sections of the Annual Processed Products Report; clarifying that a vessel logbook report needs to be submitted for each trip taken, not for each day of a trip; amplifying the existing requirement that vessel logbook reports must be completed prior to entering port with fish; specifying that the pounds recorded on the vessel logbook reports should be the hail weight, by species, of all fish landed or discarded; adding definitions for ''hail weight,'' ''serial number,'' and ''trip identifier;'' requiring vessel owners/operators to provide trip identifier information to dealers; and clarifying the submission schedule for surf clam and ocean quahog dealer and vessel reports. The intent of this proposed rule is to improve the collection of fisheries-dependent data under the Magnuson-Stevens Fishery Conservation and Management Act

Recordkeeping and reporting requirements currently apply to all of the vessels and dealers participating in the fisheries affected by the proposed revisions except for the spiny dogfish and Atlantic bluefish fisheries. Other rulemaking would impose recordkeeping and reporting requirements on the spiny dogfish fishery and Atlantic bluefish fishery. According to the Northeast Region's permit database, there are approximately 700 dealers and 4,000 vessels that would be affected by this rule, if implemented. The proposed action would increase the record retention schedule for dealer and vessel reports from 1 year to 3 years. For dealers not employing electronic recordkeeping methods, the retention of records for an additional 2-year period could potentially involve additional storage space. However, no additional burden cost is expected from this requirement because many dealers currently retain the records for at least 3 years in keeping with standard business practices and thus would not require additional storage space. Dealers of certain species would be required to complete and submit all sections of the Annual Processed Product Report. Dealers are currently required to complete only the Employment Data section of the report. Most dealers, however, complete the other sections of the report on a voluntary basis. Based on an average dealer response time of 30 minutes per year, the total annual burden is 350 hours. Based on an average wage rate of recordkeeping staff of $20/hour, the total burden cost to dealers to comply with this requirement is estimated at $7,000 annually. Regulations requiring vessels to submit fishing log reports would be clarified to indicate that a vessel logbook report needs to be submitted for each trip taken, rather than for each day within a trip. This change only clarifies existing regulations and does not implement any changes to the current reporting methods. Under the current regulations, vessel logbooks must be filled out, except for information not yet ascertainable, before offloading or landing has begun. Among other things vessel owners/operators interpret the pounds landed to be the exact pounds sold to the dealer, which is not ascertainable prior to offloading or landing. Many vessel operators copy the catch information from the dealer receipts after the catch has been sold. To ensure that catch information is completed on the vessel logbook report prior to entering port with fish, this action would clarify that vessels must report an estimated ''hail weight,'' by species, of all fish landed or discarded, rather than an exact weight and ''hail weight'' would be defined. This requirement clarifies existing regulations and does not implement any changes to the

current reporting methods. Under the proposed measures, permitted dealers would be required to include ''trip identifier'' information in either one or two additional columns on the report form. In order for each fishing trip to be uniquely identifiable and to aid in matching dealer data with the corresponding vessel data, dealers are required to provide on the weekly reports a ''trip identifier'' for each trip from which fish are purchased. The term would be defined to mean the serial number of the vessel logbook completed for that trip, if applicable, or a combination of the date sailed and, if the vessel sailed more than once on the same day, the sequential trip number within that data sailed. Vessel owners/operators would need to supply trip identifier information to dealers at the time of offloading. No additional burden cost is expected from this requirement. To ensure that quotas in the surf clam and ocean quahog fisheries are not exceeded, harvest levels must be monitored on a timely basis. The submission schedule for surf clam and ocean quahog dealer and vessel reports would be specified to require reports to be postmarked or received within 3 days of the end of the reporting week. While dealers and vessel owners/operators have historically provided these data on a weekly basis, this action would clarify that reports must be submitted within 3 days of the end of the reporting week. Approximately 25 dealers and 120 vessels owners would be required to submit reports within 3 days of the end of the reporting week. No additional costs would be incurred by either dealers or vessels by specifying the time frame for submissions.

Because these changes modify existing regulations and the information is regularly compiled by dealers and vessel owners for their own business records, providing NMFS with the information is a minimal burden. Therefore, this action will not result in a significant economic impact on dealers or vessel owners.

This rule has been determined to be not significant for the purposes of E.O. 12866.

**List of Subjects in 50 CFR Part 648**

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: Novenber 25, 1999.

**Penelope D. Dalton,**

*Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

## PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

2. Section 648.2 is revised by adding, in alphabetical order, definitions for ''Hail weight'', ''Serial number'', and ''Trip identifier'' to read as follows:

**§ 648.2 Definitions.**

* * * * *

*Hail weight* means a good-faith estimate of the pounds landed and the pounds discarded, by species, for each trip.

* * * * *

*Serial number* means the unique alphanumeric identifier, sequential within a logbook, printed in the upper right corner of each logbook report.

* * * * *

*Trip identifier* means either the serial number of the vessel logbook report the vessel owner/operator completed for that trip, if applicable, or a combination of the date sailed and, if the vessel sailed more than once on the same date, the sequential trip number within that date sailed.

* * * * *

3. In § 648.7, paragraphs (f)(1)(ii) and (f)(1)(iii) are redesignated as (f)(1)(iii) and (f)(1)(iv), respectively; new paragraph (f)(1)(ii) is added; paragraph (f)(2) is redesignated as paragraph (f)(2)(i) and the first sentence is revised; new paragraph (f)(2)(ii) is added; and paragraphs (a)(3)(i), (b)(1)(i), (c), (e), and (f)(1)(i) first sentence, are revised to read as follows:

**§ 648.7 Recordkeeping and reporting requirements.**

(a) * * *

(3) * * *

(i) Summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, monkfish, Atlantic mackerel, squid, butterfish, bluefish, or spiny dogfish dealers must complete all sections of the Annual Processed Products Report for all species of fish or shellfish that were processed during the previous year. Reports must be submitted to the address supplied by the Regional Administrator.

* * * * *

(b) * * *

(1) * * *

(i) *Owners of vessels issued a summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, monkfish, Atlantic mackerel, squid, butterfish, bluefish, or spiny dogfish permit.* The owner or operator of any vessel issued a permit for summer flounder, scup, black sea bass, Atlantic sea scallops, NE multispecies, monkfish, Atlantic mackerel, squid, butterfish, bluefish or spiny dogfish must maintain on board the vessel, and submit, an accurate fishing log report for each fishing trip, regardless of species fished for or taken, on forms supplied by or approved by the Regional Administrator. If authorized in writing by the Regional Administrator, vessel owners or operators may submit reports electronically, for example by using a VMS or other system. At least the following information, and any other information required by the Regional Administrator, must be provided: Vessel name; USCG documentation number (or state registration number, if undocumented); permit number; date/time sailed; date/time landed; trip type; number of crew; number of anglers (if a party or charter boat); gear fished; quantity and size of gear; mesh/ring size; chart area fished; average depth; latitude/longitude (or loran station and bearings); total hauls per area fished; average tow time duration; hail weight, in pounds (or count, if a party or charter vessel), by species, of all species landed or discarded; dealer permit number; dealer name; date sold, port and state landed; and vessel operator's name, signature, and operator permit number (if applicable).

* * * * *

(c) *When to fill out a log report.* Log reports required by paragraph (b)(1)(i) of this section must be filled out with all required information, except for information not yet ascertainable, before entering port with fish. Information that may be considered unascertainable prior to entering port with fish is limited to dealer name, dealer permit number, and date sold. Log reports must be completed as soon as the information becomes available. All information must be filled out before starting the next fishing trip. Log reports required by paragraph (b)(1)(ii) of this section must be filled out before landing any surf clams or ocean quahogs.

* * * * *

(e) *Record retention.* Copies of dealer reports, and records upon which the reports were based, must be retained and be available for review for 3 years after the date of the last entry on the report. Copies of fishing log reports must be retained and available for review for 3 years after the date of the last entry on the log. Dealers must retain required reports and records at their principal place of business.

(f) * * *

(1) * * *

(i) Detailed weekly trip reports, required by paragraph (a)(1)(i) of this section, must be postmarked or received within 16 days after the end of each reporting week. * * *

(ii) Surf clam and ocean quahog reports, required by paragraph (a)(1)(ii) of this section, must be postmarked or received within 3 days after the end of each reporting week.

* * * * *

(2) * * *

(i) Fishing vessel log reports, required by paragraph (b)(1)(i) of this section, must be postmarked or received within 15 days after the end of the reporting month. * * *

(ii) Surf clam and ocean quahog log reports, required by paragraph (b)(1)(ii) of this section, must be postmarked or received within 3 days after the end of each reporting week.

* * * * *

[FR Doc. 99–31305 Filed 12–1–99; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 679

**[Docket No. 991108298–9298–01; I.D. 092199C]**

**RIN 0648–AL88**

## Fisheries of the Exclusive Economic Zone Off Alaska; At-Sea Scales; Community Development Quota Program

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

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

**SUMMARY:** NMFS issues a proposed rule to amend portions of the regulations implementing the equipment and operational requirements for catch weight measurement, observer sampling stations, and observer transmission of data. After the first season of requiring scales and observer sampling stations on specified vessels participating in Community Development Quota (CDQ) fisheries, NMFS has identified aspects of the requirements that need further refinement and correction for effective implementation. This action is necessary to effect those refinements and is intended to further the objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** Comments must be received by January 3, 2000.

**ADDRESSES:** Comments may be mailed to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Gravel. Hand or courier delivered comments may be sent to the Federal Building, 709 West 9th Street, Room 453, Juneau, AK 99801. Copies of the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) prepared for this action may be obtained from the same address or by calling the Alaska Region, NMFS, at 907–586–7228. A copy of the September 9, 1997, environmental assessment prepared for the Multispecies Community Development Quota (MS CDQ) Program can be obtained from the same address. Send comments on collection-of-information requirements to the same address and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington DC 20503 (Attn: NOAA Desk Officer).

**FOR FURTHER INFORMATION CONTACT:** Alan Kinsolving, 907–586–7228.

**SUPPLEMENTARY INFORMATION:**

### Background

Fishing for groundfish by U.S. vessels in the exclusive economic zone of the Gulf of Alaska and the Bering Sea and Aleutian Islands Management Area is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska and the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMPs). The North Pacific Fishery Management Council (Council) prepared the FMPs under authority of the Magnuson-Stevens Act. Regulations implementing the FMPs at 50 CFR part 679 and subpart H of 50 CFR part 600 govern fishing by U.S. vessels. Equipment and operational requirements for catch weight measurement appear at 50 CFR 679.28 and equipment and operational requirements for transmission of observer data appear at 50 CFR 679.50.

On February 4, 1998 (63 FR 5836), NMFS published a final rule establishing the performance, technical, operational, maintenance, and testing requirements for scales used to weigh catch at sea. On June 4, 1998 (63 FR 30381), NMFS published a final rule that established the requirements for observer sampling stations and required the use of scales and observer sampling stations on specified vessels participating in CDQ fisheries. Further information on the rationale for, and implementation of, the regulations establishing equipment and operational requirements for catch weight measurement appear in the preambles to these final rules.

The regulations at § 679.28 establish performance and technical requirements for scales and observer sampling stations. They do not require their use in any fishery. The first program to which these requirements applied was the MS CDQ Program. Fishing under the MS CDQ program was authorized to begin October 1, 1998. Section 211(b)(6)(B) of the American Fisheries Act of 1998 (AFA) requires that by January 1, 2000, all of the 20 catcher/processors listed in section 208(e) of the AFA weigh their catch in all groundfish fisheries off Alaska on a scale approved by NMFS. NMFS will be publishing a separate rule to implement this and other provisions of the AFA.

Following implementation of the regulations at § 679.28, NMFS and affected members of the fishing industry realized that some provisions of the regulations required clarification and refinement. Changes are necessary to ensure NMFS' ability to effectively administer the equipment and operational requirements and to improve the clarity and consistency of the implementing regulations.

On December 17, 1998, NMFS held a public workshop in Seattle, WA, to obtain the views of vessel owners affected by the provisions of § 679.28. Twenty-two industry representatives, representing 26 of the 35 catcher/processors currently affected by the regulations, attended.

### Scales Used to Weigh Catch at Sea

This proposed rule would revise § 679.28(b)(2)(iii) to authorize NMFS staff to inspect scales. Inspectors employed by NMFS were inadvertently excluded from the categories of scale inspectors authorized by NMFS to perform scale inspections. In addition, § 679.28(b)(2)(iii) would be revised to eliminate the category scale inspectors employed by a U.S., state, or local weights and measures agency other than a weights and measures agency designated by NMFS from the categories of scale inspectors authorized by NMFS to perform scale inspections on its behalf. Paperwork Reduction Act clearance was not obtained for the information collections necessary for a person to qualify as a scale inspector under this category. As revised, only scale inspectors employed by NMFS or from a weights and measures agency designated by NMFS to perform scale inspections on its behalf would be authorized to inspect scales.

Section 679.28(b)(2)(vii) requires that scale inspectors use forms supplied by the NMFS-designated weights and measures agency. NMFS could more conveniently design and produce inspection report forms. This proposed rule would change this paragraph to allow the use of NMFS-supplied forms.

Vessels required to use NMFS-approved platform or hanging scales must provide test weights that will allow the scale to be tested daily when

in use. The test weights must be certified by a National Institute of Standards and Technology approved metrology laboratory. NMFS has determined that the test weight certification requirement is needlessly burdensome. Section 679.28(b)(3)(ii)(B) would be revised to allow a test weight to remain in use if approved by the NMFS-authorized scale inspector at the time of the annual dockside inspection.

To meet NMFS' approval, a scale must be capable of producing a printed report that details the amount of product that the scale has weighed. The operator of a vessel required to weigh total catch must ensure that the scale prints a report at least once every 24 hours when use of the scale is required. These reports must be signed by the vessel operator and maintained by the vessel owner for 3 years. Current regulations require that each report include the vessel name, the Federal fisheries or processor permit number, the haul number, the date and time that weighing the haul began, the date and time that weighing the haul ended, the total weight of the haul, the total weight of all catch weighed on the scale and the date and time the report was printed. Because much of this information is also recorded by the observer, NMFS proposes that only the vessel name and permit number, the haul number, the total weight of the haul and the total cumulative weight on the scale be required on the daily printout. The other printout requirements would be removed. This proposed change would reduce a regulatory burden on vessels required to weigh all catch.

Scale manufacturers have proposed using a computer-generated check number instead of a physical seal to protect adjustable components on NMFS-approved scales. Under this system, the scale would display a check number upon startup. If the scale operator were to adjust an adjustable component of the scale, the check number would change. If the check number changed between scale inspections, the inspector would know that an adjustment had been made. Because the check number would be sequential, the inspector would also know how many adjustments had been made. NMFS believes that this system would provide security equal to a physical seal and proposes that its use be allowed. NMFS proposes to change the definition of ''security seals or means'' in section 5.0 of Appendix A to part 679 to include a sequential check number generated by the scale.

**Observer Sampling Stations**

Observer sampling stations are currently required on specified vessels participating in CDQ fisheries. For an observer sampling station to meet the requirements of § 679.28(d), it must meet specifications for equipment, accessibility, location, safety, and size. Each observer sampling station must be inspected and approved by NMFS before its use and annually thereafter. A station must be reinspected if it is altered or moved.

NMFS inspected the first observer sampling station in June of 1998. During 1998, NMFS approved observer sampling stations on 23 vessels. Based on those inspections and comments from affected vessel owners, NMFS proposes to clarify the observer sampling station regulations.

Current regulations at § 679.28(d)(2)(i) require that the observer sampling station on factory trawlers and motherships be located within 4 meters (m) of where the observer samples unsorted catch. There must be clear and unobstructed passage between the sampling station and where the observer samples unsorted catch. On most vessels, the observer can see the entire flow of fish between the bin and the observer sampling station, and vessel crew members would be unable to remove or sort fish without the observer's knowledge. On some vessels the crew could remove fish between the bin and the observer sampling station without the observer's knowledge. Such removal would prevent the observer from ensuring that his or her estimate of total catch and species composition is accurate and unbiased. This proposed rule would require that, when the observer stands at the location where unsorted catch is collected, he or she must be able to see that no fish are removed between the bin and the scale used to weigh total catch. On those factory trawlers and motherships where the observer cannot see the entire flow of fish wherever the crew has access to it, the vessel owners would be required to install mirrors, viewing windows, or other modifications so that the observer could see the entire flow of fish.

The observer sampling station on a vessel using nontrawl gear must be within 5 m of where catch is brought onboard, unless that location is unsafe. There also must be clear and unobstructed passage between the sampling station and where the observer samples unsorted catch (§ 679.28(d)(2)(ii)). The current regulations do not accurately reflect the needs of NMFS observers, nor do they explain clearly to vessel owners what they must do to build an observer sampling station that meets the requirements. NMFS proposes to clarify and expand the requirements for an observer sampling station on vessels using nontrawl gear by defining and requiring two new areas on nontrawl vessels: The collection area and the tally station. The collection area would be a location where the observer, or a crew member under the observer's guidance, collects fish for sampling as they are brought aboard the vessel, and where the observer can see the gear as it leaves the water. The tally station would be a location within 5 m of where fish enter the vessel and where the observer could see the fishing gear as it leaves the water and could count and identify fish. The tally station and collection area would have to be equipped with railing, grating, and adequate lighting as necessary for the observer to effectively perform his/her duties. Clear and unobstructed passage would be required between the observer sampling station and the collection area, with access provided to the tally station. Because the observer would not need to carry baskets between the tally station and the observer sampling station, access to the tally station would not need to meet to be clear and unobstructed. All nontrawl vessels with currently approved observer sampling stations would meet the proposed requirements for the tally station and collection area, except that some boats would be required to make minor modifications to the tally station or collection area by adding grating or railings.

Current regulations at § 679.28(d)(2)(i) and (ii) require clear and unobstructed passage between the observer sampling station and where the observer samples unsorted catch. The phrase ''clear and unobstructed'' is ambiguous and needs to be clarified. The proposed change would define ''clear and unobstructed passage'' as follows:

Where clear and unobstructed passage is required, passageways must be at least 65 cm wide at the narrowest point, be free of tripping hazards, and be at least 1.8 m high. Doorways or companionways must be free of obstacles.

This definition is similar to the procedural definition NMFS staff currently uses when inspecting observer sampling stations, and those vessels with approved sampling stations would meet these proposed criteria.

Current regulations require that an observer sampling station provide a minimum working space at least 1.8 m by 2.5 m. Based on comments from affected vessel owners, NMFS has determined that this requirement is

overly restrictive and proposes to require a minimum area of 4.5 square meters. This would give the observer the same amount of space while allowing the vessel owner greater flexibility in the design of observer sampling stations. To ensure that the observer will have sufficient room to work when standing at the table, this proposed change also would require that the station provide at least 0.9 m of working space in front of the sampling table.

Current regulations require that a NMFS-approved platform scale be provided in each observer sampling station. The scale must be rigidly attached to the vessel. The regulations do not specify at what height it should be attached. In many cases, vessel owners have installed the scale either flush with or on top of the observer sampling table, in some cases as high as 1.5 m off the floor. When the existing regulations were written, NMFS did not consider the need to mount the scale closer to the floor. However, based on comments received from observers, when the scale platform is more than 0.7 m above the floor, some observers cannot lift heavy baskets of fish onto the scale platform, especially during rough weather.

This proposed rule would require that the scale be mounted so that the weighing surface is no more than 0.7 m above the floor. Because many vessels installed scales at greater heights, these vessels would have to remount the scales. Depending on the construction of the scale base and the layout of the sampling station, lowering the scale would cost approximately $50.00 to $200.00. In no case would the proposed change require substantial modification of either the factory or the observer sampling station.

Observers estimate the species composition of each haul on factory trawlers and motherships. Weighing all of the catch by species is not practical, so the observer often sorts, weighs, and identifies a sample of the catch. NMFS extrapolates from these samples to estimate the total weight of each species in the haul. Observers take three major types of samples. The smallest sample is a basket sample. When basket sampling, the observer diverts at least 80 kilograms of fish into baskets, and measures and identifies each fish in the basket. Basket samples are often used to determine the size composition of the target catch in a haul. They are also used to determine the species composition of a haul when many species are abundant in the haul.

If the observer believes that counting, weighing, and identifying all of some species in a larger sample will be possible, he or she will take a partial haul sample. In a partial haul sample, the observer randomly selects a portion of the haul and sorts the chosen species into larger containers, then sorts and weighs them by species. The observer may choose to take a partial haul sample for all species, for non-target species, or only for prohibited species. When a vessel provides a total-catch weighing scale, the observer can use the scale weight to make an unbiased decision about when to start and stop a partial haul sample.

The final sample type is a whole haul sample. In a whole haul sample, the observer counts and weighs all of a given species in a haul. The sampling types can be combined and the observer may take all three types of sample from a single haul. For example, the observer may basket sample for the target species, whole haul for prohibited species, and partial haul for everything else.

As the percentage of the haul sampled increases, the accuracy of the estimates of species composition increase as well. Many vessel owners believe that larger samples prevent overestimation of the total catch of uncommon and prohibited species. Because catch of these species often drives the allowable harvest of target species, the vessel owners and operators often encourage the observer to partial or whole haul for prohibited species. However, the observer's ability to take partial or whole haul samples can be constrained by a lack of belt space where the sample can be sorted. All trawl catcher/processors with approved sampling stations have voluntarily provided sufficient space below the total-catch weighing scale to encourage the observer to take larger samples. In most cases, the space was already available, but in some cases vessels had to make factory modifications that would not have been necessary had they known in advance the requirements for partial haul sampling.

As part of the approval of an observer sampling station, this proposed rule would require that trawl catcher/processors provide at least 1 m of belt space downstream from the total-catch weighing scale for the observer's use when processing samples. This would enable the observer to use each of the three primary sampling strategies on all trawl catcher/processors.

**Transmission of Observer Data**

Each of the six CDQ groups is allocated a percentage of the total allowable catch for each species or species group in the BSAI, except squid. Many of the species quotas are further apportioned by season or area. Each CDQ group is responsible for managing its quotas and ensuring that its harvesting partners do not exceed them. To do this, the CDQ groups depend on the observer's estimates of total catch. In some cases, a CDQ harvesting partner could take a group's entire allocation of a species in a single haul. Thus, both NMFS and the CDQ group must get reliable and timely harvest information from the observer. To ensure timeliness and accuracy, observers use NMFS-supplied data entry and transmission software. This software guides the observer in what information needs to be transmitted, performs basic error checking, and transmits the data to NMFS. For an observer to use this system, the vessel operator must install NMFS-supplied data entry software and provide the computer and communication equipment necessary for its use. All processors currently participating in the CDQ fisheries have done this. However, this proposed rule would make the use of the NMFS-supplied electronic reporting software mandatory to ensure that timely data transmission will continue to occur.

Current regulations at § 679.50(f)(1)(iii)(B)(*1*) require catcher/processors and motherships to be equipped with the electronic communication equipment, hardware, and software necessary for the communication of observer data. NMFS proposes to amend § 679.32(c)(4) to require that processor vessels engaged in CDQ fishing be required to provide and maintain the NMFS-supplied data transmission software. Also, these vessels would be required to provide and maintain the computer hardware, software, and communication equipment needed for data transmission as specified at § 679.50(f)(1)(iii).

**Technical Corrections**

This proposed rule also would make minor editorial revisions to § 679.28 described here. These revisions are necessary to correct errors or clarify the regulatory text.

The phrase ''for catch weight measurement'' would be removed from the title of § 679.28 because the section also includes the requirements for other equipment.

Paragraph (b)(2)(vii) of § 679.28 would be revised by removing unnecessary text and subdividing the paragraph to improve clarity.

Paragraph (b)(3) of § 679.28 would be clarified by changing the phrase ''in which fish are weighed'' to ''when use of the scale is required.''

Paragraph (b)(3)(ii)(A) of § 679.28 would be revised by removing the title

''*Maximum Permissible Error*,'' which is unnecessary.

Paragraph (b)(5)(i) of § 679.28 would be clarified by changing the sentence ''Reports must be printed at least once each 24 hour period in which the scale is being used to weigh catch or before any information stored in the scale memory is replaced.'' This sentence would be changed to read: ''Reports must be printed every 24 hours when use of the scale is required. Reports must also be printed before any information stored in the scale computer memory is replaced.''

Paragraph (d)(5) of § 679.28 would be revised by changing the phrase ''electronic motion compensated platform scale'' to ''NMFS-approved platform scale.'' The original phrase is not consistent with wording used elsewhere.

Paragraph (d)(6) of § 679.28 would be clarified by changing the overly restrictive term ''floor grating'' to ''flooring that prevents slipping and drains well (grating or other material where appropriate).''

Paragraph (d)(8) of § 679.28 would be clarified by adding the phrase ''when use of the observer sampling station is required'' to the second sentence so that it reads: ''If the observer sampling station is moved or if the space or equipment available to the observer is reduced or removed, when use of the observer sampling station is required, the observer sampling station inspection report issued under this section is no longer valid.'' In many cases, vessel owners wish to use the observer sampling station for other purposes when not engaged in a fishery requiring its use. NMFS did not intend to require that the station be reinspected in this event; this change clarifies that intent.

The first sentence of paragraph (d)(8)(i)(G) of § 679.28 would be revised by changing the phrase ''CDQ and PSQ'' to ''catch'' so that it reads as follows: ''For catcher/processors using trawl gear and motherships, a diagram drawn to scale showing the location(s) where all catch will be weighed, the location where observers will sample unsorted catch, the location of the observer sampling station as described at paragraph (d) of this section, including the observer sampling scale, the name of the manufacturer, model of the scale to weigh total catch, and the observer sampling scale.'' This clarification is necessary because scales and observer sampling stations may be required on vessels not harvesting CDQ or PSQ.

**Classification**

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

This proposed rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). All have been approved by OMB and none would be changed as a result of this proposed action. The OMB control numbers and estimated response times for these requirements are: The submission of scale inspection reports is approved under 0648–0330 at 15 minutes per response; the retention of scale weight reports is approved under 0648–0330 at 3 minutes per response; the inspection of an observer sampling station is approved under 0648–0269 at 2 hours per response; and the electronic transmittal of observer data is approved under 0648–0307 at 10 minutes per response.

The estimates of response times given here include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Public comment is sought regarding whether the proposed collection-of-information requirements are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimates; 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, including the use of automated collection techniques or other forms of information technology. Send comments regarding these, or any other aspects of the collection of information requirements, to NMFS and OMB (see **ADDRESSES**).

NMFS prepared an IRFA for this proposed rule pursuant to 5 U.S.C. 603, without first making the threshold determination of whether the proposal would have a significant impact on a substantial number of small entities. The Summary and Conclusions section of the IRFA states:

> This action would revise and clarify the equipment and technical requirements for at-sea scales, observer sampling stations and observer transmission of data by making numerous, minor revisions to the regulations implementing these programs. The action is necessary to ensure NMFS ability to effectively manage these programs; to improve the clarity and consistency of the implementing regulations; and to reduce unnecessary regulatory burdens. It is being promulgated under the authority of the Magnuson-Stevens Act. This action would directly impact the 13 freezer longliners currently equipped with scales or observer sampling stations that may be small entities. The preferred alternative would impose no new reporting or recordkeeping requirements nor would it duplicate, overlap, or conflict with existing Federal rules. NMFS estimates that the preferred alternative would cost the owners of directly impacted freezer longliners less than $8,500 distributed among the 13 directly impacted vessels and in no case would cost any one vessel more than $1,700. This represents less than .06 percent of the average per-vessel gross revenues for the impacted vessels. In addition to the preferred alternative, the analysis considered two other alternatives: a ''no action'' alternative that would not revise the existing regulations; and a ''partial implementation'' alternative that would implement some of the proposed revisions. These alternatives were rejected because they would fail to make the changes necessary for successful management of these programs.
>
> The ownership characteristics of vessels that would be impacted by this action have not been analyzed to determine if they are independently owned and operated or affiliated with a larger parent company.

A copy of the RIR/IRFA can be obtained from NMFS (see **ADDRESSES**).

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with that directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this proposed rule.

**List of Subjects in 50 CFR Part 679**

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: November 26, 1999.

**Penelope D. Dalton,**

*Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

## PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

**Authority:** 16 U.S.C. 773 *et seq.*, 1801 *et seq.* and 3631 *et seq.*

2. In § 679.28, the section heading is revised; introductory text to paragraphs (b)(2)(iii), (b)(3), (b)(3)(ii)(B), (b)(5), and (d)(8), is revised; and paragraphs (b)(2)(vii), (b)(3)(ii)(A), (b)(5)(i), (b)(6), (d)(2), (d)(3), (d)(5) through (d)(7), and (d)(8)(i)(G) are revised to read as follows:

**§ 679.28 Equipment and operational requirements.**

* * * * *

(b) * * *

(2) * * *

(iii) *Who may perform scale inspections*? Scales must be inspected by either a NMFS staff scale inspector or a scale inspector employed by a weights and measures agency designated by NMFS to perform scale inspections on its behalf. A list of NMFS staff scale inspectors and scale inspectors employed by a weights and measures agency designated to perform scale inspections on its behalf is available from the Regional Administrator upon request. Scale inspections are paid for by NMFS.

* * * * *

(vii) *Scale inspection report*. (A) A scale is approved for use when the scale inspector completes and signs a scale inspection report verifying that the scale meets all of the requirements specified in this paragraph (b)(2) and appendix A to this part.

(B) The scale inspector must provide the original inspection report to the vessel owner and a copy to NMFS.

(C) The vessel owner must either:

(*1*) Maintain a copy of the report on board when use of the scale is required and make the report available to the observer, NMFS personnel, or an authorized officer, upon request, or;

(*2*) Display a valid NMFS-sticker on each approved scale.

(D) When in use, an approved scale must also meet the requirements described in paragraphs (b)(3) through (b)(6) of this section.

(3) *At-sea scale tests*. To verify that the scale meets the MPEs specified in this paragraph (b)(3), the vessel owner must ensure that the vessel operator tests each scale or scale system used to weigh total catch one time during each 24–hour period when use of the scale is required.

* * * * *

(ii) * * *

(A) The MPE for platform and hanging scales is plus or minus 0.5 percent of the known weight of the test material.

(B) *Test weights*. Each test weight must have its weight stamped on or otherwise permanently affixed to it. The weight of each test weight must be annually certified by a National Institute of Standards and Technology approved metrology laboratory or approved for continued use by the NMFS authorized inspector at the time of the annual scale inspection. The amount of test weights that must be provided by the vessel owner is specified in paragraphs (b)(3)(ii)(B)(*1*) and (b)(3)(ii)(B)(*2*) of this section.

* * * * *

(5) *Printed reports from the scale* (not applicable to observer sampling scales). The vessel owner must ensure that the vessel operator provides the printed reports required by this paragraph. Printed reports from the scale must be maintained on board the vessel until the end of the year during which the reports were made and be made available to observers, NMFS personnel, or an authorized officer. In addition, printed reports must be retained by the vessel owner for 3 years after the end of the year during which the printouts were made.

(i) *Reports of catch weight and cumulative weight*. Reports must be printed at least once every 24 hours when use of the scale is required. Reports must also be printed before any information stored in the scale computer memory is replaced. Scale weights must not be adjusted by the scale operator to account for the perceived weight of water, mud, debris, or other materials. Scale printouts must show:

(A) The vessel name and Federal fisheries or processor permit number;

(B) The haul or set number as recorded in the processor's DCPL (see § 679.5);

(C) The total weight of the haul or set;

(D) The total cumulative weight of all fish or other material weighed on the scale.

* * * * *

(6) *Scale installation requirements*. The scale display must be readable from where the observer collects unsorted catch.

* * * * *

(d) * * *

(2) *Location*. (i) *Motherships and catcher/processors or catcher vessels using trawl gear*. The observer sampling station must be located within 4 m of the location from which the observer collects unsorted catch. Clear, unobstructed passage must be provided between the observer sampling station and the location where the observer collects unsorted catch. When standing where unsorted catch is sampled, the observer must be able to see that no fish have been removed between the bin and the scale used to weigh total catch.

(ii) *Vessels using nontrawl gear*. The observer sampling station must be located within 5 m of the collection area, described at § 679.28(d)(7)(ii)(B), unless any location within this distance is unsafe for the observer. Clear, unobstructed passage must be provided between the observer sampling station and the collection area. Access must be provided to the tally station, described at § 679.28(d)(7)(ii)(A). NMFS may approve an alternative location if the vessel owner submits a written proposal describing the alternative location, the reasons why a location within 5 m of where fish are brought on board the vessel is unsafe, and if the proposed observer sampling station meets all other applicable requirements of this section.

(iii) *What is clear, unobstructed passage*? Where clear and unobstructed passage is required, passageways must be at least 65 cm wide at their narrowest point, be free of tripping hazards, and be at least 1.8 m high. Doorways or companionways must be free of obstacles.

(3) *Minimum work space*. The observer must have a working area for sampling of at least 4.5 square meters. This working area includes the observer's sampling table. The observer must be able to stand upright and have a work area at least 0.9 m deep in the area in front of the table and scale.

* * * * *

(5) *Observer sampling scale*. The observer sampling station must include a NMFS-approved platform scale with a capacity of at least 50 kg located within 1 m of the observer's sampling table. The scale must be mounted so that the weighing surface is no more than 0.7 m above the floor. The scale must be approved by NMFS under paragraph (b) of this section and must meet the maximum permissible error requirement specified in paragraph (b)(3)(ii)(A) of this section when tested by the observer.

(6) *Other requirements*. The sampling station must include flooring that prevents slipping and drains well (grating or other material where appropriate), adequate lighting, and a hose that supplies fresh or sea water to the observer.

(7) *Requirements for sampling catch*. (i) *Motherships and catcher/processors using trawl gear*. The conveyor belt conveying unsorted catch must have a removable board to allow fish to be diverted from the belt directly into the observer's sampling baskets. The diverter board must be located after the scale used to weigh total catch so that the observer can use this scale to weigh large samples. At least 1 m of accessible belt space, located after the scale used to weigh total catch, must be available for the observer's use when sampling a haul.

(ii) *Catcher/Processors using non-trawl gear*. In addition to the sampling station, vessels using non-trawl gear must provide: (A) *Tally Station*. A place

where the observer can see the gear as it leaves the water and can count and identify fish. It must be within 5 meters of where fish are brought aboard the vessel and in a location where the observer is not in danger of falling overboard or being gaffed. Where exposed to wind or seas, it must be equipped with a railing at least 1.0 meter high, grating or other non-slip material, and adequate lighting.

(B) *Collection Area.* A place where the observer, or vessel crew under the observer's guidance, collects fish as they come off the line or are removed from pots. It must be located where the observer can see the gear when it leaves the water. Where exposed to wind or seas, it must be equipped with a railing at least 1.0 m high and grating or other non-slip material.

(8) *Inspection of the observer sampling station.* Each observer sampling station must be inspected and approved by NMFS prior to its use for the first time and then one time each year within 12 months of the date of the most recent inspection with the following exceptions: If the observer sampling station is moved or if the space or equipment available to the observer is reduced or removed when use of the observer sampling station is required, the observer sampling station inspection report issued under this section is no longer valid, and the observer sampling station must be reinspected and approved by NMFS. Inspection of the observer sampling station is in addition to inspection of the at-sea scales by an authorized scale inspector required at paragraph (b)(2) of this section.

(i) * * *

(G) For catcher/processors using trawl gear and motherships, a diagram drawn to scale showing the location(s) where all catch will be weighed, the location where observers will sample unsorted catch, and the location of the observer sampling station as described at paragraph (d) of this section.

* * * * *

3. In § 679.32, paragraphs (c)(4)(iii) and (c)(4)(iv) are redesignated as paragraphs (c)(4)(iv) and (c)(4)(v) respectively, and a new paragraph (c)(4)(iii) is added to read as follows:

**§ 679.32 Groundfish and halibut CDQ catch monitoring.**

* * * * *

(c) * * *

(4) * * *

(iii) Obtain the data entry software provided by the Regional Administrator (—ATLAS software—) for use by the observer and ensure that observer data can be transmitted from the vessel to NMFS at any time while the vessel is receiving, catching or processing CDQ species.

* * * * *

4. In appendix A to part 679, in section 2.3.1.8, paragraphs (a)(iv) and (a)(v), in section 3.3.1.7, paragraphs (a)(iv) and (a)(v), and in section 4.3.1.5, paragraph (iv) are removed; in section 2.3.1.8, paragraphs (a)(vi) through (a)(viii) are redesignated as paragraphs (a)(iv) through (a)(vi) respectively; in section 3.3.1.7, paragraphs (a)(vi) through (a)(viii) are redesignated as paragraphs (a)(iv) through (a)(vi) respectively; in section 4.3.1.5, paragraph (a)(v) is redesignated as paragraph (a)(iv); and the definition of —security seals or means— in section 5.0 is revised to read as follows:

**Appendix A To Part 679**

* * * * *

*5. Definitions*

* * * * *

*Security seals or means*—A physical seal such as a lead and wire seal that must be broken in order to change the operating or performance characteristics of the scale, or a number generated by the scale whenever a change is made to an adjustable component. The number must be sequential and it must not be possible for the scale operator to alter it. The number must be displayed whenever the scale is turned on.

* * * * *

[FR Doc. 99–31309 Filed 12–1–99; 8:45 am]

BILLING CODE 3510–22–F

# Notices

Federal Register
Vol. 64, No. 231
Thursday, December 2, 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.

## COMMISSION ON CIVIL RIGHTS

### Sunshine Act Meeting

**AGENCY:** U.S. Commission on Civil Rights.

**DATE AND TIME:** Friday, December 10, 1999, 9:30 a.m.

**PLACE:** U.S. Commission on Civil Rights, 624 Ninth Street, NW., Room 540, Washington, DC 20425.

**STATUS:**

**Agenda**

I. Approval of Agenda

II. Approval of Minutes of November 5, 1999 Meeting

III. Announcements

IV. Staff Director's Report

V. Racial and Ethnic Tensions in American Communities: Poverty, Inequality, and Discrimination, Volume VII: The Mississippi Delta Report

VI. Equal Educational Opportunity and Nondiscrimination for Girls in Advanced Mathematics, Science, and Technology Education: Federal Enforcement of Title IX Report

VII. State Advisory Committee Report

- Employment Rehabilitation Services in Michigan (Michigan)
- The Personal Responsibility and Work Opportunity Reconciliation Act of 1996: An Examination of Its Impact on Legal Immigrants and Refugees in Rhode Island (Rhode Island)

VIII. Future Agenda Items

**CONTACT PERSON FOR FURTHER INFORMATION:** David Aronson, Press and Communications (202) 376–8312.

**Stephanie Y. Moore,**

*General Counsel.*

[FR Doc. 99–31380 Filed 11–30–99; 1:19 pm]

**BILLING CODE 6335–01–M**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[C–427–810]**

### Certain Steel Products from France; Notice of Final Court Decision and Amended Final Determination of Countervailing Duty Investigation

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of final court decision and amended final determination of countervailing duty investigation.

**SUMMARY:** On August 24, 1999, the U.S. Court of Appeals for the Federal Circuit affirmed the U.S. Court of International Trade's decisions sustaining the Department of Commerce's final determination in the countervailing duty investigation of certain steel products from France, as modified by two remand determinations. As there is now a final and conclusive court decision in this action, we are amending our final determination.

**FOR FURTHER INFORMATION CONTACT:** Rosa Jeong or Blanche Ziv, Office of Antidumping/Countervailing Duty Enforcement, Group I, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–3853 and 482–4207, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On July 9, 1993, the Department of Commerce (the Department) published notice of its final affirmative countervailing duty determination of certain steel products from France. The Department's final determination is set forth in *Final Affirmative Countervailing Duty Determinations; Certain Steel Products from France,* 58 FR 37304 (July 9, 1993), and in relevant parts of the General Issues Appendix to *Final Affirmative Countervailing Duty Determination; Certain Steel Products from Austria,* 58 FR 37217, 37231–36 (July 9, 1993). Subsequent to the publication of the Department's countervailing duty order, the petitioners and the respondents challenged the Department's final determination before the U.S. Court of International Trade (CIT).

Thereafter, the CIT issued its decision in *British Steel plc* v. *United States,* 879 F. Supp. 1254 (CIT 1995), which addressed general issues common to various countervailing duty investigations of certain steel products which, including the French investigation, had been before the Department concurrently. While affirming the Department's final determination on other general issues, the CIT rejected the Department's reliance on IRS tables showing industry-specific average useful life of assets in determining an allocation period of 15 years. In a subsequent remand determination dated June 30, 1995, the Department calculated a company-specific allocation period for Usinor Sacilor based on the average useful life of non-renewable physical assets, and the CIT affirmed it. *British Steel plc* v. *United States,* 929 F. Supp. 426 (CIT 1996).

Meanwhile, the CIT addressed issues specific to the French investigation in three decisions, which affirmed the Department's final determination on all but one issue. With regard to that issue, in *Inland Steel Industries, Inc.* v. *United States,* 967 F. Supp. 1338 (1997), the CIT accepted the Department's request for a voluntary remand. Specifically, during the verification of Usinor Sacilor's questionnaire responses, the Department had discovered that six Credit National loans included in the 1991 consolidation of outstanding Credit National loans were export promotion loans. Although in its final concurrence memorandum the Department stated that it would determine these loans to be specific, it inadvertently overlooked these loans in its final determination and calculations. On July 7, 1997, the Department filed its required remand results with the CIT, which were affirmed on December 5, 1997. *Inland Steel Industries, Inc.* v. *United States,* 985 F. Supp. 132 (CIT 1997).

Consistent with the U.S. Court of Appeals for the Federal Circuit's (CAFC) decision in *Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990), once the CIT litigation was concluded, the Department published a ''Notice of Court Decision'' in the **Federal Register** on January 12, 1998 (63 FR 1827). In that notice, we stated that we would continue to suspend liquidation of any subject merchandise entered, or

withdrawn from warehouse, for consumption until a final and conclusive decision in the case was reached. We also announced that we would instruct the Customs Service to change the relevant cash deposit rates in the event that the CIT's ruling is not appealed or the CAFC issues a final decision affirming the CIT's ruling.

On August 24, 1999, in *Inland Steel Industries, Inc.* v. *United States,* 188 F.3d 1349 (Fed. Cir. 1999), the CAFC affirmed the CIT's decisions on all issues before it. On November 4, 1999, the CAFC issued its mandate.

Therefore, as there is now a final and conclusive court decision in this case, we are amending our final determination.

**Amendment to Final Determination**

Pursuant to 19 U.S.C. 1516a(e), we are now amending our final determination in certain steel products from France. The recalculated net subsidy rate for all programs for Usinor Sacilor and the country-wide rate is 15.13% *ad valorem.* We will instruct the Customs Service to change the cash deposit requirements accordingly. In addition, because there have been no requests for administrative reviews of the countervailing duty order, the Department will instruct the Customs Service to proceed with liquidation of subject merchandise entered on or after December 7, 1992, the date of the Department's preliminary determination, and before April 6, 1993, the date on which the Department's authority to impose provisional measures lapsed as explained in the final determination, 58 FR at 37314, as well as subject merchandise entered on or after August 17, 1993, the date on which the countervailing duty order was published, and before December 31, 1998, which is the last day of the most recent period for which no administrative review was requested.

Dated: November 19, 1999.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 99–31300 Filed 12–1–99; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

### Announcing a Meeting of the Computer System Security and Privacy Advisory Board

**AGENCY:** National Institute of Standards and Technology, Commerce.

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the Computer System Security and Privacy Advisory Board (CSSPAB) will meet Tuesday, December 7, 1999, and Wednesday, December 8, 1999, from 9 a.m. to 5 p.m. and Thursday, December 9, 1999, from 9 a.m. to 2 p.m. The Advisory Board was established by the Computer Security Act of 1987 (Pub. L. 100–235) to advise the Secretary of Commerce and the Director of NIST on security and privacy issues pertaining to federal computer systems. All sessions will be open to the public. Details regarding the Board's activities are available at http://csrc.nist.gov/csspab/.

**DATES:** The meeting will be held on December 7–8, 1999, from 9 a.m. to 5 p.m. and on December 9, 1999, from 9 a.m. until 2 p.m.

**ADDRESSES:** The meeting will take place at the National Institute of Standards and Technology, Gaithersburg, MD, Administration Building, Lecture Room B.

**Agenda**

—Welcome and Overview
—Issues Update and Briefings
—Legislative Updates
—Office of Management and Budget/ Office of Information and Regulatory Affairs Briefing
—Briefing on GSA's Access Certificates Electronic Services (ACES)
—Discussion on Fair Information Practices and Privacy Protection
—NIST Computer Security Updates
—Planning for Security Program Metrics Workshop
—Pending Business/Discussion
—Public Participation
—Agenda Development for March 2000 Meeting
—Wrap-Up

Note that agenda items may change without notice because of possible unexpected schedule conflicts of presenters.

**PUBLIC PARTICIPATION:** The Board agenda will include a period of time, not to exceed thirty minutes, for oral comments and questions from the public. Each speaker will be limited to five minutes. Members of the public who are interested in speaking are asked to contact the Board Secretariat at the telephone number indicated below. In addition, written statements are invited and may be submitted to the Board at any time. Written statements should be directed to the CSSPAB Secretariat, Information Technology Laboratory, 100 Bureau Drive, Stop 8930, National Institute of Standards and Technology, Gaithersburg, MD 20899–8930. It would be appreciated if 35 copies of written material were submitted for distribution to the Board and attendees no later than December 6, 1999. Approximately 15 seats will be available for the public and media.

**FOR FURTHER INFORMATION CONTACT:** Mr. Edward Roback, Board Secretariat, Information Technology Laboratory, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8930, Gaithersburg, MD 20899–8930, telephone: (301) 975–3696.

Dated: November 23, 1999.

**Karen H. Brown,**

*Deputy Director, National Institute of Standards and Technology.*

[FR Doc. 99–31301 Filed 12–1–99; 8:45 am]

**BILLING CODE 3510–CN–M**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 112699A]**

### Gulf of Mexico Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The Gulf of Mexico Fishery Management Council will convene a public meeting of the Shrimp Advisory Panel (AP).

**DATES:** The Shrimp AP meeting is scheduled to begin at 8:30 a.m. on Thursday, January 6, 2000.

**ADDRESSES:** The meeting will be held at the New Orleans Airport Hilton Hotel, 901 Airline Highway, Kenner, Louisiana; telephone 504–469–5000.

*Council address*: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, Florida, 33619.

**FOR FURTHER INFORMATION CONTACT:** Dr. Richard Leard, Senior Fishery Biologist, Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, Florida, 33619; telephone 813–228–2815.

**SUPPLEMENTARY INFORMATION:** The Shrimp AP will convene to review scientific information on the effects of the cooperative shrimp seasonal closure with the state of Texas. The Shrimp AP will also receive a presentation regarding the status of the shrimp stocks in the Gulf of Mexico and an overfishing report. The Shrimp AP may develop

recommendations to the Council regarding the extent of Federal waters off Texas that will be closed in 2000 concurrently with the closure of Texas waters. Finally, the Shrimp AP will review a draft of an Options paper for Amendment 10 to the Shrimp Fishery Management Plan. This options paper contains provisions for requiring additional measures to reduce bycatch in the shrimp fishery, particularly on the west coast of Florida, south and east of 85°30' W. long. Measures being considered include area and/or seasonal closures as well as bycatch reduction devices.

The Shrimp AP consists principally of commercial shrimp fishermen, dealers, and association representatives. Copies of the agenda can be obtained by calling 813–228–2815.

Although non-emergency issues not contained in this agenda may come before the AP for discussion, those issues may not be the subject of formal action during this meeting. Actions of the AP will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

### Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by December 29, 1999.

Dated: November 26, 1999.

**Gary C. Matlock,**

*Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 99–31307 Filed 12–1–99; 8:45 am]

**BILLING CODE 3510–22–F**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 111699A]**

### Marine Mammals; File No. P598

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

**ACTION:** Issuance of permit amendment.

**SUMMARY:** Notice is hereby given that Permit No. 987 issued to Dr. Jim Darling, Box 384, Tofino, B.C., Canada VO4 2Z0, was amended to extend the expiration date to September 30, 2000.

**ADDRESSES:** The amendment and related documents are available for review upon written request or by appointment in the following offices:

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130 Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213 (562/980–4001); and

Protected Resources Program Manager, Pacific Islands Area Office, 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814–4700 (808/973–2937).

**FOR FURTHER INFORMATION CONTACT:** Jeannie Drevenak, (301/713–2289).

**SUPPLEMENTARY INFORMATION:** On September 23, 1999, notice was published in the **Federal Register** (64 FR 51518) that an amendment of Permit No. 987, issued June 20, 1996 (61 FR 34801), had been requested by the above-named individual. The subject amendment has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the provisions of § 216.39 of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the provisions of § 222.25 of the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR part 222–226).

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: November 24, 1999.

**Thomas J. McIntyre,**

*Acting Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 99–31306 Filed 12–1–99; 8:45 am]

**BILLING CODE 3510–22–F**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 110899C]**

### Marine Mammals; Scientific Research Permit (PHF# 731–1509–01)

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

**ACTION:** Issuance of permit amendment.

**SUMMARY:** Notice is hereby given that Dr. Robin Baird, Biology Department, Dalhousie University, Halifax, Nova Scotia, B3H 4J1 Canada, has been issued an amendment to scientific research Permit No. 731–1509–00.

**FOR FURTHER INFORMATION CONTACT:** Jeannie Drevenak, 301/713–2289.

**SUPPLEMENTARY INFORMATION:** On May 13, 1999, notice was published in the **Federal Register** (64 FR 25875) that Dr. Robin W. Baird had applied in due form for a permit to take several species of cetaceans for purposes of scientific research. Permit No. 731–1509–00 was subsequently issued on July 23, 1999, which authorized a portion of the requested activities (*i.e.*, photo-identification and suction cup tagging of non-listed species of cetaceans in the Pacific Ocean, and sperm whales (*Physeter macrocephalus*) and fin whales (*Balaenoptera physalus*) in the Mediterrean and Ligurian Seas. The permit has now been amended to authorize the taking of listed species of cetaceans in the Pacific Ocean.

The requested amendment has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Regulations Governing the Taking, Importing, and Exporting of Endangered Fish and Wildlife (50 CFR part 222).

Issuance of this amendment, as required by the ESA, was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this permit; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West

Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way, NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0070 (206/526–6426);

Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213 (562/980–4027);

Protected Species Program Manager,Pacific Islands Area Office, NMFS, NOAA, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, Hawaii 96814–4700 (808/973–2935); and

Regional Administrator, Alaska Region, NMFS, 709 W. 9th Street, Federal Building, Room 461, P.O. Box 21668, Juneau, AK 99802 (907/586–7235).

Dated: November 26, 1999.

**Thomas J. McIntyre,**

*Acting Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 99–31308 Filed 12–1–99; 8:45 am]

**BILLING CODE 3510–22–F**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. EL00–18–000, et al.]**

## New England Power Company, et al.; Electric Rate and Corporate Regulation Filings

November 22, 1999.

Take notice that the following filings have been made with the Commission:

### 1. New England Power Company and Montaup Electric Company

[Docket No. EL00–18–000]

Take notice that on November 17, 1999, New England Power Company and Montaup Electric Company (Applicants) submitted for filing a Petition for Declaratory Order Authorizing Payment of Dividends as a Result of Mergers.

Applicants state that the purpose of the filing is to seek Commission approval to pay as dividends from paid-in capital accounts, preexisting retained earnings that will have been restated as paid-in capital as a result of accounting conventions resulting from mergers affecting Applicants. Also, Applicants are seeking Commission approval to calculate net income available to pay dividends by performing the calculation without regard to the amortization of the acquisition premiums that will be the result of two recent mergers involving Applicants. Finally, Applicants are requesting that the Commission give expedited consideration to the Petition and issue a decision approving these requests by no later than December 15, 1999.

*Comment date:* December 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 2. Gelber Group, Inc. and Community Electric Power Corporation

[Docket Nos. ER96–1933–007 and ER97–2792–008]

Take notice that on November 15, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only.

### 3. Northwest Natural Gas Company

[Docket No. ER97–683–005]

Take notice that on November 16, 1999, Northwest Natural Gas Company filed their quarterly report for the quarters ending June 30, 1999 and September 30, 1999, for information only.

### 4. Southern Energy California, L.L.C.

[Docket No. ER99–1841–002]

Take notice that on October 29, 1999, Southern Energy California, L.L.C. filed their quarterly report the quarter ending September 30, 1999, for information only.

### 5. Cinergy Services, Inc.

[Docket Nos. ER96–2506–004; ER93–730–016; ER98–421–009; ER98–4055–006 and ER99–1727–001]

Take notice that on November 15, 1999, Cinergy Services, Inc. (Cinergy), on behalf of its Operating Companies, The Cincinnati Gas & Electric Company and PSI Energy, Inc. and its non-regulated affiliates, Cinergy Capital & Trading, Inc., CinCap IV, LLC, CinCap V, LLC and CinCap VI, LLC, tendered for filing an updated Generation Market Power Analysis in connection with the market-based rate authority of the Cinergy's Operating Companies and non-regulated affiliates.

*Comment date:* December 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 6. Maine Yankee Atomic Power Company

[Docket No. ER98–570–003]

Take notice that on November 16, 1999, Maine Yankee Atomic Power Company (Maine Yankee), tendered for filing a compliance filing pursuant to the Commission's letter order issued June 1, 1999, in the above captioned docket. The compliance filing contains a report detailing the decommissioning amounts and calculations for elimination of 6.8 million dollars annually, associated with spent fuel storage costs and a one time payment from the State of Maine State Planning Office Fund to offset the costs of decommissioning. As required by the FERC order of June 1, 1999, the company has furnished copies of such report to the affected wholesale customers, and to each state commission within whose jurisdiction the wholesale customers distribute and sell electric energy at retail.

*Comment date:* December 6, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 7. Rochester Gas and Electric Corporation

[Docket Nos. ER97–1523–018, OA97–470–017 and ER97–4234–015]

Take notice that on November 17, 1999, Rochester Gas and Electric Corporation (RG&E), tendered for filing a Amendment to the transmission agreement between RG&E and the New York Power Authority.

RG&E requests that this amendment be effective upon the start-up of the New York Independent System Operator.

*Comment date:* December 7, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 8. Nevada Power Company

[Docket No. ER99–2338–001]

Take notice that on November 16, 1999, Nevada Power Company (Nevada Power), tendered for filing pursuant to Section 205 of the Federal Power Act six forms of Service Agreements applicable to the six Generation Aggregation Tariffs (GAT's) approved by the Commission in its Order of November 1, 1999. Nevada Power Co., 89 FERC ¶61, 130 (1999). The Commission's approval of the GAT's was conditioned upon Nevada Power filing forms of Service Agreement for each of the six GATs. Nevada Power's filing is intended to satisfy that condition.

*Comment date:* December 6, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 9. California Independent System Operator Corporation

[Docket No. ER99–3301–003]

Take notice that on November 15, 1999, the California Independent System Operator Corporation (ISO), tendered for filing copies of tariff sheets for the ISO FERC Electric Tariff, Original Volume I, tendered for filing in compliance with the Commission's

October 15, 1999, Order in the above-captioned docket.

The ISO states that this filing has been served on all the participants listed in the official service list in the above-captioned docket.

*Comment date:* December 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

**10. Ameren Operating Companies**

[Docket No. ER99–4226–002]

Take notice that on November 15, 1999, Ameren Services Company (Ameren), on behalf of the Ameren Operating Companies, made a compliance filing at the direction of the Commission in an order issued in the above-captioned proceeding on October 14, 1999.

Copies of the filing have been served on the Illinois Commerce Commission, the Missouri Public Service Commission and all parties to the proceeding.

*Comment date:* December 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

**11. Hardee Power Partners Limited**

[Docket No. ER00–185–000]

Take notice that on November 16, 1999, Hardee Power Partners Limited (HPP), tendered for filing an unexecuted service agreement with the Reedy Creek Improvement District (RCID) under HPP's market-based sales tariff, to correct and replace the service agreement previously filed in this docket.

HPP renews its request that the service agreement be made effective on September 23, 1999.

Copies of the filing have been served on RCID and the Florida Public Service Commission.

*Comment date:* December 6, 1999, in accordance with Standard Paragraph E at the end of this notice.

**12. Wisconsin Public Service Corporation**

[Docket No. ER00–554–000]

Take notice that on November 10, 1999, Wisconsin Public Service Corporation (WPSC), tendered for filing a modification to its existing service agreement with Upper Peninsula Power Company (UPPCO), its affiliate, under WPSC's cost-based sales tariff, FERC Electric Tariff, Original Volume No. 5.

WPSC requests waiver of the Commission's notice of filing requirements so that the service agreement may become effective on November 10, 1999, the date of filing.

WPSC has served this filing on UPPCO, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

*Comment date:* December 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

**13. California Power Exchange Corporation**

[Docket No. ER00–575–000]

Take notice that on November 16, 1999, the California Power Exchange Corporation (CalPX), tendered for filing a Participation Agreement with Comision Federal de Electricidad (CFE). That Participation Agreement makes certain non-rate modifications to the pro forma Participation Agreement to accommodate the specific needs of CFE.

CalPX requests an effective date of October 22, 1999.

*Comment date:* December 6, 1999, in accordance with Standard Paragraph E at the end of this notice.

**14. Louisville Gas and Electric Company/Kentucky Utilities Company**

[Docket No. ER00–576–000]

Take notice that on November 16, 1999, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (Companies), tendered for filing fully executed Netting Agreements between the Companies and Statoil Energy Trading, Inc.

*Comment date:* December 6, 1999, in accordance with Standard Paragraph E at the end of this notice.

**15. Louisville Gas and Electric Company/Kentucky Utilities Company**

[Docket No. ER00–577–000]

Take notice that on November 16, 1999, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (Companies), tendered for filing fully executed Netting Agreements between the Companies and Western Resources, Inc.

*Comment date:* December 6, 1999, in accordance with Standard Paragraph E at the end of this notice.

**16. Public Service Company of Oklahoma**

[Docket No. ER00–578–000]

Take notice that on November 16, 1999, Public Service Company of Oklahoma (PSO), tendered for filing an Interconnection Agreement between PSO and Green Country Energy, LLC (GCE).

PSO requests an effective date for the Interconnection Agreement of sixty (60) days from the date of the filing.

PSO states that a copy of the filing was served on GCE and the Oklahoma Corporation Commission.

*Comment date:* December 6, 1999, in accordance with Standard Paragraph E at the end of this notice.

**17. Rochester Gas and Electric Corporation**

[Docket No. ER00–579–000]

Take notice that on November 16, 1999, Rochester Gas and Electric Corporation (RG&E), tendered for filing a Market Based Service Agreement between RG&E and Allegheny Power (Customer). This Service Agreement specifies that the Customer has agreed to the rates, term and conditions of RG&E's FERC Electric Rate Schedule, Original Volume No. 3 (Power Sales Tariff) accepted by the Commission in Docket No. ER98–3553 (80 FERC ¶61,284) (1997)).

RG&E requests waiver of the Commission's sixty (60) day notice requirements and an effective date of November 11, 1999 for Allegheny Power's Service Agreement.

RG&E has served copies of the filing on the New York State Public Service Commission and on the Customer.

*Comment date:* December 6, 1999, in accordance with Standard Paragraph E at the end of this notice.

**18. Wisconsin Public Service Corporation**

[Docket No. ER00–580–000]

Take notice that on November 16, 1999, Wisconsin Public Service Corporation (WPSC), tendered for filing an amendment to its February 22, 1993 Agreement with the City of Marshfield concerning the ownership and operation of combustion turbine generation. The amendment implements a revision to the capacity rating of the West Marinette Unit.

Wisconsin Public Service Requests waiver of the Commission's regulations to permit the amendment to become effective on January 1, 2000.

*Comment date:* December 6, 1999, in accordance with Standard Paragraph E at the end of this notice.

**19. Avista Corporation**

[Docket No. ER00–581–000]

Take notice that on November 16, 1999, Avista Corporation (Avista), tendered for filing, with the Federal Energy Regulatory Commission pursuant to 18 CFR Section 35.13, an executed Mutual Netting Agreement allowing for arrangements of amounts which become due and owing to one Party to be set off against amounts which are due and owing to the other Party with Williams Energy Marketing & Trading Company.

Avista Corporation requests waiver of the prior notice requirement and requests an effective date of November 1, 1999.

*Comment date:* December 6, 1999, in accordance with Standard Paragraph E at the end of this notice.

**20. Illinova Power Marketing, Inc.**

[Docket No. ER00–582–000]

Take notice that on November 15, 1999, Illinova Power Marketing, Inc., tendered for filing an Electric Power Transaction Service Agreement under which Griffin Energy Marketing, L.L.C., will take service pursuant to IPMI's power sales tariff, Rate Schedule FERC No. 1.

IPMI has requested an effective date of October 21, 1999.

*Comment date:* December 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

**21. Virginia Electric and Power Company**

[Docket No. ER00–583–000]

Take notice that on November 15, 1999, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement for Long Term Firm Point-to-Point Transmission Service with PECO Energy Company under the Open Access Transmission Tariff to Eligible Purchasers dated July 14, 1997. Under the tendered Service Agreement, Virginia Power will provide Long Term Firm Point-to-Point Transmission Service to PECO Energy Company under the rates, terms and conditions of the Open Access Transmission Tariff.

Virginia Power requests an effective date of June 1, 2001.

*Comment date:* December 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

**22. Montana Power Company**

[Docket No. ER00–584–000]

Take notice that on November 15, 1999, Montana Power Company (Montana), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13 an executed Firm Point-To-Point Transmission Service Agreement and executed Non-Firm Point-to-Point Service Agreement with Cargill-Alliant, LLC under Montana's FERC Electric Tariff, Fourth Revised Volume No. 5 (Open Access Transmission Tariff).

A copy of the filing was served upon Cargill-Alliant, LLC.

*Comment date:* December 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

**23. Montana Power Company**

[Docket No. ER00–585–000]

Take notice that on November 15, 1999, Montana Power Company (Montana), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13 an unexecuted Firm Point-To-Point Transmission Service Agreement and executed Non-Firm Point-to-Point Service Agreement with Enron Power Marketing, Inc., under Montana's FERC Electric Tariff, Fourth Revised Volume No. 5 (Open Access Transmission Tariff).

A copy of the filing was served upon Enron Power Marketing, Inc.

*Comment date:* December 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

**24. Madison Gas and Electric Company**

[Docket No. ER00–586–000]

Take notice that on November 15, 1999, Madison Gas and Electric Company (MGE), tendered for filing with the Federal Energy Regulatory Commission a Market-Based Power Sales Tariff.

Copies of this filing have been mailed to all MGE customers currently served on its existing Power Sales Tariff (FERC Electric Tariff Original Volume No. 2) and to the Public Service Commission of Wisconsin.

MGE requests an effective date 60 days from the date of filing.

*Comment date:* December 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

**25. Delmarva Power & Light Company**

[Docket No. ER00–587–000]

Take notice that on November 15, 1999, Delmarva Power & Light Company (Delmarva), tendered for filing an executed Service Agreement with Commonwealth Energy Corporation doing business as ELECTRICAMERICA under Delmarva's market rate sales tariff, FERC Electric Tariff, Second Revised Volume No. 14.

*Comment date:* December 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

**26. Alliant Energy Corporate Services, Inc.**

[Docket No. ER00–588–000]

Take notice that on November 15, 1999, Alliant Energy Corporate Services, Inc., tendered for filing an executed Service Agreement for Long-Term Firm Point-to-Point Transmission Service. The agreement has been signed by Alliant Energy Corporate Services, Inc. (the Transmission Provider) and Alliant Energy Corporate Services, Inc., (the Transmission Customer).

Alliant Energy Corporate Services, Inc., requests an effective date of May 1, 2001, and accordingly, seeks waiver of the Commission's notice requirements.

*Comment date:* Decemeber 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

**27. PDI—New England and PDI—Canada**

[Docket No. ER00–598–000]

Take notice that on November 18, 1999, PDI—New England and PDI—Canada filed their quarterly report for the quarter ending September 30, 1999.

*Comment date:* December 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

**Standard Paragraphs**

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

**David P. Boergers,**

*Secretary.*

[FR Doc. 99–31261 Filed 12–1–99; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6482–4]**

## Agency Information Collection Activities: Submission for OMB Review; Comment Request; Spill Prevention, Control and Countermeasure Plans

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

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Spill Prevention, Control and Countermeasure Plans (SPCC), OMB

Control No. 2050–0021; expiring 12/31/99). The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before January 3, 2000.

**FOR FURTHER INFORMATION CONTACT:** Sandy Farmer at EPA by phone at (202) 260–2740, by EMAIL at farmer.sandy@epamail.epa.gov, or download a copy of the ICR off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 328.08.

**SUPPLEMENTARY INFORMATION:**

*Title:* ''Spill Prevention, Control and Countermeasure Plans'' (OMB Control No. 2050–0021; EPA ICR No. 328.08) expiring 12/31/99. This ICR requests an extension of a currently approved collection.

*Abstract:* Under Section 311 of the Clean Water Act, EPA's Oil Pollution Prevention regulation (40 CFR part 112) requires facility owners or operators to prepare and implement SPCC Plans and keep certain records. Preparation of the SPCC Plan requires that a facility owner or operator analyze how to prevent oil discharges, thereby promoting appropriate facility design and operations. The information in the SPCC Plan also promotes efficient response in the event of a discharge. Finally, proper maintenance of the SPCC Plan promotes important spill-reducing measures, facilitates leak detection, and generally ensures that the facility deters discharges at its peak capability. All of the SPCC Plan recordkeeping activities are mandatory. The specific activities and reasons and uses for the information collection are described below. Recordkeeping Activities: Under section 112.3, a facility owner or operator must prepare a written SPCC Plan, maintain it at or near the facility, and have it certified by a Registered Professional Engineer (PE). Under section 112.5 the SPCC Plan must be amended (I) whenever there is a facility change that materially affects the potential to discharge oil, and (ii) to include more effective prevention and control technology identified in the owner or operator's triennial Plan review. If amended, the Plan must also be certified by a PE. Under section 112.4, in the event of certain oil discharges, facility owners or operators must submit the SPCC Plan and other information to the EPA Regional Administrator and the appropriate state water pollution control agency within 60 days. Upon review, the Regional Administrator may require amendment of the SPCC Plan. Again, the amended Plan must be certified by PE. Under section 112.3, the owner or operator must maintain (and update) records of specific inspections as outlined under section 112.7(e). Purpose of Data Collection: Facility owners or operators are the primary user of SPCC Plans and related data. EPA does not collect the Plan or related records on a routine basis. Facilities that prepare, implement, and maintain an SPCC Plan improve their ability to prevent oil discharges, and mitigate the environmental damage caused by such discharges. As facility owners or operators accumulate the data, they necessarily analyze the facility's capability to prevent oil discharges, facilitate safety awareness, and promote the use of appropriate design and operational standards that reduce the likelihood of an oil discharge. The Plan information can also help the facility respond efficiently in the event of a discharge. Inspection records help facility owners and operators to promote important operation and maintenance, and demonstrate compliance with SPCC requirements.

EPA also uses the SPCC data in certain situations. EPA primarily uses SPCC Plan data to verify that facilities comply with the regulation and implement their Plan, including design and operation specifications and inspection requirements. EPA reviews SPCC Plans; (1) when facilities submit the Plans because of oil discharges, and (2) as part of EPA's inspection program. State and local governments may also use the data, which is not necessarily available elsewhere and can greatly assist local emergency preparedness planning efforts.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a current valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on September 2, 1999 (64 FR 48157). We received several comments. Those commenters suggested measures like the extension of triennial review to five- or seven-year review, exemption of electrical utilities from the SPCC rule or from various provisions of that rule, and certification of SPCC Plans by environmental professional rather than by a Professional Engineer. We will address those comments in a forthcoming rule which we expect to finalize in 2000. We received several other comments concerning our accounting methodology for Plan certification. Based on these comments, we have changed our methodology to better reflect this requirement. The Supporting Statement to the Information Collection Request provides additional detail concerning this adjustment.

*Burden Statement:* The annual public reporting and recordkeeping burden per facility for this collection of information is estimated to range between 39.4 and 100.4 hours for newly regulated facilities and 4.9 to 13.8 hours for facilities that are currently regulated. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements to train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

*Respondents/Affected Entities:* Non-transportation related facilities that could be reasonably expected to discharge oil into or upon navigable waters.

*Estimated Number of Respondents:* 469,289.

*Frequency of Response:* One-time plan, occasional records/reports.

*Estimated Total Annual Hour Burden:* 2.8 million hours.

*Estimated Total Annualized Cost Burden:* $28.7 million.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 328.08 and OMB Control No. 2050–0021 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Policy, Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460; and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725-17th St., NW, Washington, D.C. 20503.

Dated: November 23, 1999.

**Richard T. Westlund,**

*Acting Director, Regulatory Information Division.*

[FR Doc. 99–31279 Filed 12–1–99; 8:45 am]

**BILLING CODE 6560–50–U**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6482–5]**

### Environmental Laboratory Advisory Board; Nominees, Meeting Date and Agenda

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice; solicitation of nominees for membership and notice of open meeting.

**SUMMARY:** The Environmental Protection Agency (EPA) is soliciting nominees to serve on the Environmental Laboratory Advisory Board (ELAB). Nominees are being sought to fill vacancies in the following categories: environmental engineering associations or firms, Indian nations, third party assessors, commercial laboratories, purchasers of environmental laboratory services, public interest groups and other associated with the environmental monitoring community. Terms of service will commence on December 16, 1999, and terminate on July 30, 2001. Application forms must be completed, to provide information on experience, abilities, stakeholder interest, organizational description, and references. A copy of the application form can be obtained on the Internet (see address below).

The Agency will convene an open meeting of ELAB on December 16, 1999, from 5:00 p.m. to 6:00 p.m. to solicit input from the public on issues related to the NELAC standards and the NELAC environmental laboratory accreditation program. ELAB will then reconvene on December 17, 1999, from 8:00 a.m. to 12:00 p.m. These meetings immediately follow the National Environmental Laboratory Accreditation Conference's (NELAC) interim meeting and will be held in the J.W. Marriott Hotel, 1331 Pennsylvania Avenue, NW, Washington, DC 20460. Directions can be obtained from the hotel by calling (202) 393–2000.

The agenda will include discussions of issues related to laboratory accreditation raised to the Board by the public as well as a review of outstanding recommendations and activities from earlier Board meetings. Comments on the NELAC standards and laboratory accreditation program will be solicited. The Internet site address for the NELAC standards and the above mentioned ELAB nominee application is:

http://ttnwww.rtpnc.epa.gov/html/nelac/nelac.htm#NL02

The public is encouraged to attend. Time will be allotted for public comment. Written comments are encouraged and should be directed to David Friedman; USEPA (8101R); Washington, DC 20460. If questions arise, please contact Mr. Friedman at (202) 564–6662, fax (202) 565–2432, or E-mail: friedman.david@epa.gov.

Dated: November 23, 1999.

**Henry L. Longest II,**

*Deputy Assistant Administrator for Management.*

[FR Doc. 99–31280 Filed 12–1–99; 8:45 am]

**BILLING CODE 6560–50–U**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6483–5]**

### Carolina Creosoting Corporation Superfund Site, Leland, Brunswick County, North Carolina; Notice of Proposed Settlement

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

**ACTION:** Notice of proposed settlement.

**SUMMARY:** Pursuant to 122(h)(1) of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), the U.S. Environmental Protection Agency (''EPA'') proposes to settle its claim for past response costs incurred at the Carolina Creosoting Corporation Site (''Site'') located in Leland, Brunswick County, North Carolina with the following settling parties: the Trust under the Will of Robert T. Smith, Nancy Smith, both individually and as Trustee under the Will of Robert T. Smith, Edward Keelan, Joseph E. Carney, Jr., and Thomas Carney. For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the settlement. EPA will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. A copy of the proposed settlement may be obtained from Ms. Paula V. Batchelor, U.S. EPA Region 4, CERCLA Program Services Branch, Waste Management Division, 61 Forsyth Street, S.W., Atlanta, Georgia 30303, (404) 562–8887. Comments should reference the Carolina Creosoting Corporation Site in Leland, Brunswick County, North Carolina.

**Anita Davis,**

*Acting Chief, CERCLA Program Services Branch, Waste Management Division.*

[FR Doc. 99–31282 Filed 12–1–99; 8:45 am]

**BILLING CODE 6560–50–U**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6483–1]**

### Middlefield-Ellis-Whisman Regional Study Area Proposed Notice of Administrative Settlement

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

**ACTION:** Notice; request for public comment.

**SUMMARY:** In accordance with the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (''CERCLA''), 42 U.S.C. 9600 *et seq.,* notice is hereby given that a proposed prospective purchaser agreement associated with the Middlefield-Ellis-Whisman Regional Study Area[1] was executed by the United States Environmental Protection Agency (''EPA'') on November 4, 1999. The proposed prospective purchaser agreement would resolve certain potential claims of the United States under sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, against Jay Paul Company, Inc. and Whisman Ventures (collectively, the ''Purchaser''). The proposed settlement would require the purchaser to pay EPA a one-time payment of $75,000.

For thirty (30) calendar days following the date of publication of this notice, EPA will receive written comments relating to the proposed settlement. If requested prior to the expiration of this public comment period, EPA will provide an opportunity for a public meeting in the affected area. EPA's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105.

**DATES:** Comments must be submitted on or before January 3, 2000.

[1] MEW encompasses three NPL Superfund Sites (Fairchild, Raytheon and Intel, respectively), two federal facilities (Moffett Naval Air Station and NASA) and eight other facilities undergoing remediation which are not listed on the NPL.

**AVAILABILITY:** The proposed prospective purchaser agreement and additional background documentation relating to the settlement are available for public inspection at the U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105. A copy of the proposed settlement may be obtained from Danita Yocom, Assistant Regional Counsel (RC–3), Office of Regional Counsel, U.S. EPA Regional IX, 75 Hawthorne Street, San Francisco, CA 94105. Comments should reference ''Jay Paul, MEW Regional Study Area'' and ''Docket No. 00–01'' and should be addressed to Danita Yocom at the above address.

**FOR FURTHER INFORMATION CONTACT:** Danita Yocom, Assistant Regional Counsel (RC–3), Office of Regional Counsel, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105; E-mail: YOCOM..DANITA@EPA.GOV; phone: (415) 744–1347.

Dated: November 12, 1999.

**Michael Feeley,**

*Acting Division Director, Superfund Division, Region IX.*

[FR Doc. 99–31281 Filed 12–1–99; 8:45 am]

**BILLING CODE 6560–50–M**

## OFFICE OF SCIENCE AND TECHNOLOGY POLICY

### Meeting of the President's Committee of Advisors on Science and Technology

**AGENCY:** Office of Science and Technology Policy.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice sets forth the schedule and summary agenda for a meeting of the President's Committee of Advisors on Science and Technology (PCAST), and describes the functions of the Committee. Notice of this meeting is required under the Federal Advisory Committee Act.

**DATES AND PLACE:** December 10, 1999, Washington, DC. This meeting will take place in the Truman Room (Third Floor) of the White House Conference Center, 726 Jackson Place, NW, Washington, DC.

*Type of Meeting:* Open.

*Proposed Schedule and Agenda:* The President's Committee of Advisors on Science and Technology (PCAST) is tentatively scheduled to meet in open session on Friday, December 10, 1999, at approximately 9:15 a.m., to discuss (1) The Science and Technology Priorities for FY2001; (2) Department of State Science and Technology Issues; (3) The work of the PCAST panels. This session will end at approximately 12:30 p.m.

*Public Comments:* There will be a time allocated for the public to speak on any of the above agenda items. Please make your request for the opportunity to make a public comment five (5) days in advance of the meeting. Written comments are welcome any time prior to or following the meeting. Please notify Joan P. Porter, PCAST Executive Secretary, at (202) 456–6101 or fax your requests/comments to (202) 456–6026.

**FOR FURTHER INFORMATION CONTACT:** For information regarding time, place, and agenda, please call Joan P. Porter, PCAST Executive Secretary, at (202) 456–6101, prior to 3:00 p.m. on Tuesday, December 7, 1999. Information may also be available at the PCAST website at *http://www.whitehouse.gov/WH/EOP/PCAST/htm/PCAST home.html*. Please note that public seating for this meeting is limited, and is available on a first-come first served basis.

**SUPPLEMENTARY INFORMATION:** The President's Committee of Advisors on Science and Technology was established by Executive Order 12882, as amended, on November 23, 1993. The purpose of PCAST is to advise the President on matters of national importance that have significant science and technology content, and to assist the President's National Science and Technology Council in securing private sector participation in its activities. The Committee members are distinguished individuals appointed by the President from non-Federal sectors. The PCAST is co-chaired by the Assistant to the President for Science and Technology and, by John Young, former President and CEO of the Hewlett-Packard Company.

**Barbara Ann Ferguson,**

*Assistant Director, Budget and Administration, Office of Science and Technology Policy.*

[FR Doc. 99–31360 Filed 12–1–99; 8:45 am]

**BILLING CODE 3170–01–P**

## EXPORT-IMPORT BANK OF THE UNITED STATES

### Agency Information Collection Activities; Proposed Collection; Comment Request

**AGENCY:** Export-Import Bank of the United States.

**ACTION:** Notice.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1995 the Export-Import Bank of the United States is submitting to the Office of Management and Budget (OMB) a request to review and approve a revised exporter and banker survey which expired on February 28, 1999. The purpose of the survey is to fulfill a statutory mandate (the Export-Import Bank Act of 1945, as amended, 12 U.S.C. 635) which directs Export-Im Bank to report annually to the U.S. Congress any action taken toward providing export credit programs that are competitive with those offered by official foreign export credit agencies. The Act further stipulates that the annual report on competitiveness should include the results of a survey of lending institutions to determine whether their export financing is competitive with that of their foreign counterparts.

Accordingly, Ex-Im Bank is requesting that the proposed survey (EIB No. 00–02) be sent to approximately 50 respondents, split equally between banker and exporters. The new survey is the same as in previous years as it asks bankers and exporters to evaluate the competitiveness of Ex-Im Bank's programs vis-a-vis foreign export credit agencies. However, it has been modified in order to account for newer policies and to capture enough information to provide better analysis of our competitiveness.

**DATES:** Written comments should be received on or before January 31, 2000.

**ADDRESSES:** Direct all written comments or requests for additional information to Carlista Robinson, Export-Import Bank of the United States, Room 764, 811 Vermont Avenue, N.W., Washington, D.C. 20571, (202) 565–3351.

**FOR FURTHER INFORMATION CONTACT:** Carlista Robinson (202) 565–3351.

**SUPPLEMENTARY INFORMATION:**

*Type of Request:* Revision.
*Annual Number of Respondents:* 50.
*Annual Burden Hours:* 50.
*Frequency of Reporting or Use:* Annual survey.

Dated: November 29, 1999.

**Carlista Robinson,**

*Agency Clearance Officer.*

[FR Doc. 99–31291 Filed 12–1–99; 8:45 am]

**BILLING CODE 6690–01–M**

## FEDERAL COMMUNICATIONS COMMISSION

**[Report No. AUC–99–28–A (Auction No. 28); DA 99–2594]**

### Supplemental Closed Broadcast Auction Scheduled for March 21, 2000

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice; seeking comment.

**SUMMARY:** This Public Notice announces the auction of certain AM, FM, LPTV and TV broadcast construction permits to commence March 21, 2000. All spectrum to be auctioned is the subject of pending, mutually exclusive applications for referenced broadcast services for which the Commission has not approved settlement agreements obviating the need for an auction. This Supplemental Closed Broadcast Auction shall dispose of the remaining broadcast applications not included in earlier Auctions. In addition, included in the Supplemental Closed Broadcast Auction are certain mutually exclusive LPTV and TV translator displacement relief applications. Pursuant to the *Broadcast First Report and Order,* participation in the auction will be limited to those applicants identified in this Public Notice and applicants will be eligible to bid only on those construction permits for which they previously filed long form applications (FCC Forms 301 or 349).

**DATES:** Comments are due on or before December 6, 1999 and reply comments are due on or before December 16, 1999.

**ADDRESSES:** To file formally, parties must submit an original and four copies to the Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, SW, Washington, D.C. 20554. In addition, parties must submit one copy to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 Twelfth Street, SW, Room No. 4–A760, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Shaun Maher, Video Services Division, Mass Media Bureau at (202) 418–1600, Lisa Scanlan, Audio Services Division, Mass Media Bureau at (202) 418–2700 or Bob Reagle, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, at (717) 338–2807.

**SUPPLEMENTARY INFORMATION:** This is a summary of a Public Notice released November 19, 1999. The complete text of the public notice is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW, Washington, DC. It may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (ITS, Inc.) 1231 20th Street, NW, Washington, DC 20035, (202) 857–3800. It is also available on the Commission's website at http://www.fcc.gov/wtb/auctions.

1. Construction permits will be auctioned for each of the mutually exclusive applicant groups (''MX Groups''). In some, but not all, of the MX Groups listed on Attachment A, a ''daisy chain'' of mutual exclusivity exists whereby applications are directly mutually exclusive with certain applications in the MX Group but not others (''Daisy Chain MX Groups''). A ''daisy chain'' occurs when two or more non-table, site-based applications propose service areas that do not directly overlap, but are linked together into a chain by the overlapping proposal(s) of other(s). In such cases, the potential exists to grant more than one application and issue more than one construction permit per MX Group and remain consistent with the Commission's separation requirements relating to site-based services. The identification of ''daisy chains'' on Attachment A is provisional in nature, since the final configuration of groups cannot be ascertained until after the filing of short-form (FCC Form 175) applications, at which point mutual exclusivity for auction purposes arises. At that time, a final identification and enumeration of ''daisy chain'' MX Groups will be made and a public notice will be released providing this information (''Status PN''). It is possible that some MX Groups provisionally identified here as constituting a daisy chain may, after the short form-filing deadline, become directly mutually exclusive. In such case(s), the proposal in this notice pertaining to applications that are directly mutually exclusive with each other (''Direct MX Groups'') become applicable.

2. The MX Groups are categorized on a service-by-service basis, accompanied by the respective reserve prices/minimum opening bids and upfront payments. The groups involving provisional daisy chain situations are noted. All MX Groups identified in (Attachment A) have been subject to competition through the opening and closing of the period for filing competing applications through the two-step cut-off list procedures, or through an application filing window. Pursuant to the *Broadcast First Report and Order,* 63 FR 48615 (September 11, 1998) in those specific situations where both non-commercial and commercial applicants for full power stations filed mutually exclusive long form applications for non-reserved band channels, auctions shall not be conducted at this time and these applications are not included on Attachment A.

3. The total number of long form applications being disposed of in this proceeding is 60. These long form applications are grouped together in a total of 14 MX groups, 8 of which are provisional daisy chain groups.

**I. Reserve Price or Minimum Opening Bid**

4. The Balanced Budget Act of 1997 (section 30002(a), Balanced Budget Act of 1997, Public Law 105–33, 111 Stat. 251) calls upon the Commission to prescribe methods by which a reasonable reserve price will be required or a minimum opening bid established when FCC licenses or construction permits are subject to auction (*i.e.,* because the applications are mutually exclusive), unless the Commission determines that a reserve price or minimum bid is not in the public interest. Consistent with this mandate, the Commission has directed the Bureaus, *Part One Third Report and Order,* 63 FR 770 (January 7, 1998) to seek comment on the use of minimum opening bids and/or reserve prices prior to the start of each broadcast auction. This is consistent with policy applied in earlier spectrum auctions, including the recently completed Closed Broadcast Auctions. These auctions (Nos. 25 and 27) concluded October 8, 1999, after 35 rounds and 15 rounds, respectively. The Commission has concluded that either or both of these mechanisms may be employed for auctions and has delegated the requisite authority to make determinations regarding the appropriateness of employing either or both.

5. Normally, a reserve price is an absolute minimum price below, which an item will not be sold in a given auction. Reserve prices can be either published or unpublished. A minimum-opening bid, on the other hand, is the minimum acceptable bid price set at the beginning of a multiple round auction. It too constitutes a minimum amount below which no bids are accepted and is generally used to accelerate the competitive bidding process. Also, in a minimum opening bid scenario, the auctioneer generally has the discretion to lower the amount later in the auction.

6. In anticipation of these auctions and in light of the Balanced Budget Act, the Bureaus propose to establish minimum opening bids for Direct MX Groups and reserve prices for the Daisy Chain MX Groups. The Bureaus believe that use of minimum opening bids, which have been utilized in other simultaneous, multiple round auctions, is an effective practice for conducting the auction of the Direct MX Groups, since the competitive bidding design the Commission proposes for those groups features simultaneous, multiple rounds.

For the Daisy Chain MX Groups, on the other hand, where a single round format is proposed, the Commission will utilize published reserve prices, which will function in a single round context much like the minimum opening bids in the multiple round format.

7. Minimum opening bids for the Direct MX Groups will help to regulate the pace of the auction. The proposed minimum opening bids were determined by taking into account various factors related to the efficiency of the auction and the potential value of the spectrum. For the television construction permits, the Commission has based the proposed minimum opening bids upon the type of service that will be offered, market size, industry cash flow data and recent broadcast transactions. For the radio construction permits, the Commission has based the proposed minimum opening bids upon the service and class of facility that will be offered, the population covered by the proposed facilities for which parties intend to bid and recent broadcast transactions.

8. Comment is sought on this proposal. If commenters believe the reserve prices and minimum opening bids proposed will result in a substantial number of unsold construction permits, or, in particular instances, do not constitute reasonable amounts, they should explain why this is so, and comment on the desirability of an alternative approach. Commenters are advised to support their claims with specific valuation analyses and suggested reserve prices or minimum opening bid levels or formulas. Commenters should detail any alternative method they propose for valuing given spectrum, providing examples and citations for each part of their formula. Alternatively, comment is sought on whether, consistent with the Balanced Budget Act; the public interest would be served by having no minimum opening bids or reserve prices.

**II. Other Auction Procedural Issues**

9. The Balanced Budget Act, at section 3002(a)(E)(I), requires the Commission to ''ensure that, in the scheduling of any competitive bidding under this subsection, an adequate period is allowed * * * before issuance of bidding rules, to permit notice and comment on proposed auction procedures * * *.'' Consistent with the provisions of the Balanced Budget Act and to ensure that potential bidders have adequate time to familiarize themselves with the specific provisions that will govern the day-to-day conduct of an auction, the Commission directed the Bureaus, under their existing delegated authority, to seek comment on a variety of auction-specific issues prior to the start of each auction. Pursuant to our delegated authority as contained in the *Broadcast First Report and Order,* the Commission seeks comment on the following issues.

*a. Auction Sequence, License Groupings and Auction Design*

10. The Commission proposes two separate auction designs to award these construction permits, one for the Daisy Chain MX Groups and one for Direct MX Groups. For the Daisy Chain MX Groups, the Commission will employ an electronic single round auction to determine the winner(s). The Commission has concluded that the disposition of these construction permits in this manner is most appropriate because of the complexity of the overlapping nature of the permits in these groups.

11. For Direct MX Groups, the Commission will employ an electronic simultaneous multiple round auction format. The Commission has concluded that the disposition of these construction permits in this manner is the most administratively appropriate and allows bidders to utilize the same competitive bidding design option successfully employed in the recently concluded Closed Broadcast Auction.

12. The Commission believes that the use of these designs furthers the public interest by enhancing efficient spectrum usage and seeks comment on these proposals.

*b. Structure of Bidding Rounds*

13. *For the Daisy Chain MX Groups,* the Commission proposes that there will be a single round in which each bidder must place a bid that meets or exceeds the established reserve price. Bidders will enter their bids in whole dollar amounts. The determination of the winning bidder in each of the Daisy Chain MX Groups shall be made by finding the set of bids on non-overlapping coverage areas that accrue to the greatest amount. For example, consider the case of an MX Group consisting of a ''daisy chain'' of three potential bidders (Bidders 1, 2 and 3) interested in three construction permits in the MX Group (respectively Construction Permits A, B and C) such that A is MX'ed with B and B is MX'ed with C. This means that either A and C can both be assigned or B can be assigned, but not A and B, B and C or A, B and C. In order for Bidder 2 to win construction permit B, its bid would have to exceed the combined bids of Bidders 1 and 3 on construction permits A and C, respectively. All bids will be time-stamped and in the case of tie bids, the first complete combination of bids placed first in time shall be considered the winning bid combination.

14. *For the Direct MX Groups,* the Commission proposes a single stage, simultaneous multiple round auction. In order to ensure that the auction closes within a reasonable period, an activity rule requires bidders to bid actively on a percentage of their maximum bidding eligibility during each round of the auction rather than waiting until the end to participate. A bidder that does not satisfy the activity rule will either lose bidding eligibility in the next round or use an activity rule waiver. The Commission proposes that, in each round of the auction, a bidder desiring to maintain its current eligibility is required to be active on construction permits encompassing one hundred (100) percent of its current bidding eligibility. Failure to maintain the requisite activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used, see Section e.). The Commission seeks comments on these proposals.

*c. Reserve Prices and Minimum Accepted Bids*

15. *For the Daisy Chain MX Groups,* each bidder must place a bid that meets or exceeds the established reserve price. Bidders will enter their bids in whole dollar amounts.

16. *For the Direct MX Groups,* the bid level will begin at the established minimum opening bid. Once there is a standing, high bid on a construction permit, a bid increment will be applied to that construction permit to establish a minimum acceptable bid for the following round. The Commission proposes to set a minimum 10% increment. This means that a new bid placed by a bidder must be at least 10% greater than the previous bid received on that construction permit. The Bureaus retain the discretion to change the methodology for determining the minimum bid increment if they determine the circumstances so dictate. Bidders will enter their bids as multiples of the bid increment (*i.e.,* with a 10% bid increment, a bid of 1 increment will place a bid 10% above the previous high bid, a bid of 2 increments will place a bid 20% above the previous high bid). The Commission seeks comment on these proposals.

*d. Initial Maximum Eligibility for Each Bidder*

17. Bidders will be required to submit an upfront payment for each construction permit for which they are

qualified and interested in placing a bid. The Bureaus have delegated authority and discretion to determine an appropriate upfront payment for each construction permit being auctioned, taking into account such factors as efficiency of the auction process and the potential value of the spectrum. Eligibility for participation depends on whether an applicant has timely tendered its upfront payment and has otherwise complied with all of the Commission's rules relating to participation. Bidders will be required to submit an upfront payment for each construction permit for which they are qualified and interested in placing a bid. With these guidelines in mind, the Commission proposes the schedule of upfront payments. The Commission seeks comment on this proposal.

*e. Activity Rule Waivers and Reducing Eligibility*

18. *For the Daisy Chain MX Groups,* because of the single round format, activity rule waivers and reducing eligibility are not applicable.

19. *For the Direct MX Groups,* use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required minimum level. An activity rule waiver applies to an entire round of bidding and not to a particular construction permit. Activity waivers are principally a mechanism for auction participants to avoid the loss of auction eligibility in the event that exigent circumstances prevent them from placing a bid in a particular round.

20. The automated auction system assumes that bidders with insufficient activity at the close of a round would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver (known as an ''automatic waiver'') at the end of any bidding round where a bidder's activity level is below the minimum required unless: (1) there are no more activity rule waivers available; or (2) the bidder overrides the automatic application of a waiver by reducing eligibility thereby meeting the minimum requirements.

21. The Commission proposes that a bidder with insufficient activity that wants to reduce its bidding eligibility rather than use an activity rule waiver, must affirmatively override the automatic waiver mechanism during the bidding period by using the reduce eligibility function in the software. In this case, the bidder's eligibility would be permanently reduced to bring the bidder into compliance with the activity rules as described above. Once eligibility has been reduced, a bidder would not be permitted to regain its lost bidding eligibility.

22. The Commission proposes that a bidder may proactively use an activity rule waiver as a means to keep the auction open without placing a bid. If a bidder submits a proactive waiver (using the proactive waiver function in the bidding software) during a bidding period in which no bids are submitted, the auction will remain open and the bidder's eligibility will be preserved. An automatic waiver invoked in a round in which there are no new valid bids will not keep the auction open, under the simultaneous stopping rule. The submission of a proactive waiver cannot occur after a bid has been submitted in a round and will preclude a bidder from placing any bids later in that round.

23. The Commission proposes that each bidder be provided with five activity rule waivers that may be used in any round during the course of the simultaneous multi-round auction. The Commission seeks comment on these proposals.

*f. Bid Removal and Bid Withdrawal*

24. *For the Daisy Chain MX Groups,* the Commission proposes the following bid removal and bid withdrawal procedures. Before the close of the bidding period, a bidder has the option of removing any bids placed. By using the remove bid function in the software, a bidder may effectively ''unsubmit'' any of its bids placed in the single round auction. A bidder removing a bid is not subject to withdrawal payments. Bid withdrawals after the close of the bidding round are not applicable to the single round auction. The Commission seeks comment on this proposal.

25. *For the Direct MX Groups,* the Commission proposes the following bid removal and bid withdrawal procedures. Before the close of a bidding period, a bidder has the option of removing any bids placed in that round. By using the remove bid function in the software, a bidder may effectively ''unsubmit'' any bid placed within that round. A bidder removing a bid placed in the same round is not subject to withdrawal payments.

26. Once a round closes, a bidder may no longer remove a bid. However, in the next round, a bidder may withdraw standing high bids. A high bidder that withdraws its standing high bid from a previous round is subject to the bid withdrawal payment provisions (see 47 CFR 1.2104(g); 1.2109). The Commission seeks comment on these bid removal and bid withdrawal procedures.

27. In the *Part 1 Third Report and Order,* the Commission explained that allowing bid withdrawals facilitates efficient aggregation of licenses and the pursuit of efficient backup strategies as information becomes available during the course of an auction. The Commission noted, however, that in some instances bidders might seek to withdraw bids for improper reasons, including delaying the close of the auction for strategic purposes. The WTB, therefore, has discretion, in managing the auction, to limit the number of withdrawals to prevent strategic delay of the close of the auction or other abuses. The Commission stated that the WTB should assertively exercise its discretion, consider limiting the number of rounds in which bidders may withdraw bids, and prevent bidders from bidding on a particular market it finds that a bidder is abusing the Commission's bid withdrawal procedures.

28. Applying this reasoning, the Commission proposes to limit each bidder in the auction to withdrawals in no more than two rounds during the course of the auction. To permit a bidder to withdraw bids in more than two rounds would likely encourage insincere bidding or the use of withdrawals for anti-competitive strategic purposes. The two rounds in which withdrawals are utilized will be at the bidder's discretion; withdrawals otherwise must be in accordance with the Commission's rules. There is no limit on the number of standing high bids that may be withdrawn in either of the rounds in which withdrawals are utilized. Withdrawals will remain subject to the bid withdrawal payment provisions specified in the Commission's rules. The Commission seeks comment on these proposals.

*g. Stopping Rule and Waivers*

29. *For the Daisy Chain MX Groups,* the Bureaus propose to conduct a single round of bidding and declare the auction over at the conclusion of this bidding period. The Bureaus propose a single, two-hour bidding period. The Bureaus retain the discretion to increase or decrease this time limit by announcement before the auction if circumstances so dictate. The Commission seeks comment on this proposal, and, specifically, whether a bidding period of greater or less than two hours should be employed.

30. *For the Direct MX Groups,* the Bureaus propose to employ a simultaneous stopping approach. The Bureaus have discretion to establish stopping rules before or during multiple round auctions in order to terminate the

auction within a reasonable time (see 47 CFR 1.2104(e) and 73.5001(b)). A simultaneous stopping rule means that all construction permits remain open until the first round in which no new acceptable bids, proactive waivers or withdrawals are received. After the first such round, bidding closes simultaneously on all construction permits. Thus, unless circumstances dictate otherwise, bidding would remain open on all construction permits until bidding stops on every construction permit.

31. The Bureaus seek comment on a modified version of the simultaneous stopping rule. The modified stopping rule would close the auction for all construction permits after the first round in which no bidder submits a proactive waiver, a withdrawal, or a new bid on any constructions on which it is not the standing high bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a construction permit for which it is the standing high bidder would not keep the auction open under this modified stopping rule. The Bureaus further seek comment on whether this modified stopping rule should be utilized.

32. The Commission proposes that the Bureaus retain the discretion to keep an auction open even if no new acceptable bids or proactive waivers are submitted and no previous high bids are withdrawn. In this event, the effect will be the same as if a bidder had submitted a proactive waiver. The activity rule, therefore, will apply as usual and a bidder with insufficient activity will either lose bidding eligibility or use a remaining activity rule waiver.

33. Finally, the Commission proposes that the Bureaus reserve the right to declare that the auction will end after a specified number of additional rounds (''special stopping rule''). If the Bureaus invoke this special stopping rule, it will accept bids in the final round(s) only for construction permits on which the high bid increased in at least one of the preceding specified number of rounds. The Bureaus propose to exercise this option only in certain circumstances, such as, for example, where the auction is proceeding very slowly, there is minimal overall bidding activity, or it appears likely that the auction will not close within a reasonable period of time. Before exercising this option, the Bureaus are likely to attempt to increase the pace of the auction by, for example, increasing the number of bidding rounds per day, and/or increasing the amount of the minimum bid increments for the limited number of construction permits where there is still a high level of bidding activity. The Commission seeks comment on these proposals.

*h. Information Relating to Auction Delay, Suspension or Cancellation*

34. The Commission proposes that, by Public Notice or by announcement during the auction, the Bureaus may delay, suspend or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and competitive conduct of competitive bidding (see 47 CFR 1.2104(i)). In such cases, the Bureaus, in their sole discretion, may elect to: resume the auction starting from the beginning of the current bidding period; resume the auction starting from some previous bidding period; or cancel the auction in its entirety. Network interruption may cause the Bureaus to delay or suspend the auction. The Commission emphasizes that exercise of this authority is solely within the discretion of the Bureaus, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers. The Commission seeks comment on this proposal.

Federal Communications Commission.

**Louis Sigalos,**

*Deputy Chief, Auctions & Industry Analysis Division.*

ATTACHMENT A.—VIDEO SERVICE CONSTRUCTION PERMIT: MINIMUM OPENING BIDS/RESERVE PRICES AND UPFRONT PAYMENTS

| MX group | Location | Channel/FX | Bidding units | Upfront payment | Minimum opening bid/ reserve price | Applicants | Daisy chain | Case file numbers |
|---|---|---|---|---|---|---|---|---|
| PST1 | El Dorado, Arkansas | 43 | 100,000 | $100,000.00 | $100,000.00 | Agape Church, Inc. ..... | No | BPCT–960628KF |
| | El Dorado, Arkansas | 43 | 100,000 | 100,000.00 | 100,000.00 | KB Communications, Inc. ... | No | BPCT–960710KW |
| | El Dorado, Arkansas | 43 | 100,000 | 100,000.00 | 100,000.00 | Sioux Falls 64, LLC ..... | No | BPCT–960930KR |
| | El Dorado, Arkansas | 43 | 100,000 | 100,000.00 | 100,000.00 | KM Communications, Inc. .. | No | BPCT–960930KV |
| | El Dorado, Arkansas | 43 | 100,000 | 100,000.00 | 100,000.00 | United Television, Inc. ..... | No | BPCT–961001LE |
| | El Dorado, Arkansas | 43 | 100,000 | 100,000.00 | 100,000.00 | Cardinal Broadcasting Corp | No | BPCT–961001XN |
| SST1 | Glide, Oregon ..... | 49 | 1,000 | 1,000.00 | 1,000.00 | 3 Angels Broadcasting Network, Inc. | No | BPTTL–JG0601ZX |
| | Roseburg, Oregon .. | 49 | 1,000 | 1,000.00 | 1,000.00 | Trinity Broadcasting Network. | No | BPTT–980601VD |
| SST2 | Knoxville, Tennessee. | 46 | 1,000 | 1,000.00 | 1,000.00 | Trinity Broadcasting Network. | Yes | BPTT–JG0601PJ |
| | Knoxville, Tennessee. | 46 | 1,000 | 1,000.00 | 1,000.00 | Dwight R. Magnuson ..... | Yes | BPTTL–980601RL |
| | Knoxville, Tennessee. | 45 | 1,000 | 1,000.00 | 1,000.00 | Dwight R. Magnuson ..... | Yes | BPTTL–980601TJ |
| SST3 | Yorktown, Virginia ... | 53 | 60,000 | 60,000.00 | 60,000.00 | JBS, Inc. ..... | Yes | BMPTTL–JG0601MN |

ATTACHMENT A.—VIDEO SERVICE CONSTRUCTION PERMIT: MINIMUM OPENING BIDS/RESERVE PRICES AND UPFRONT PAYMENTS—Continued

| MX group | Location | Channel/FX | Bidding units | Upfront payment | Minimum opening bid/reserve price | Applicants | Daisy chain | Case file numbers |
|---|---|---|---|---|---|---|---|---|
| | Virginia Beach, Virginia. | 52 | 60,000 | 60,000.00 | 60,000.00 | B.N. Viswanath | Yes | BPTTL–JG0601XW |
| | Hampton, Virginia | 53 | 60,000 | 60,000.00 | 60,000.00 | Lockwood Broadcasting, Inc. | Yes | BPTTL–JG0601ZI |
| | Hampton, Virginia | 53 | 60,000 | 60,000.00 | 60,000.00 | LWWI Broadcasting, Inc. | Yes | BPTTL–980601UH |
| | Suffolk, Virginia | 52 | 60,000 | 60,000.00 | 60,000.00 | LWWI Broadcasting, Inc. | Yes | BMPTTL–980601UI |
| SST4 | Rochester, New York. | 35 | 30,000 | 30,000.00 | 30,000.00 | Tony J. Fant | Yes | BMPTTL–JG0601AG |
| | Buffalo, New York | 36 | 30,000 | 30,000.00 | 30,000.00 | Tony J. Fant | Yes | BMPTTL–JG0601AH |
| | Rochester, New York. | 36 | 30,000 | 30,000.00 | 30,000.00 | Metro TV, Inc. | Yes | BPTTL–980601QQ |
| SST5 | Wichita Falls, Texas | 46 | 10,000 | 10,000.00 | 10,000.00 | Barbara Sharfstein | Yes | BPTTL–940415L4 |
| | Wichita Falls, Texas | 60 | 10,000 | 10,000.00 | 10,000.00 | James W. Satterfield | Yes | BPTTL–JD0415BJ |
| | Ardmore, Oklahoma | 60 | 10,000 | 10,000.00 | 10,000.00 | Buddy L. Watson | Yes | BPTTL–JD0415NZ |
| | Seminole, Oklahoma | 60 | 10,000 | 10,000.00 | 10,000.00 | Bryan Westbrook | Yes | BPTTL–JD0415SE |
| | Wichita Falls, Texas | 61 | 10,000 | 10,000.00 | 10,000.00 | Terri Harris | Yes | BPTTL–JE0415FB |
| SST6 | Eagle Pass, Texas | 52 | 60,000 | 60,000.00 | 60,000.00 | American Christian TV System. | Yes | BPTTL–820616TQ |
| | Eagle Pass, Texas | 52 | 60,000 | 60,000.00 | 60,000.00 | Minerva Rodriguez Frias | Yes | BPTTL–EO0307PJ |
| | Eagle Pass, Texas | 52 | 60,000 | 60,000.00 | 60,000.00 | Jose Armando Tamez | Yes | BPTTL–GC0308XV |
| | Eagle Pass, Texas | 52 | 60,000 | 60,000.00 | 60,000.00 | Lidia Rodriguez | Yes | BPTTL–GD0308XI |
| | Eagle Pass, Texas | 51 | 60,000 | 60,000.00 | 60,000.00 | American Lo-Power TV Network. | Yes | BPTTL–GK0308PJ |
| | Eagle Pass, Texas | 49 | 60,000 | 60,000.00 | 60,000.00 | American Lo-Power TV Network. | Yes | BPTTL–GK0308PK |
| | Eagle Pass, Texas | 50 | 60,000 | 60,000.00 | 60,000.00 | Jo Ann's Balloon Boutique, Inc. | Yes | BPTTL–GQ0308TT |
| | Eagle Pass, Texas | 50 | 60,000 | 60,000.00 | 60,000.00 | Raul Francisco Rivas | Yes | BPTTL–GU0308RK |
| SST7 | Eagle Pass, Texas | 44 | 60,000 | 60,000.00 | 60,000.00 | Mike A. Mendoza | Yes | BPTTL–GE0308NW |
| | Uvalde, Texas | 43 | 60,000 | 60,000.00 | 60,000.00 | Evarista Romero | Yes | BPTTL–GG0308LQ |
| | Uvalde, Texas | 45 | 60,000 | 60,000.00 | 60,000.00 | Mike A. Mendoza | Yes | BPTTL–GJ0308ME |
| | Uvalde, Texas | 45 | 60,000 | 60,000.00 | 60,000.00 | Evarista Romero | Yes | BPTTL–GJ0308VE |
| | Eagle Pass, Texas | 45 | 60,000 | 60,000.00 | 60,000.00 | American Lo-Power TV Network. | Yes | BPTTL–GK0308PL |
| | Eagle Pass, Texas | 43 | 60,000 | 60,000.00 | 60,000.00 | American Lo-Power TV Network. | Yes | BPTTL–GK0308PM |
| | Uvalde, Texas | 43 | 60,000 | 60,000.00 | 60,000.00 | Mike A. Mendoza | Yes | BPTTL–GK0308RC |
| | Eagle Pass, Texas | 44 | 60,000 | 60,000.00 | 60,000.00 | Jo Ann's Boutique, Inc. | Yes | BPTTL–GU0308SG |
| | Eagle Pass, Texas | 44 | 60,000 | 60,000.00 | 60,000.00 | Raul Francisco Rivas | Yes | BPTTL–HD0308RT |
| | Uvalde, Texas | 43 | 60,000 | 60,000.00 | 60,000.00 | Evangelina Garcia Garza | Yes | BPTTL–HO0308VN |
| SST8 | Twin Falls, Idaho | 28 | 8,000 | 8,000.00 | 8,000.00 | Marcie Hillyard | Yes | BPTTL–JD0415EA |

ATTACHMENT A.—VIDEO SERVICE CONSTRUCTION PERMIT: MINIMUM OPENING BIDS/RESERVE PRICES AND UPFRONT PAYMENTS—Continued

| MX group | Location | Channel/FX | Bidding units | Upfront payment | Minimum opening bid/reserve price | Applicants | Daisy chain | Case file numbers |
|---|---|---|---|---|---|---|---|---|
| | Twin Falls, Idaho ..... | 44 | 8,000 | 8,000.00 | 8,000.00 | Marcie Hillyard ..... | Yes | BPTTL–JD0415EB |
| | Twin Falls/Jerome, Idaho. | 29 | 8,000 | 8,000.00 | 8,000.00 | Idaho Independent Television, Inc. | Yes | BPTTL–JD0415CW |
| | Twin Falls, Idaho ..... | 29 | 8,000 | 8,000.00 | 8,000.00 | Kevin Hillyard ..... | Yes | BPTTL–JE0415MC |
| SST9 | Summerville, S. Carolina. | 26 | 1,000 | 1,000.00 | 1,000.00 | Towers, Inc. ..... | No | BMPTTL–JG0601EV |
| | Charleston, S. Carolina. | 26 | 1,000 | 1,000.00 | 1,000.00 | Charles S. Namey ..... | No | BMPTTL–980601JR |
| SST10 | Bakersfield, California. | 20 | 20,000 | 1,000.00 | 1,000.00 | 3 Angles Broadcasting Network, Inc. | No | BPTTL–980601VG |
| | Bakersfield, California. | 19 | 20,000 | 1,000.00 | 1,000.00 | Trinity Broadcasting Network. | No | BPTT–980601ZL |
| | Bakersfield, California. | 19 | 20,000 | 1,000.00 | 1,000.00 | Valley Public Television, Inc | No | BPTT–9JG0601TQ |

[FR Doc. 99–31239 Filed 12–1–99; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL ELECTION COMMISSION

### Sunshine Act Meeting; Notice

**AGENCY:** Federal Election Commission.

**DATE AND TIME:** Tuesday, December 7, 1999, 10:00 a.m.

**PLACE:** 999 E Street, N.W., Washington, D.C.

**STATUS:** This Meeting Will Be Closed to the Public.

**ITEMS TO BE DISCUSSED:**

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

**DATE AND TIME:** Thursday, December 9, 1999 at 10:00 a.m.

**PLACE:** 999 E Street, N.W., Washington, D.C. (Ninth Floor).

**STATUS:** This Meeting Will be Open to The Public.

**ITEMS TO BE DISCUSSED:**

Correction and Approval of Minutes.

Advisory Opinion 1999–32: Tohono O'odham Nation by counsel, William C. Oldaker.

Voluntary Performance Standards for Voting Systems.

Administrative Matters.

**PERSON TO CONTACT FOR INFORMATION:** Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

**Mary W. Dove,**

*Acting Secretary of the Commission.*

[FR Doc. 99–31445 Filed 11–30–99; 3:07 pm]

BILLING CODE 6715–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 99N–4397]**

### Agency Information Collection Activities; Announcement of OMB Approval; Survey of Food Manufacturing Facilities for Year 2000 Compliance

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Survey of Food Manufacturing Facilities for Year 2000 Compliance'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

**FOR FURTHER INFORMATION CONTACT:** Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of October 27, 1999 (64 FR 57892), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0425. The approval expires on February 29, 2000. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: November 26, 1999.

**William K. Hubbard,**

*Senior Associate Commissioner for Policy, Planning, and Legislation.*

[FR Doc. 99–31272 Filed 12–1–99; 8:45 am]

BILLING CODE 4160–01–F

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food And Drug Administration

**[Docket No. 99F–5111]**

### Goodyear Tire & Rubber Co.; Filing of Food Additive Petition

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that Goodyear Tire & Rubber Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of acid-catalyzed condensation reaction

products of branched 4-nonylphenol, formaldehyde, and 1-dodecanethiol for use as an antioxidant in adhesives, pressure-sensitive adhesives, and repeated-use rubber articles intended for use in contact with food.

**FOR FURTHER INFORMATION CONTACT:** Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 0B4703) has been filed by Goodyear Tire & Rubber Co., c/o Keller and Heckman LLP, 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposes to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers* (21 CFR 178.2010) to provide for the safe use of acid-catalyzed condensation reaction products of branched 4-nonylphenol, formaldehyde, and 1-dodecanethiol for use as an antioxidant in adhesives, pressure-sensitive adhesives, and repeated-use rubber articles intended for use in contact with food.

The agency has determined under 21 CFR 25.32(i) that this action is of the type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: November 22, 1999.

**Alan M. Rulis,**

*Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.*

[FR Doc. 99–31271 Filed 12–1–99; 8:45 am]

**BILLING CODE 4160–01–F**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Draft National Institutes of Health Guidelines for Research Involving Human Pluripotent Stem Cells (December 1999)

**SUMMARY:** The National Institutes of Health (NIH) is requesting public comment on a document entitled ''Draft National Institutes of Health Guidelines for Research Involving Human Pluripotent Stem Cells (December 1999).'' The purpose of these draft guidelines is to recommend procedures to help ensure that NIH-funded research in this area is conducted in an ethical and legal manner. The NIH will not fund research using human pluripotent stem cells until final guidelines are published in the **Federal Register** and an oversight process is in place.

**DATES:** Written comments should be received by NIH on or before January 31, 2000.

**ADDRESSES:** The NIH welcomes public comment on the Draft National Institutes of Health Guidelines for Research Involving Human Pluripotent Stem Cells (December 1999), set forth below.

Comments should be addressed to: Stem Cell Guidelines, NIH Office of Science Policy, 1 Center Drive, Building 1, Room 218, Bethesda, MD 20892. Comments may also be sent by facsimile transmission to Stem Cell Guidelines at (301) 402–0280, or by e-mail to: *stemcell@mail.nih.gov.*

**SUPPLEMENTARY INFORMATION:** In December 1998, two different groups of scientists reported the successful isolation and culturing of human pluripotent stem cells. Such cells have the ability to develop into most of the specialized cells or tissues in the human body and can divide for indefinite periods in culture. Because of the regenerative capacity of pluripotent stem cells, a single culture of human pluripotent stem cells could supply numerous researchers.

Establishment of human pluripotent stem cell lines represents a major step forward in human biology and has generated much interest among scientists and the public, particularly among patients and their advocates, especially with regard to the ethical issues related to this research.

Because these cells can give rise to many different types of cells, such as muscle cells, nerve cells, heart cells, blood cells, and others, they are enormously important to science and hold great promise for advances in health care. For example, further research using human pluripotent stem cells may help scientists:

- Generate cells and tissue that could be used for transplantation. If human pluripotent stem cells can be stimulated to develop into many different specialized cells of the body, the resulting cells may someday be used as replacement cells and tissue to treat many diseases and conditions including Parkinson's disease, spinal cord injury, stroke, burns, heart disease, diabetes, and arthritis.
- Improve our understanding of the complex events that occur during normal human development and also help us understand what goes wrong to cause diseases and conditions such as birth defects and cancer.
- Change the way we develop drugs and test them for safety and potential efficacy. New medications could initially be tested using human pluripotent stem cells, such as liver cells or skin cells; only the drugs that are both safe and appear to have a beneficial effect would graduate to further testing, using laboratory animals and human subjects.

Human pluripotent stem cells have been isolated using two different methods. One group of scientists derived the pluripotent stem cells from early-stage human embryos in excess of clinical need and donated by people who were undergoing infertility treatment in an in vitro fertilization (IVF) clinic. Another group of scientists derived the pluripotent stem cells from human fetal tissue obtained from pregnancies that had been terminated. In both cases, the individuals gave informed consent for the embryos or fetal tissue to be used in research. Neither research project utilized Department of Health and Human Services (DHHS) funds but rather was funded by private sources.

Federal law currently prohibits DHHS from funding research in which human embryos are created for research purposes or are destroyed, discarded or subjected to greater than minimal risk. In light of this legislative restriction, the Director of the National Institutes of Health (NIH) sought a legal opinion from the DHHS Office of the General Counsel on whether NIH funds may be used for research utilizing human pluripotent stem cells.

DHHS concluded that the Congressional prohibition does not prohibit the funding of research utilizing human pluripotent stem cells because such cells are not embryos. Thus, NIH funding for research using pluripotent stem cells derived from human embryos is not legislatively prohibited. The legal opinion also clarified that human pluripotent stem cells derived from fetal tissue would fall within the legal definition of human fetal tissue and are, therefore, subject to federal restrictions on the use of such tissue. NIH funding for research to derive or utilize human pluripotent stem cells from fetal tissue is permissible, subject to applicable law and regulation.

In view of the scientific and medical benefits that may result from research using human pluripotent stem cells, it is essential that the federal government play a role in funding and overseeing the conduct of this research. Federal funding will make it possible for scientists—both privately and federally funded—to have the opportunity to

pursue this important line of research. Federal funding will provide oversight and direction that would be lacking if this research were the sole province of private sources of funding and will also help ensure that the results of research will be accessible to the public.

The NIH understands and respects the ethical, legal, and social issues relevant to human pluripotent stem cell research and is sensitive to the need to subject it to oversight more stringent than that associated with the traditional NIH scientific peer review process. In light of these issues, the NIH plans to move forward in a careful and deliberate way, prior to funding any research utilizing human pluripotent stem cells.

In an effort to ensure that any research utilizing human pluripotent stem cells is conducted appropriately, the NIH Director convened a Working Group of the Advisory Committee to the Director, NIH (ACD) to advise the ACD on guidelines and oversight for research involving human pluripotent stem cells. Specifically, the NIH Director charged the Working Group with developing appropriate guidelines governing research involving the derivation and use of human pluripotent stem cells from fetal tissue and research involving the use of human pluripotent stem cells derived from early human embryos in excess of clinical need. In an effort to ensure that a broad spectrum of viewpoints was considered, the working group was made up of individuals with varied expertise and experience, among them basic and clinical scientists, ethicists, lawyers, clinicians, as well as patients and patient advocates. On April 8, 1999, the working group held a public meeting to discuss draft guidelines. During the meeting, time was set aside for public comment; several groups came forward to speak, including the American Society of Cell Biology, the National Conference of Catholic Bishops; the Society for Developmental Biology, the Alliance for Aging Research, and the House Pro-Life Caucus. The Executive Director of the National Bioethics Advisory Commission (NBAC) also presented comments reflecting the status of the deliberations of the NBAC at that time.

The text of the draft guidelines follows.

**Draft National Institutes of Health Guidelines for Research Involving Human Pluripotent Stem Cells (December 1999)**

*I. Scope of Guidelines*

These guidelines apply to research applications or proposals for National Institutes of Health (NIH) funding or support involving: (1) Utilization of human pluripotent stem cells (also known as human embryonic stem cells) derived (without Department of Health and Human Services [DHHS] funding) from early human embryos, and (2) the derivation or utilization of human pluripotent stem cells from fetal tissue. For purposes of these guidelines, human pluripotent stem cells are cells derived from early human embryos or fetal tissue that can divide for indefinite periods in culture without specializing and have the potential to develop into all of the three major tissue types. NIH research funded under these guidelines will involve only human pluripotent stem cells derived either from fetal tissue or from early human embryos that are the products of in vitro fertilization in excess of clinical need, that are not implanted in a woman's uterus and that have not reached the stage when the first major tissue type is formed.

The DHHS is prohibited by appropriations law (Pub. L. 105–277, section 511,112 STAT. 2681–386) from using any appropriated funds ''for the creation of a human embryo or embryos for research purposes; or research in which a human embryo or embryos are destroyed, discarded or knowingly subjected to risk of injury or death. . . .'' The NIH asked the General Counsel of DHHS to clarify whether research utilizing human pluripotent stem cells is permissible under existing laws governing human embryo and fetal tissue research. After careful consideration, the DHHS concluded that, because these cells are not embryos, current law does not prohibit the use of NIH funds for research utilizing human pluripotent stem cells. In addition, it was determined that, to the extent such cells are considered human fetal tissue, they are subject to the federal requirements for fetal tissue research.

These guidelines prescribe conditions that should be met before NIH funds are used to support research involving the utilization of human pluripotent stem cells derived from early human embryos or the derivation or utilization of human pluripotent stem cells from fetal tissue. DHHS funds may not be used for the derivation of human pluripotent stem cells from early human embryos. The guidelines also designate certain areas of human pluripotent stem cell research as ineligible for NIH funding.

*II. Guidelines for Research Involving Human Pluripotent Stem Cells That Is Eligible for NIH Funding*

A. The Utilization of Human Pluripotent Stem Cells Derived From Early Human Embryos

*1. Considerations for the Utilization of Human Pluripotent Stem Cells Derived From Early Human Embryos*

Studies utilizing pluripotent stem cells derived from early human embryos may be conducted using NIH funds only if the cells were derived from early human embryos that were created for the purposes of infertility treatment and were in excess of clinical need of the individuals seeking such treatment.

a. It is essential that the donation of early human embryos in excess of clinical need is voluntary. No inducements, monetary or otherwise, should have been offered for the donation of early human embryos for research purposes. Infertility clinics and/or their affiliated laboratories should have implemented specific written policies and practices to ensure that no such inducements are made available.

b. There should have been a clear separation between the decision to create embryos for infertility treatment and the decision to donate early human embryos in excess of clinical need for research purposes. Decisions related to the creation of embryos for infertility treatment should have been made free from the influence of researchers or investigators proposing to derive or utilize human pluripotent stem cells in research. To avoid possible conflicts of interest, the attending physician responsible for the fertility treatment and the researcher or investigator deriving and/or proposing to utilize human pluripotent stem cells should not have been one and the same person.

c. To ensure that early human embryos donated for research are in excess of clinical need of the individuals seeking infertility treatment and to allow potential donors time between the creation of the embryos for infertility treatment and the decision to donate for research purposes, only frozen early human embryos should have been used to derive human pluripotent stem cells. In addition, individuals undergoing infertility treatment should have been approached about donation of early human embryos for the derivation of pluripotent stem cells only at the time of deciding the disposition of embryos in excess of clinical need.

d. Prior to the derivation of human pluripotent stem cells for use in NIH-

supported research, all identifiers associated with the early human embryos should have been removed.

e. Donation of early human embryos should have been made without any restriction regarding the individual(s) who may be the recipients of transplantation of the cells derived from the human pluripotent stem cells.

*2. Informed Consent Requirements for the Utilization of Human Pluripotent Stem Cells Derived From Early Human Embryos*

Informed consent should have been obtained from individuals who have sought infertility treatment who elect to donate early human embryos in excess of clinical need for research purposes. The informed consent process should have included discussion of the following information with potential donors, pertinent to making the decision whether to donate their embryos for research purposes.

a. Informed consent should have included:

(i) A statement that the early human embryos will be used to derive human pluripotent stem cells for research, that the human pluripotent stem cells will be derived and used following these NIH guidelines, and that the cells may be used, at some future time, for human transplantation research.

(ii) A statement that all identifiers associated with the embryos will be removed prior to the derivation of human pluripotent stem cells.

(iii) A statement that donors will not receive any information regarding subsequent testing on the embryo or the derived human pluripotent cells.

(iv) A statement that derived cells and/or cell lines, with all identifiers removed, may be kept for many years.

(v) Disclosure of the possibility that the donated material may have commercial potential, and a statement that the donor will not receive financial or any other benefits from any such future commercial development.

(vi) A statement that the human pluripotent stem cell research is not intended to provide direct medical benefit to the donor.

(vii) A statement that early human embryos donated will not be transferred to a woman's uterus, will not survive the human pluripotent stem cell derivation process, and will be handled respectfully, as is appropriate for all human tissue used in research.

b. To ensure respect for the individuals donating early human embryo(s), protocols should have been approved by an Institutional Review Board (IRB) established in accord with 45 CFR § 46.107 and § 46.108 or FDA regulations at 21 CFR § 56.107 and § 56.108.

*3. Investigators Planning To Utilize Human Pluripotent Stem Cells Derived From Early Human Embryos Should Provide in Their Application or Proposal to NIH*

a. documentation that the embryos were created for the purpose of infertility treatment;

b. documentation that the early human embryos were frozen and in excess of clinical need;

c. the protocol, including the informed consent document, used for the derivation of human pluripotent stem cells from early human embryos;

d. documentation of IRB approval of the research protocol; and

e. an assurance that the stem cells to be used in the research were or will be obtained through a donation or through a payment that does not exceed the reasonable costs associated with the transportation, processing, preservation, quality control and storage of the stem cells.

B. Derivation and Utilization of Human Pluripotent Stem Cells From Fetal Tissue

*1. Considerations for the Derivation and Utilization of Human Pluripotent Stem Cells Derived From Fetal Tissue*

Unlike pluripotent stem cells derived from early human embryos, DHHS funds may be used to support research to derive pluripotent stem cells from fetal tissue, as well as for research utilizing such cells. Such research is governed by federal statutory restrictions regarding fetal tissue research at 42 U.S.C. 289g–2(a) and the federal regulations at 45 CFR 46.210. In addition, because cells derived from fetal tissue at the early stages of investigation may at a later date be utilized in human fetal tissue transplantation research, it is the policy of NIH to require that all DHHS funded research involving the derivation or utilization of pluripotent stem cells from fetal tissue also comply with the fetal tissue transplantation research statute at 42 U.S.C. 289g–1.

*2. Informed Consent Requirements for the Derivation and Utilization of Human Pluripotent Stem Cells From Fetal Tissue*

As a policy matter, NIH funded research deriving or utilizing human pluripotent stem cells from fetal tissue should comply with the informed consent law applicable to fetal tissue transplantation research (42 U.S.C. 289g–1) and the following conditions. The informed consent process should include discussion of the following information with potential donors, pertinent to making the decision whether to donate their embryos for research purposes.

a. Informed consent should include:

(i) A statement that the fetal tissue will be used to derive human pluripotent stem cells for research, that the human pluripotent stem cells will be derived and used following these NIH guidelines, and that the cells may be used, at some future time, for transplantation research.

(ii) A statement that all identifiers associated with the fetal tissue will be removed prior to the derivation of human pluripotent stem cells.

(iii) A statement that donors will not receive any information regarding subsequent testing on the fetal tissue or the derived human pluripotent cells.

(iv) A statement that derived cells and/or cell lines, with all identifiers removed, may be kept for many years.

(v) Disclosure of the possibility that the donated material may have commercial potential, and a statement that the donor will not receive financial or any other benefits from any such future commercial development.

(vi) A statement that the human pluripotent stem cell research is not intended to provide direct medical benefit to the donor.

(vii) A statement that the fetal tissue and cells will be handled respectfully, as is appropriate for all human tissue used in research.

b. To ensure respect for the individual donating tissue that results from the reproductive process, it is recommended that protocols be approved by an Institutional Review Board (IRB) established in accord with 45 CFR 46.107 and § 46.108 or FDA regulations at 21 CFR 56.107 and § 56.108.

*3. Investigators Planning To Derive or Utilize Human Pluripotent Stem Cells From Fetal Tissue Should Provide in Their Application or Proposal to NIH*

a. the protocol, including the informed consent document, for the derivation of human pluripotent stem cells from fetal tissue;

b. documentation of IRB approval, if any, of the research protocol; and

c. an assurance that the stem cells to be used in the research were or will be obtained through a donation or through a payment that does not exceed the reasonable costs associated with the transportation, processing, preservation, quality control and storage of the stem cells, as permitted by 42 U.S.C. 289g–2.

*III. Areas of Research Involving Human Pluripotent Stem Cells That Are Ineligible for NIH Funding*

Areas of research ineligible for NIH funding include:

A. The derivation of pluripotent stem cells from early human embryos;

B. Research in which human pluripotent stem cells are utilized to create or contribute to a human embryo;

C. Research in which human pluripotent stem cells are combined with an animal embryo;

D. Research in which human pluripotent stem cells are used for reproductive cloning of a human;

E. Research in which human pluripotent stem cells are derived using somatic cell nuclear transfer, i.e., the transfer of a human somatic cell nucleus into a human or animal egg;

F. Research utilizing human pluripotent stem cells that were derived using somatic cell nuclear transfer, i.e., the transfer of a human somatic cell nucleus into a human or animal egg; and

G. Research utilizing pluripotent stem cells that were derived from human embryos created for research purposes, rather than for infertility treatment.

*IV. Oversight*

A. Requests to the NIH for the funding of research involving human pluripotent stem cells should include documentation that the human pluripotent stem cells have been or will be derived in accordance with these Guidelines.

B. NIH will consider requests for funding for research utilizing human pluripotent stem cells from: (1) Awardees who want to use existing funds; (2) awardees requesting an administrative supplement; and (3) applicants or intramural researchers submitting applications or proposals.

C. NIH will consider funding requests for the derivation of human pluripotent stem cells from fetal tissue.

D. All applications shall be reviewed for scientific merit by: (1) An initial review group, in the case of new or competing continuation (renewal) applications; (2) by Institute or Center staff in the case of requests to use existing funds or applications for an administrative supplement; or (3) by the Scientific Director in the case of intramural proposals prior to submission to the HPSCRG.

E. The NIH will establish a Human Pluripotent Stem Cell Review Group (HPSCRG). This group will review documentation of compliance with the NIH Guidelines for Research Involving Human Pluripotent Stem Cells, and may, when warranted, seek further information in support of an application. The group will hold public review meetings when a funding request proposes the use of a newly derived line of human pluripotent stem cells that has not been reviewed previously by the HPSCRG in a public process or when an investigator proposes a protocol for the derivation of a new human pluripotent stem cell line from fetal tissue.

F. The HPSCRG will compile a yearly report that will include the number of applications and proposals reviewed and the titles of all awarded applications, supplements or administrative approvals for the use of existing funds, and intramural projects.

G. The HPSCRG will also serve as a resource for recommending to the Director, NIH any revisions to the NIH Guidelines for Research Involving Human Pluripotent Stem Cells.

Dated: November 29, 1999.

**Harold Varmus,**

*Director, NIH.*

[FR Doc. 99–31339 Filed 12–1–99; 8:45 am]

BILLING CODE 4140–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Public Health Service

### National Institute of Environmental Health Sciences National Toxicology Program; Availability and Request for Comments on the Revised Guidance Document: Evaluation of the Validation Status of Toxicological Methods: General Guidelines for Submissions to the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM)

**Summary**

The Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) prepared an initial version of the document, Evaluation of the Validation Status of Toxicological Methods: General Guidelines for Submissions to the Interagency Coordinating Committee on the Validation of Alternative Method in May 1998. It has now been updated by ICCVAM to reflect experience gained with the first two test methods reviewed by ICCVAM in 1998–1999. Further modifications are anticipated as experience accrues. The document provides guidance to test method developers on the information needed by ICCVAM to evaluate the validation status of new or revised test methods at any stage of development and after the completion of validation studies. It includes a framework for organizing the information supporting the validity of a test method. The purpose of this notice is to announce the availability of the revised guidance document and to request comments and suggestions for further improvement.

**Background**

The Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) was established in 1997 as a standing collaborative effort by the National Institute of Environmental Health Sciences (NIEHS) and 13 other regulatory and research agencies. ICCVAM coordinates issues within the Federal government that relate to the development, validation, acceptance, and national/international harmonization of toxicological test methods. The Committee's functions include the coordination of interagency scientific reviews of toxicological test methods and communication with outside groups throughout the process. The focus is on new and revised test methods that are applicable to multiple Federal agencies. Emphasis is given to test methods that provide for improved prediction of adverse human health or ecological effects, and that may reduce, refine, or replace animal use.

In the report, Validation and Regulatory Acceptance of Toxicological Test Methods: A Report of the ad hoc Interagency Coordinating Committee on the Validation of Alternative Methods *(http://ntp-server.niehs.nih.gov/htdocs/ICCVAM/iccvam.html),* various stages were identified to move a proposed test method from concept to regulatory acceptance. One stage is the communication of a proposed test method by the sponsor to ICCVAM for consideration and review. The ICCVAM review process typically involves an assessment by an ICCVAM working group comprised of government scientists, followed by an independent peer review evaluation by an expert scientific panel. Following this review, ICCVAM forwards recommendations on the usefulness and limitations of the proposed test method to regulatory agencies. Based on their specific regulatory mandates, each Federal agency then makes a determination regarding the acceptability of the test method. If the test method is accepted, appropriate actions (e.g., revision of existing regulations, guidelines, and/or guidance documents) are taken to inform the regulated community.

The following Federal regulatory and research agencies participate in this effort:

Consumer Product Safety Commission

Department of Defense
Department of Energy
Department of Health and Human Services
  Agency for Toxic Substances and Disease Registry
  Food and Drug Administration
  National Cancer Institute
  National Institute for Occupational Safety and Health/Centers for Disease Control
  National Institute of Environmental Health Sciences
  National Institutes of Health
  National Library of Medicine
Department of the Interior
Department of Labor
  Occupational Safety and Health Administration
Department of Transportation
  Research and Special Programs Administration
Environmental Protection Agency

To support the activities of ICCVAM, NIEHS established the National Toxicology Program Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM). NICEATM provides a means of communication between test developers and Federal agencies during the development and validation process. NICEATM coordinates test method workshops, expert panel meetings, and independent scientific peer reviews, where appropriate and recommended by ICCVAM. Test method developers are encouraged to contact NICEATM (*http://iccvam.niehs.nih.gov*) prior to submission of proposed test methods for guidance on the submission and evaluation process.

Before a new or revised test method is used to generate information to support regulatory decisions, it must be: (a) Validated to determine its reliability and relevance for its proposed use and (b) determined to be acceptable by one or more regulatory agencies to fill a specific need. Criteria for validation and regulatory acceptance have been prepared and are described in the report, Validation and Regulatory Acceptance of Toxicological Test Methods: A Report of the ad hoc Interagency Coordinating Committee on the Validation of Alternative Methods (*http://ntp-server.niehs.nih.gov/htdocs/ICCVAM/iccvam.html*). Prior to the initiation of any test method development or validation efforts, sponsors are encouraged to consider the validation and acceptance criteria described in the report.

ICCVAM is issuing revised guidance for developers on organizing information needed to assess the validation status of a new or revised test method at any stage of development and/or following the completion of validation studies. The guidance document, Evaluation of the Validation Status of Toxicological Methods: General Guidelines for Submissions to ICCVAM, is available online (*http://iccvam.niehs.nih.gov/doc1.htm*); additional copies can be obtained from the National Toxicology Program (NTP) Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM, contact information given below). The initial guidance document was first released in May of 1998. This version has been updated by ICCVAM to reflect experience gained with the first two test methods reviewed by ICCVAM in 1998–1999: the Local Lymph Node Assay (*http://iccvam.niehs.nih.gov/llnarep.htm*) and Corrositex® (*http://iccvam.niehs.nih.gov/corprrep.htm*).

The guidance document calls for the development of an ICCVAM submission for a given test method that describes the extent to which the validation and acceptance criteria have been addressed. It can also be used as a guide to prepare background review documents for methods that describe how validation criteria will be addressed in proposed studies. Background review documents serve as comprehensive compilations of all existing data for test methods. Completion of background review documents prior to the conduct of validation studies is encouraged to provide the basis for decisions on standardized protocols and design of the validation studies. In preparing test method submissions and background review documents, developers should use the outline provided to organize information. Submissions should be prepared well in advance of any peer review of the validation status of a method.

Test method developers are encouraged to consult with NICEATM and ICCVAM during submission preparation and throughout test method development, pre-validation, and validation. The objective of these interactions is to maximize the likelihood that adequate information will be generated to characterize the usefulness and limitations of a test method. If requested, ICCVAM will solicit interagency comments on proposed study designs and protocols. Validation study designs submitted to ICCVAM for comment should describe the basis for the proposed protocol and proposed validation studies. The completed submission is then used to assess the method's validation status through an independent ICCVAM peer review process. This process enhances the likelihood that agencies will be provided with sufficient information to determine a method's usefulness and limitations for meeting regulatory needs.

**Request for Comments**

Interested parties are encouraged to submit comments on the ICCVAM guidance document: Evaluation of the Validation Status of Toxicological Methods: General Guidelines for Submissions to ICCVAM. Comments should include name, affiliation, mailing address, phone, fax, e-mail and sponsoring organization (if any). Comments may be submitted anytime; however, those received within 60 days from the appearance of this notice will be considered by ICCVAM for a possible revision in early 2000. The document is available on the Internet at *http://iccvam.niehs.nih.gov/doc1.htm* or may be requested from NICEATM, MD–EC–17, P.O. Box 12233, Research Triangle Park, NC 27709; 919–541–3398 (phone); 919–541–0947 (FAX); and *ICCVAM@niehs.nih.gov* (e-mail). Comments should be directed to the ICCVAM Co-Chairs, Dr. William S. Stokes 919–541–7997 (phone); 919–541–0947 (fax); *stokes@niehs.nih.gov* (e-mail) or Dr. Richard Hill 202–260–2894 (phone); 202–260–1847 (fax); *Hill.Richard@epamail.epa.gov.*

Dated: November 24, 1999.

**Samuel H. Wilson,**

*Deputy Director, NIEHS and NTP.*

[FR Doc. 99–31342 Filed 12–1–99; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Request for Standing Review Committee Nominations

**AGENCY:** Substance Abuse and Mental Health Services Administration, HHS.

**ACTION:** Request for Standing Review Committee Nominations.

**SUMMARY:** The purpose of this notice is to invite qualified people to serve as peer reviewers for the Substance Abuse and Mental Health Services Administration's (SAMHSA's) standing committees to review competitive grant and cooperative agreement applications.

**SUPPLEMENTARY INFORMATION:** The Substance Abuse and Mental Health Services Administration (SAMHSA) and its three Centers, the Center for Mental Health Services (CMHS), the Center for Substance Abuse Prevention (CSAP), and the Center for Substance Abuse Treatment (CSAT), depend on the

quality of its extramural grant program. Applications for competing grant and cooperative agreements are subject to a review process. The first stage of this process involves peer review by a group of qualified experts, referred to as the Initial Review Group (IRG).

The IRG's review of applications is intended to provide peer review, in the sense that reviewers are selected for their expertise in the profession and disciplines relevant to the application. The central purpose of that review is to provide a competent and objective evaluation of the merit of each application and to identify those applications that are of the highest quality so that program officials will have a sound basis for making funding decisions. The review system rests on the assumption that advice on the scientific/technical merit of an application can be obtained best by selecting and engaging appropriately qualified reviewers of the highest caliber in the committee process that enables them to discuss each others' views on individual applications relative to established review criteria.

Members of the standing committees will be expected to attend no more than three meetings per year in the Washington, DC, area, held over a span of up to 5 days. Members will serve a three-year term (except for initial appointments which will be staggered to ensure IRG continuity) for each standing committee, but occasionally may be also asked to serve on ad hoc committees. Typically, committees are managed by a Chairperson, a non-Federal person, and a Review Administrator, a Federal staff person to ensure that SAMHSA guidelines are being followed. Members are expected to review applications according to the published Guidance for Applicants (GFAs) and write critiques of the applications based on the review criteria in the GFA. Travel, lodging, and meals will be paid by SAMHSA; reviewers also will receive an honorarium.

Cultural competency is an important part of every committee as well as an appropriate balance of membership by expertise, gender, ethnicity, geographic distribution, and representation of consumers, families, and community-based organizations. SAMHSA particularly wishes to ensure that women, ethnic/racial minorities, and persons with disabilities are adequately represented on its peer review committees.

Candidates must have substantial expertise in the mental health, and/or substance abuse prevention/treatment fields or HIV/AIDS. Standing committees may review applications for different GFAs, which can vary by year or can be standing announcements. SAMHSA program areas can cover, but are not limited to, the following topics: Coalitions/Partnerships/Linkages; Communications/Media/Public Information; Violence; Evaluation; Managed Care; Organizational Development; Program Management; Research; Services; Test Development; and Training.

Grant announcements often focus on specific populations and/or experiential groups such as: Criminal Justice; Dual Diagnosis; Early Childhood Development; Elderly; Family Units; Hardcore Substance Abusers; Homeless Populations; Persons With Disabilities; Rural Populations; Welfare Recipients; and the Workplace.

For more information on SAMHSA, its Centers, and current GFAs see SAMHSA's web site at http://www.samhsa.gov.

*To Apply:* Prospective members should send a one page cover letter and curricula vitae or resume. The cover letter should state the person's name, address, contact information, and current affiliation/employment.

The curricula vitae may be in any format or length but must include sufficient information to evaluate the person's credentials, including education and experience. These documents should be mailed to Ms. McMenamin, Director of DEAPR, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, MD 20857. Documents can also be sent via e-mail to Dmcmenam@samhsa.gov or fax to (301) 443–1587 or (301) 443–3437. For further information, call Ms. McMenamin at (301) 443–4266.

Although letters should be received by January 15, 2000, to be considered for standing committees forming in fiscal year 2000, letters will be reviewed after January 15 for further consideration as additional standing committees are formed. Potential nominees will be contacted by SAMHSA staff to further discuss responsibilities and expectations. Members will be notified of their selection after committees are formed and approved by the Administrator.

Dated: November 26, 1999.

**Richard Kopanda,**

*Executive Officer, SAMHSA.*

[FR Doc. 99–31229 Filed 12–1–99; 8:45 am]

BILLING CODE 4162–20–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies, and Laboratories That Have Withdrawn From the Program

**AGENCY:** Substance Abuse and Mental Health Services Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (59 FR 29916, 29925). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be identified as such at the end of the current list of certified laboratories, and will be omitted from the monthly listing thereafter.

This Notice is now available on the internet at the following website: http://www.health.org/workpl.htm.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Giselle Hersh or Dr. Walter Vogl, Division of Workplace Programs, 5600 Fishers Lane, Rockwall 2 Building, Room 815, Rockville, Maryland 20857; Tel.: (301) 443–6014.

**SPECIAL NOTE:** Please use the above address for all surface mail and correspondence. For all overnight mail service use the following address: Division of Workplace Programs, 5515 Security Lane, Room 815, Rockville, Maryland 20852.

**SUPPLEMENTARY INFORMATION:**

Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100–71. Subpart C of the Guidelines, ''Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies,'' sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an

applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification a laboratory must participate in a quarterly performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840/800–877–7016, (Formerly: Bayshore Clinical Laboratory)

Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901–794–5770/888–290–1150

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400

Alabama Reference Laboratories, Inc., 543 South Hull St., Montgomery, AL 36103, 800–541–4931/334–263–5745

Alliance Laboratory Services, 3200 Burnet Ave., Cincinnati, OH 45229, 513–585–9000, (Formerly: Jewish Hospital of Cincinnati, Inc.)

American Medical Laboratories, Inc., 14225 Newbrook Dr., Chantilly, VA 20151, 703–802–6900

Associated Pathologists Laboratories, Inc., 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866/800–433–2750

Baptist Medical Center—Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–202–2783, (Formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Clinical Reference Lab, 8433 Quivira Rd., Lenexa, KS 66215–2802, 800–445–6917

Cox Health Systems, Department of Toxicology, 1423 North Jefferson Ave., Springfield, MO 65802, 800–876–3652/417–269–3093, (Formerly: Cox Medical Centers)

Dept. of the Navy, Navy Drug Screening Laboratory, Great Lakes, IL, P.O. Box 88–6819, Great Lakes, IL 60088–6819, 847–688–2045/847–688–4171

Diagnostic Services Inc., dba DSI, 12700 Westlinks Drive, Fort Myers, FL 33913, 941–561–8200/800–735–5416

Doctors Laboratory, Inc., P.O. Box 2658, 2906 Julia Dr., Valdosta, GA 31604, 912–244–4468

DrugProof, Division of Dynacare/Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 206–386–2672/800–898–0180, (Formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.)

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215–674–9310

Dynacare Kasper Medical Laboratories,* 14940–123 Ave., Edmonton, Alberta, Canada T5V 1B4, 780–451–3702/800–661–9876

ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, 601–236–2609

Gamma-Dynacare Medical Laboratories,* A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall St., London, ON, Canada N6A 1P4, 519–679–1630

General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6267

Hartford Hospital Toxicology Laboratory, 80 Seymour St., Hartford, CT 06102–5037, 860–545–6023

Info-Meth, 112 Crescent Ave., Peoria, IL 61636, 309–671–5199/800–752–1835, (Formerly: Methodist Medical Center Toxicology Laboratory)

Integrated Regional Laboratories, 1400 Northwest 12th Ave., Miami, FL 33136, 305–325–5784, (Formerly: Cedars Medical Center, Department of Pathology)

Kroll Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823, (Formerly: Laboratory Specialists, Inc.)

LabCorp Occupational Testing Services, Inc., 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984, (Formerly: CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

LabCorp Occupational Testing Services, Inc., 4022 Willow Lake Blvd., Memphis, TN 38118, 901–795–1515/800–233–6339, (Formerly: MedExpress/National Laboratory Center)

LabOne, Inc., 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–728–4064, (Formerly: Center for Laboratory Services, a Division of LabOne, Inc.)

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986, (Formerly: Roche Biomedical Laboratories, Inc.)

Marshfield Laboratories Forensic Toxicology Laboratory, 1000 North Oak Ave., Marshfield, WI 54449, 715–389–3734/800–331–3734

MAXXAM Analytics Inc.*, 5540 McAdam Rd., Mississauga, ON, Canada L4Z 1P1, 905–890–2555, (Formerly: NOVAMANN (Ontario) Inc.)

Medical College Hospitals Toxicology Laboratory, Department of Pathology, 3000 Arlington Ave., Toledo, OH 43614, 419–383–5213

MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 651–636–7466/800–832–3244

MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, Minnesota 55417, 612–725–2088

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250

NWT Drug Testing, 1141 E. 3900 South, Salt Lake City, UT 84124, 801–268–2431/800–322–3361, (Formerly: NorthWest Toxicology, Inc.)

One Source Toxicology Laboratory, Inc., University of Texas Medical Branch, Clinical Chemistry Division, 301 University Boulevard, Room 5.158, Old John Sealy, Galveston, Texas 77555–0551, 409–772–3197, (Formerly: UTMB Pathology-Toxicology Laboratory)

Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 541–687–2134

Pacific Toxicology Laboratories, 6160 Variel Ave., Woodland Hills, CA 91367, 818–598–3110, (Formerly: Centinela Hospital Airport Toxicology Laboratory)

Pathology Associates Medical Laboratories, 11604 E. Indiana, Spokane, WA 99206, 509–926–2400/800–541–7891

PharmChem Laboratories, Inc., 1505–A O'Brien Dr., Menlo Park, CA 94025, 650–328–6200/800–446–5177

PharmChem Laboratories, Inc., Texas Division, 7606 Pebble Dr., Fort Worth, TX 76118, 817–215–8800, (Formerly: Harris Medical Laboratory)

Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–339–0372/800–821–3627

Poisonlab, Inc., 7272 Clairemont Mesa Blvd., San Diego, CA 92111, 619–279–2600/800–882–7272

Quest Diagnostics Incorporated, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590, (Formerly: SmithKline

Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)
Quest Diagnostics Incorporated, 4444 Giddings Road, Auburn Hills, MI 48326, 810–373–9120/800–444–0106, (Formerly: HealthCare/Preferred Laboratories, HealthCare/MetPath, CORNING Clinical Laboratories)
Quest Diagnostics Incorporated, National Center for Forensic Science, 1901 Sulphur Spring Rd., Baltimore, MD 21227, 410–536–1485, (Formerly: Maryland Medical Laboratory, Inc., National Center for Forensic Science, CORNING National Center for Forensic Science)
Quest Diagnostics Incorporated, 8000 Sovereign Row, Dallas, TX 75247, 214–638–1301, (Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)
Quest Diagnostics Incorporated, 4770 Regent Blvd., Irving, TX 75063, 972–916–3376/800–526–0947, (Formerly: Damon Clinical Laboratories, Damon/MetPath, CORNING Clinical Laboratories)
Quest Diagnostics Incorporated, 801 East Dixie Ave., Leesburg, FL 34748, 352–787–9006, (Formerly: SmithKline Beecham Clinical Laboratories, Doctors & Physicians Laboratory)
Quest Diagnostics Incorporated, 400 Egypt Rd., Norristown, PA 19403, 610–631–4600/800–877–7484, (Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)
Quest Diagnostics Incorporated, 875 Greentree Rd., 4 Parkway Ctr., Pittsburgh, PA 15220–3610, 412–920–7733/800–574–2474, (Formerly: Med-Chek Laboratories, Inc., Med-Chek/Damon, MetPath Laboratories, CORNING Clinical Laboratories)
Quest Diagnostics Incorporated, 506 E. State Pkwy., Schaumburg, IL 60173, 800–669–6995/847–885–2010, (Formerly: SmithKline Beecham Clinical Laboratories, International Toxicology Laboratories)
Quest Diagnostics Incorporated, 7470 Mission Valley Rd., San Diego, CA 92108–4406, 619–686–3200/800–446–4728, (Formerly: Nichols Institute, Nichols Institute Substance Abuse Testing (NISAT), CORNING Nichols Institute, CORNING Clinical Laboratories)
Quest Diagnostics of Missouri LLC, 2320 Schuetz Rd., St. Louis, MO 63146, 314–991–1311/800–288–7293, (Formerly: Quest Diagnostics Incorporated, Metropolitan Reference Laboratories, Inc., CORNING Clinical Laboratories, South Central Division)
Quest Diagnostics Incorporated, One Malcolm Ave., Teterboro, NJ 07608, 201–393–5590, (Formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories, CORNING Clinical Laboratory)
Quest Diagnostics Incorporated, 7600 Tyrone Ave., Van Nuys, CA 91405, 818–989–2520/800–877–2520, (Formerly: SmithKline Beecham Clinical Laboratories)
Quest Diagnostics LLC (IL), 1355 Mittel Blvd., Wood Dale, IL 60191, 630–595–3888, (Formerly: Quest Diagnostics Incorporated, MetPath, Inc., CORNING MetPath Clinical Laboratories, CORNING Clinical Laboratories Inc.)
San Diego Reference Laboratory, 6122 Nancy Ridge Dr., San Diego, CA 92121, 800–677–7995
Scientific Testing Laboratories, Inc., 463 Southlake Blvd., Richmond, VA 23236, 804–378–9130
Scott & White Drug Testing Laboratory, 600 S. 25th St., Temple, TX 76504, 254–771–8379/800–749–3788
S.E.D. Medical Laboratories, 5601 Office Blvd., Albuquerque, NM 87109, 505–727–6300/800–999–5227
South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 219–234–4176
Southwest Laboratories, 2727 W. Baseline Rd., Tempe, AZ 85283, 602–438–8507
Sparrow Health System, Toxicology Testing Center, St. Lawrence Campus, 1210 W. Saginaw, Lansing, MI 48915, 517–377–0520, (Formerly: St. Lawrence Hospital & Healthcare System)
St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052
Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 2703 Clark Lane, Suite B, Lower Level, Columbia, MO 65202, 573–882–1273
Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260
UNILAB, 18408 Oxnard St., Tarzana, CA 91356, 818–996–7300/800–492–0800, (Formerly: MetWest-BPL Toxicology Laboratory)
Universal Toxicology Laboratories, LLC, 10210 W. Highway 80, Midland, Texas 79706, 915–561–8851/888–953–8851

**Richard Kopanda,**

*Executive Officer, Substance Abuse and Mental Health Services Administration.*

[FR Doc. 99–31292 Filed 12–1–99; 8:45 am]

**BILLING CODE 4160–20–U**

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. DHHS, with the DHHS' National Laboratory Certification Program (NLCP) contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, the DHHS will recommend that DOT certify the laboratory (**Federal Register**, 16 July 1996) as meeting the minimum standards of the ''Mandatory Guidelines for Workplace Drug Testing'' (59 **Federal Register**, 9 June 1994, Pages 29908–29931). After receiving the DOT certification, the laboratory will be included in the monthly list of DHHS certified laboratories and participate in the NLCP certification maintenance program.

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Information Collection To Be Submitted to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice; request for comments.

**SUMMARY:** The U.S. Fish and Wildlife Service will submit the collection of information listed below to OMB for approval under the provisions of the Paperwork Reduction Act. A copy of the information collection requirement is included in this notice. If you wish to obtain copies of the proposed information collection requirement, related forms, and explanatory material, contact the Service Information Collection Clearance Officer at the address listed below.

**DATES:** You must submit comments on or before January 31, 2000.

**ADDRESSES:** Send your comments on the requirement to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, ms 222–ARLSQ, 1849 C Street NW., Washington, DC 20204.

**FOR FURTHER INFORMATION CONTACT:** To request a copy of the information collection request, explanatory information and related forms, contact Rebecca A. Mullin at (703) 358–2287, or electronically to rmullin@fws.gov.

**SUPPLEMENTARY INFORMATION:** The Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Public Law 104–13), require that interested members of the public and affected agencies have an

opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). The U.S. Fish and Wildlife Service (We) plan to submit a request to OMB to renew its approval of the collection of information for the Sandhill Crane Harvest Survey. We are requesting a 3-year term of approval for this information collection activity.

Federal agencies may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection of information is 1018–0023.

The Migratory Bird Treaty Act (16 U.S.C. 703–711) and Fish and Wildlife Act of 1956 (16 U.S.C. 742d) designate the Department of the Interior as the key agency responsible for the wise management of migratory bird populations frequenting the United States and for the setting of hunting regulations that allow appropriate harvests that are within the guidelines that will allow for those populations' well being. These responsibilities dictate the gathering of accurate data on various characteristics of migratory bird populations. The Sandhill Crane Harvest Survey is an essential part of the migratory bird management program. The survey helps determine sandhill crane harvests and harvest rates that is used to regulate sandhill crane populations (by promulgating hunting regulations) and to encourage hunting opportunity, especially where crop depredations are chronic and/or lightly harvested populations occur.

The annual questionnaire surveys people who obtained a sandhill crane hunting permit. At the end of the hunting season, we randomly selects a sample of permit holders and send those people a questionnaire that asks them to report the date, state, county, and number of birds harvested for each of their sandhill crane hunts. Their responses provide estimates of the temporal and geographic distribution of the harvest as well as the average harvest per hunter, which, combined with the total number of sandhill crane permits issued, enables us to estimate the total harvest of sandhill cranes.

The Sandhill Crane Harvest Survey enables us to annually estimate the magnitude of the harvest, and the portion it constitutes of the total mid-continent sandhill crane population. Based on information from this survey, sandhill crane hunting regulations are adjusted as needed to optimize harvest at levels that provide a maximum of hunting recreation while keeping populations at desired levels.

*Title:* Sandhill Crane Harvest Survey.

*Approval Number:* 1018–0023.

*Service Form Number:* 3–530, 3–530A, and 3–2056N.

*Frequency of Collection:* Annually.

*Description of Respondents:* Individuals and households.

*Total Annual Burden Hours:* The reporting burden is estimated to average 5 minutes per respondent. The Total Annual Burden hours is 614 hours.

*Total Annual Responses:* About 7,400 individuals are expected to participate in the survey.

We invite comments concerning this renewal on: (1) Whether the collection of information is necessary for the proper performance of our migratory bird management functions, including whether the information will have practical utility; (2) The accuracy of our estimate of the burden of the collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and, (4) Ways to minimize the burden of the collection of information on respondents. The information collections in this program are part of a system of record covered by the Privacy Act (5 U.S.C. 552(a)).

Dated: November 22, 1999.

**Daniel M. Ashe,**

*Assistant Director for Refuges and Wildlife.*

[FR Doc. 99–31064 Filed 12–1–99; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Bureau of Reclamation

### Draft Environmental Impact Statement/ Environmental Impact Report for the Trinity River Mainstem Fishery Restoration

**ACTION:** Notice of Extension of Comment Period.

**SUMMARY:** This notice announces the extension of the public comment period of the draft Environmental Impact Statement/Environmental Impact Report (DEIS/EIR) for the Trinity River Mainstem Fishery Restoration. The public comment period will be extended from December 8, 1999, to December 20, 1999. As announced in the **Federal Register** on October 19, 1999, (FR, Vol. 64, No. 201, pages 56364–56365), the DEIS/EIR for the Trinity River Mainstem Fishery Restoration is available for public comment.

**DATES:** Written comments of the DEIS/EIR *must be received on or before* December 20, 1999.

**ADDRESSES:** Written comments regarding the DEIS/EIR should be adressed to Mr. Joe Polos, Fish and Wildlife Service, 1655 Heindon Road, Arcata CA, 95521 (Note: this is a new address but comments sent to the address previously published in the **Federal Register** will be forwarded).

**FOR FURTHER INFORMATION CONTACT:** Joe Polos, Fish and Wildlife Service, 1655 Heindon Road, Arcata, CA 95521 (707) 822–7201.

Dated: November 23, 1999.

**Elizabeth H. Stevens,**

*Acting Manager, California/Nevada Operations Office, Fish and Wildlife Service, Region 1, Sacramento, California.*

[FR Doc. 99–31294 Filed 12–1–99; 8:45 am]

**BILLING CODE 4310–55–M**

## DEPARTMENT OF THE INTERIOR

### Geological Survey

### Technology Transfer Act of 1986

**AGENCY:** United States Geological Survey, Interior.

**ACTION:** Notice of proposed cooperative research and development agreement (CRADA) negotiations.

**SUMMARY:** The United States Geological Survey (USGS) is contemplating entering into a Cooperative Research and Development Agreement (CRADA) with 3DI, LLC to develop a semi-autonomous classification algorithm that can accurately map land cover units using satellite and airborne imagery, primarily radar data. Algorithm development will not be restricted to radar data because some applications and some land-cover units will also require the use of optical data to uniquely identify particular surface units or materials. This development will also include algorithms to prepare image data for classification and to perform post-classification analyses to refine the classifier's results.

**INQUIRIES:** If any other parties are interested in similar activities with the USGS, please contact: Philip A. Davis Jr.; 520–556–7133; pdavis@usgs.gov.

**SUPPLEMENTARY INFORMATION:** This notice is to meet the USGS requirement stipulated in the Survey Manual.

Dated: November 16, 1999.

**Janet L. Morton,**

*Chief Geologist.*

[FR Doc. 99–31241 Filed 12–1–99; 8:45 am]

**BILLING CODE 4310–47–M**

## DEPARTMENT OF THE INTERIOR

### Geological Survey

### Technology Transfer Act of 1986

**AGENCY:** United States Geological Survey, Interior.

**ACTION:** Notice of proposed cooperative research and development agreement (CRADA) negotiations.

**SUMMARY:** The United States Geological Survey (USGS) is contemplating entering into a Cooperative Research and Development Agreement (CRADA) with Swiss Reinsurance Company (''SwissRe'') to conduct a probabilistic study of earthquake hazards in the greater Istanbul area.

**INQUIRIES:** If any other parties are interested in studying other areas with the USGS, please contact: Dr. Ross S. Stein, tel 1 650 329 4840, fax 1 650 329 4876, rstein@usgs.gov.

**SUPPLEMENTARY INFORMATION:** This notice is to meet the USGS requirement stipulated in the Survey Manual.

Dated: November 16, 1999.

**Janet L. Morton,**

*Acting Chief Geologist.*

[FR Doc. 99–31240 Filed 12–1–99; 8:45 am]

**BILLING CODE 4310–Y7–M**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### Receipt of Petitions for Federal Acknowledgment of Existence as an Indian Tribe

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.9(a) notice is hereby given that the following groups have each filed a letter of intent to petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. Each letter of intent was received by the Bureau of Indian Affairs (BIA) on the date indicated, and was signed by members of the group's governing body.

Juaneno Band of Mission Indians, c/o Sonia Johnston, P.O. Box 25628, Santa Ana, California 92799, withdrew from Juaneno Band of Mission Indians. (See, 47 FR 56184, 12/15/1982). March 8, 1996.

Ani Yvwi Yuchi, c/o Joe Lenwood Henderson, 58757 Santa Barbara Drive, Yucca Valley, California 92284. July 31, 1996.

Loyal Shawnee Tribe, c/o Don Greenfeather, P.O. Box 948, Tahlequah, Oklahoma 74465. October 14, 1998.

Lost Cherokee of Arkansas & Missouri, c/o W.K. Maxwell, Jr., 108 South Fisher, Jonesboro, Arkansas 72401. February 10, 1999.

Cherokee Nation of Alabama, c/o Winfred H. Watts, Jr., 4901 Clairmont Avenue, Birmingham, Alabama 35222. February 16, 1999.

Knugank, c/o Dennis Olson, P.O. Box 571, Dillingham, Alaska 99576. January 7, 1999.

Pequot Mohegan Tribe, Inc., c/o Van Thomas Green, 387 High Street, Suite 3–B, Middleton, Connecticut 06457. April 12, 1999.

The Yamassee Native American Moors of the Creek Nation, c/o Malachi York, P.O. Box 707, Milledgeville, Georgia 31061. April 27, 1999.

Sierra Foothill Wuksachi Yokuts/Tribe, c/o Marie Dominguez, 34845 Maxon Road, #108, Sanger, California 93657. May 11, 1999.

Costanoan Tribe of Santa Cruz and San Juan Bautista Missions, c/o Quirina Cynthia Luna, 704 Wessmith Way, Madera, California 93638–2172. May 11, 1999.

Lipan Apache Band of Texas, Inc., c/o Daniel Castro Romero, Jr., 109 Clifford Court, San Antonio, Texas 78210. May 26, 1999.

Pee Dee Indian Nation of Beaver Creek, c/o Leroy Lewis, P.O. Box 396, Neeses, South Carolina 29107. June 16, 1999.

Poquonnock Pequot Tribe, c/o Paul A. Davis, P.O. Box 250, Ledyard, Connecticut 06339. July 7, 1999.

The Wilderness Tribe of Missouri, c/o Dophes Barton, Route 2, Box 2232, Alton, Missouri 65606. August 16, 1999.

Tuscarora Nation East of the Mountains, c/o Robert Michael Chavis, 780 Andrews Farm Road, Rowland, North Carolina 28383–8080. September 8, 1999.

The Old Settler Cherokee Nation of Arkansas, c/o Joe Bagby, P.O. Box 82, Timbo, Arkansas 72680. September 17, 1999.

This is a notice of receipt of these letters of intent to petition and does not constitute notice that the petitions are under active consideration. Notice of active consideration will be sent by mail to the petitioner and other interested parties at the appropriate time.

Under Section 83.9(a) of the Federal regulations, third parties may submit factual and/or legal arguments in support of or in opposition to each group's petition and may request to be kept informed of all general actions affecting the petition. Third parties should provide copies of their submissions to the petitioner. Any information submitted will be made available on the same basis as other information in the BIA's files. The petitioner will be provided an opportunity to respond to such submissions prior to a final determination regarding the petitioner's status.

The petitions may be examined, by appointment, in the Department of the Interior, BIA, Branch of Acknowledgment and Research, MS: 4660–MIB, 1849 C Street, NW, Washington, DC 20240, Phone: (202) 208–3592.

Dated: November 10, 1999.

**Kevin Gover,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 99–31274 Filed 12–1–99; 8:45 am]

**BILLING CODE 4310–02–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### Advisory Board for Exceptional Children

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, 5 U.S.C., App. 2, the Bureau of Indian Affairs announces a meeting of the Advisory Board for Exceptional Children in Albuquerque, New Mexico, to discuss the impact of Public Law 105–17, the Individuals with Disabilities Education Act Amendments of 1997, on Indian children with disabilities.

**DATES:** The meeting will be held on Thursday, December 16, 1999, beginning at 9:00 a.m. and ending at 4:00 p.m. MST.

**ADDRESSES:** The meeting will be held at the Sheraton Old Town Hotel, 800 Rio Grand Boulevard, NW, Albuquerque, New Mexico 87104. Telephone 1–800–237–2133; Fax (505) 842–9863.

Written statements may be submitted to Mr. Joe Christie, Acting Director, Office of Indian Education Programs, Bureau of Indian Affairs, 1849 C Street, NW, MS–3512–MIB, Washington, DC 20240; Telephone (202) 208–6123; Fax (202) 208–5548.

**FOR FURTHER INFORMATION CONTACT:** Dr. Angelita Felix, Chief, Branch of Exceptional Education, (202) 208–5037.

**SUPPLEMENTARY INFORMATION:** The purpose of the Board is to provide advice to the Secretary of the Interior, through the Assistant Secretary—Indian Affairs, on the needs of Indian children with disabilities, as mandated by the Individuals with Disabilities Education Act Amendments of 1997, Public Law 105–17, June 4, 1997.

The agenda for this meeting will cover discussions of the organization of the Board, a review of the duties of the Board, and a review of existing policies and recommendations for any additional policy need.

The meeting will be open to the public without advanced registration. Public attendance may be limited to the space available. Members of the public may make statements during the meeting, to the extent time permits, and file written statements with the Board for its consideration. Written statements should be submitted to the address listed above. Summaries of Board meetings will be available for public inspection and copying ten days following the meeting at the same address.

The Board will prepare and submit an annual report to the Secretary of the Interior and the Congress containing a description of the activities of the Board for the preceding year.

The next Board meeting will be held on or about June 30, 2000.

Dated: November 24, 1999.

**Kevin Gover,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 99–31311 Filed 12–1–99; 8:45 am]

**BILLING CODE 4310–02–P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with departmental Policy, 28 CFR 50.7, notice is hereby given that a consent decree resolving the liability of Arlington Valley Land Company, Inc. (''AVLC'') and Ronald Nobach, Robert Hild, Nobach-Pacific, a general partnership, and Nobach-Hild, a general partnership (the Nobach and Hild parties are collectively referred to as ''Nobach Hild'') in *United States of America* v. *Arlington Valley Land Company, Inc., et al.,* Civil Action No. C99–1711C (W.D. Wa.), was lodged with the United States District Court for the Western District of Washington on October 27, 1999.

The proposed consent decree concerns alleged violations of the Clean Water Act, 33 U.S.C. 1311, resulting from the unauthorized discharge of dredged or fill materials into waters of the United States at a location near Arlington, Washington (the ''Site''). The consent decree enjoins AVLC and Nobach Hild from discharging dredged or fill material into waters of the United States. the consent decree further requires: (a) that Nobach Hild restore and create a total of approximately 6.5 acres of wetlands at the Site, in accordance with a restoration plan approved by the United States Environmental Protection Agency and the United States Army Corps of Engineers; and (b) that AVLC donate to a conservation group for preservation a 23-acre tract of land consisting primarily of wetlands. The consent decree does not resolve the United States' claims against the former president of Arlington Valley Land Company, Defendant Mickie Jarvill.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty (30) days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice, Attention: Michael J. Zevenbergen, Attorney, Environmental Defense Section, Seattle Field Office, c/o NOAA/Damage Assessment, 7600 Sand Point Way NE, Seattle, WA 98115, and should refer to *United States of America* v. *Arlington Valley Land Company, Inc. et al.,* DJ Reference No. 90–5–1–4–402.

The proposed consent decree may be examined at the Clerk's Office, United States District Court, 1010 Fifth Avenue Seattle, WA 98104

**Letitia J. Grishaw,**

*Chief, Environmental Defense Section Environment and Natural Resources Division, United States Department of Justice.*

[FR Doc. 99–31243 Filed 12–1–99; 8:45 am]

**BILLING CODE 4410–15–M**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under the Clean Air Act

Notice is hereby given that a proposed Consent Decree in *United States* v. *Ford Motor Company* (E.D. Mich.), Case No. 99–60670, entered into by plaintiffs United States of America, Department of Environmental Quality, State of Michigan, and Wayne County, Michigan and defendant Ford Motor Company was lodged on November 17, 1999 with the United States District Court for the Eastern District of Michigan. The proposed Consent Decree resolves certain claims under Section 113(b) of the Clean Air Act (''the Act''), 42 U.S.C. § 7413(b), against the defendant with respect to VOC emissions from coating lines at three of its facilities: the Michigan Truck Assembly Plant located at 38303 Michigan Avenue, Wayne, Michigan; the Dearborn Assembly Plant located at 3001 Miller Road, Dearborn, Michigan; and the Wayne Assembly Plant located at 37625 Michigan Avenue, Wayne, Michigan. Under the Consent Decree, Ford will pay a civil penalty of $1.1 million (to be divided equally among the United States, Michigan, and Wayne County) and will implement a supplemental environmental project that will change its primer system at its Dearborn Assembly facility from a solvent-based system to a waterborne primer system.

The Department of Justice will receive comments relating to the proposed Consent Decree for 30 days following the publication of this Notice. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Ford Motor Company,* D.J. Ref. No. 90–5–2–1–06026, –06026/2, –06026/3. The Michigan Department of Environmental Quality will also be taking public comment and holding a public hearing, if requested, on Ford's request for amendment to its State Permit to Install, No. 454–96a, for the installation and operation of the waterborne primer supplemental environmental project at the Dearborn Assembly facility as a pollution control project, which proposed amended permit is attached as Attachment D to the Consent Decree. The proposed Consent Decree may be examined at the Office of the United States Attorney for the Eastern District of Michigan, 211 W. Fort St., Suite 2300, Detroit, MI 48226–3211 and the Region V Office of the United States Environmental Protection Agency, 77 West Jackson Street, Chicago, Illinois 60604. A copy of the Consent Decree may also be obtained by overnight mail addressed to the Department of Justice Consent Decree Library, 13th Floor, 1425 New York Avenue, NW, Washington, DC 20005, or by regular mail addressed to the Department of Justice Consent Decree Library, PO Box 7611, Ben Franklin Station, Washington, DC 20044.

In requesting a copy of the Consent Decree, please enclose a check in the amount of $17.50 (25 cents per page for

reproduction costs), payable to the Consent Decree Library.

**Walker B. Smith,**

*Deputy Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 99–31245 Filed 12–1–99; 8:45 am]

BILLING CODE 4410–15–M

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act and Resource Conservation and Recovery Act

In accordance with Departmental policy, 28 CFR 50.7, and 42 U.S.C. 9622(d)(2), notice is hereby given that on November 9, 1999, a proposed consent decree in *United States* v. *N.L. Industries, et al.* C.A. No. 91–CV578–JLF (S.D. Ill.), was lodged with the United States District Court for the Southern District of Illinois. The proposed consent decree would resolve pending claims of the United States against certain defendants in the above-referenced action (Johnson Controls, Inc., Lucent Technologies, Inc., Exide Corporation, AlliedSignal, Inc., G & B Technology, and General Battery, Inc.) (''Settling Defendants''). The proposed Consent Decree would not resolve pending claims against defendants NL Industries, Inc., Ace Scrap Metal Processors, Inc. and St. Louis Lead Recyclers.

The above-referenced civil action, which relates to the NL Industries/Taracorp Superfund Site located in Granite City, Madison, and Venice, Illinois (''the Site''), was commenced by the United States in July 1991. The Compliant sought injunctive relief requiring the performance of remedial actions at the Site in accordance with an Administrative Order issued by U.S. EPA pursuant to Section 106 of CERCLA, 42 U.S.C. 9606, recovery of response costs incurred and to be incurred by the United States at the Site, and civil penalties and punitive damages for the defendant's failure to comply with the Administrative Order.

The proposed consent decree would require the Settling Defendants to: complete the remedial action selected by the Environmental Protection Agency (''EPA'') for the Site; pay to the EPA Hazardous Substance Superfund $8,970,000 in reimbursement of past response costs, as well as 50% of $1,420,000 in unresolved response costs currently subject to audit that are deemed proper and correct by the audit and approved by EPA; pay ''Future Response Costs,'' including costs of overseeing response actions at the Site; pay to the EPA Hazardous Substance Superfund a civil penalty of $400,000 for failure to comply with EPA's Administrative Order; and complete a supplemental environmental project consisting of conducting a lead paint abatement program in Madison County, for a total expenditure of not less than $2,000,000.

Under the proposed Consent Decree, the United States would provide the Settling Defendants a covenant not to sue under Sections 106 and 107(a) of CERCLA and Section 7003 of the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. § 6973, for the Site, subject to certain reservations and reopeners.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, United States Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044–7611, and should refer to *United States* v. *N.L. Industries, et al.,* C.A. No. 91–CV578–JLF (S.D. Ill.), and the Department of Justice Reference No. 90–11–3–608A. Interested persons may also request an opportunity for a public hearing in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. § 6973(d), by contacting Larry Johnson (EPA Region 5) at (312) 886-6609.

The proposed Consent Decree may be examined at the Office of the United States Attorney for the Southern District of Illinois, Nine Executive Drive, Suite 300, Fairview Heights, IL 62208, and the Region 5 Office of the United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590. A copy of the proposed Consent Decree may be obtained by mail from the Consent Decree Library, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044–7611. In requesting a copy, please refer to DJ #90–11–3–608A, and enclose a check in the amount of $24.25 (97 pages at 25 cents per page for reproduction costs) if requesting the consent decree only or $354.00 (1,418 pages at 25 cents per page for reproduction costs) if requesting the consent decree and all appendices. Make checks payable to the Consent Decree Library.

**Joel M. Gross, Chief**

*Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 99–31242 Filed 12–1–99; 8:45 am]

BILLING CODE 4410–15–M

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decrees Pursuant to Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Modification of a 1995 Consent Decree in *Slagle* v. *United States* (D. Minn.) was lodged with the United States District Court for the District of Minnesota on November 6, 1999. This case arises, and the proposed Modification of the Consent Decree secures relief, under the Clean Water Act, 33 U.S.C. 1251–1387.

The proposed Modification of the Consent Decree would provide for the addition of three undisturbed lakeshore lots within the violation site, which were previously available for development, to the area subject to restrictive land use covenants, for development on three previously disturbed lakeshore lots on which further development was prohibited under the 1995 Consent Decree, and for additional wetlands restoration work.

The Department of Justice will receive, until thirty (30) days from the date of this notice, written comments relating to the proposed Modification of the Consent Decree. Comments should be addressed to the United States Department of Justice, Assistant Attorney General, Environment and Natural Resources Division, 601 D Street, NW, Suite 8000, Washington, DC, 20004, to the attention of Lewis M. Barr, Senior Trial Counsel, Environmental Defense Section, and should refer to *Slagle* v. *United States* (D. Minn.) and to DJ Reference No. 90–5–1–5–92.

The proposed Modification of the Consent Decree may be examined at the Clerks's Office, United States District Court for the District of Minnesota, United States Courthouse, Room 600, 300 South Fourth Street, Minneapolis, Minnesota 55415 during regular business hours, or copies may be requested from Lewis M. Barr at (202) 514–4206.

**Letitia J. Grishaw,**

*Chief, Environmental Defense Section, Environment and Natural Resources Division.*

[FR Doc. 99–31244 Filed 12–1–99; 8:45 am]

BILLING CODE 4410–15–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—*n*Line Systems Corporation

Notice is hereby give that, on July 12, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), *n*Line Systems Corporation has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are *n*Line Systems Corporation, Austin, TX; InterScience, Inc., Troy, NY; PixelVision, Inc., Beaverton, OR; Light Age, Inc., Somerset, NJ; and Lockheed Martin Energy Research Corporation, Oak Ridge National Laboratory, Oak Ridge, TN. The nature and objectives of the venture are to conduct research on technology for advanced semiconductor device inspection. The activities of this venture will be partially funded by an award from the Advanced Technology Program, National Institute of Standards and Technology, Department of Commerce.

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99–31258 Filed 12–1–99; 8:45 am]

**BILLING CODE 4410–11–M**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Commerce One, Inc.

Notice is hereby given that, on June 16, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Commerce One, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Tesserae Information Systems, Inc. has changed its name to Cadabra Inc.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Commerce One, Inc. intends to file additional written notification disclosing all changes in membership.

On October 7, 1997, Commerce One, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on January 29, 1999 (64 FR 4705).

The last notification was filed with the Department on March 11, 1999. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 26, 1999 (64 FR 28516).

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99–31250 Filed 12–1–99; 8:45 am]

**BILLING CODE 4410–11–M**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—CommerceNet Consortium, Inc.

Notice is hereby given that, on September 23, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), CommerceNet Consortium, Inc. (the ''Consortium'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, BT Squared, Atlanta, GA; Mimos Berhad, Kaula Lumpur, WP, MALAYSIA; On-link Technologies, Redwood City, CA; Taxware International, Inc., Salem, MA; ReleaseNow.com, San Carols, CA; and Hypercom POS, Phoenix, AZ have joined the Consortium as Core members. VerticalNet, Inc., Horsham, PA has joined the Consortium as a Portfolio member. Netera Holdings, Inc., Berwyn, PA has joined the Consortium as an In-kind member. BT, Reston, VA has joined the Consortium as a Corporate Sponsor. Also, Cloudscape, Inc., Oakland, CA; EC Cubed, Wilton, CT; and Rights Exchange, Inc., Buffalo, NY have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CommerceNet Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On June 13, 1994, CommerceNet Consortium, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on August 31, 1994 (59 FR 45012).

The last notification was filed with the Department on August 16, 1999. A notice has not yet been published in the **Federal Register**.

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99–31254 Filed 12–1–99; 8:45 am]

**BILLING CODE 4410–11–M**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Digital Imaging Group, Inc.

Notice is hereby given that, on June 16, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Digital Imaging Group, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, OpenGraphics Corporation, Ontario, Canada; Nippon Telegraph and Telephone, Tokyo, Japan; Digimarc Corporation, Lake Oswego, OR; Universita DiFirenze, Firenze, Italy; HMR Inc., Beauport, Quebec, Canada; Digital Copywright Technologies, Zurich, Switzerland; EPFL, Lausanne, Switerland; Algo Visioin Mediatec GmbH, Berlin, Germany; Alinari Photo Archieves, Firenze, Italy; Digital Intelligence, Inc., Seattle, WA; and Adetti, Lisbon, Portgual have been added as parties to this venture. Also, LEAD Technologies, Inc., Charlotte, NC; FotoNation Inc., Millbrae, CA; Live Picture, Inc., Campbell, CA; Flashpoint Technology, Inc., San Jose, CA; The LifePix Company, San Francisco, CA;

The Learning Company, Freemont, CA; LSI Logic Corporation, Milpitas, CA; and Konica Corporation, Tokyo, Japan have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the joint venture. Membership in this joint venture remains open, and Digital Imaging Group, Inc. intends to file additional written notification disclosing all changes in membership.

On September 25, 1997, Digital Imaging Group, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 10, 1997 (64 FR 60530).

The last notification was filed with the Department on March 8, 1999. A notice has not yet been published in the **Federal Register**.

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99–31246 Filed 12–1–99; 8:45 am]

**BILLING CODE 4410–01–M**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Frame Relay Forum

Notice is hereby given that, on July 22, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), The Frame Relay Forum (FRF) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Nokia, Burlington, MA has joined FRF as a worldwide member; IIR Limited, London; Net Work Consult GmbH, Filderstadt, Germany; and Comnet Ietisim Hizmetleri, Instanbul, Turkey have joined FRF as auditing members. Also, Cyras Systems, Fremont, CA; Current Analysis, Sterling, VA; Helsinki Telephone Co. Ltd, Helsinki, Finland; Hill Associates, Colchester, VT; KDD America, Tokyo, Japan; Racal-Datacom, Inc., Sunrise, FL; SNET, New Haven, CT; State of Louisiana, Baton Rouge, LA; Telecomm Multimedia, Irvine, CA; Xylan Corporation, Calabasas, CA; Hitachi Telecom (USA), Norcross, GA; Telco Systems, Waltham, MA; United Information Highway Co., Bangkok, Thailand; Secant Network Technologies, Morrisville, NC; BT, Ipswich, England; General DataComm, Inc., Middlebury, CT; Hekimian Laboratories, Inc., Austin, TX; NRTC, Herndon, VA; SAGEM, Paris, France; Sentient Networks, Milpitas, CA; SITA, Valbonne, France; Telematics International, Basingstoke, England; UniSPAN, Seattle, WA; Wandel & Goltermann, Research Triangle Park, NC; Midwest Information Systems, Maryland Heights, MO; ABL Canad, Montreal, Quebec, Canada; BT Telecommunications, Madrid, Spain; Case Technology, Walford Herts, England; and OMSI, Newark, CA have been Multimedia, Irvine, CA; Xylan Corporation, Calabasas, CA have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and The Frame Relay Forum intends to file additional written notification disclosing all changes in membership.

On April 10, 1992, The Frame Relay Forum filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 2, 1992 (57 FR 29537).

The last notification was filed with the Department on February 4, 1999. A notice has not yet been published in the **Federal Register**.

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99–31257 Filed 12–1–99; 8:45 am]

**BILLING CODE 4410–11–M**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—GE Corporate Research and Development: Bulk Gallium Nitride and Homoepitaxial Device Manufacturing

Notice is hereby given that, on August 6, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), GE Corporate Research and Development has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are GE Corporate Research and Development, a division of General Electric Company, Niskayuna, NY; and Sanders, a division of Lockheed Martin Corporation, Nashua, NH. The nature and objectives of the venture are to conduct research on Bulk Gallium Nitride (GaN) and Homoepitaxial Device manufacturing. The activities of this joint venture will be partially funded by an award from the Advanced Technology Program, National Institute of Standards and Technology, Department of Commerce.

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99–31259 Filed 12–1–99; 8:45 am]

**BILLING CODE 4410–11–M**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—International Middleware Association (Formerly Message Oriented Middleware Association, Inc.)

Notice is hereby given that, on April 22, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), International Middleware Association (formerly Message Oriented Middleware Association, Inc. (MOMA) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in its name and changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, on February 24, 1999, the Message Oriented Middleware Association (MOMA) officially changed its name to the International Middleware Association (IMWA). Also, BMC Software, San Jose, CA; Commonwealth of Virginia, Richmond, VA; EDS, Herndon, VA; Freddie Mac, McLean, VA; HIE, Columbus, OH; MessageQuest, Tampa, FL; NetSys N.A., Inc., Woodcliff Lake, NJ; Object Management Group (OMG), Framingham, MA; Paine Webber, Weehawken, NJ; Pillsbury Company, Minneapolis, MN; and SAGA Software, Inc., Reston, VA have been added as

parties to this venture. Also, AT&T Piscataway, NJ; Boole & Babbage Inc., San Jose, CA; Candle Corp., Santa Monica, CA; MQ Tech. Inc., Glendale, CA; HUBLink, Columbus, OH; Software AG Americas, Reston, VA; and Technology Investments, Tampa, FL have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and International Middleware Association intends to file additional written notification disclosing all changes in membership.

On May 15, 1995, International Middleware Association filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 13, 1995 (60 FR 57022).

The last notification was filed with the Department on February 5, 1999. A notice has not yet been published in the **Federal Register**.

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99–31253 Filed 12–1–99; 8:45 am]

**BILLING CODE 4410–11–M**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Microelectronics and Computer Technology Corporation

Notice is hereby given that, on June 16, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Microelectronics and Computer Technology Corporation (MCC) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Lucent Technologies, Murray Hills, NJ; Intel Corporation, Santa Clara, CA; Hughes Electronics, El Segundo, CA; Hughes Research Lab, Malibu, CA have been dropped as parties of this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Microelectronics and Computer Technology Corporation (MCC) intends to file additional written notification disclosing all changes in membership.

On December 21, 1984, Microelectronics and Computer Technology Corporation (MCC) filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on January 17, 1985 (50 FR 2633).

The last notification was filed with the Department on February 11, 1999. 1999. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 26, 1999 (64 FR 28518).

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99–31247 Filed 12–1–99; 8:45 am]

**BILLING CODE 4410–11–M**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—OBI Consortium, Inc.

Notice is hereby given that, on May 27, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), OBI Consortium Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Supplyworks, Lexington, MA; Abbott, Abbott Park, IL; webMethods, San Francisco, CA; and Unisoft, Burlingame, CA have been added as parties to this venture. Also, Interworld, New York, NY; Requisite Technologies, Boulder, CO; GE Global Services, Fairfield, CT; All Data, Elk Grove, CA; and Applied Industrial Technologies, Cleveland, OH have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the joint venture. Membership in this joint venture remains open, and OBI Consortium Inc. intends to file additional written notification disclosing all changes in membership.

On September 10, 1997, OBI Consortium Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 10, 1997 (62 FR 60531).

The last notification was filed with the Department on February 23, 1999. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 26, 1999 (64 FR 28519).

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99–31248 Filed 12–1–99; 8:45 am]

**BILLING CODE 4410–11–M**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petroleum Environmental Research Forum (''PERF'')

Notice is hereby given that, on June 3, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Petroleum Environmental Research Forum (''PERF'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, EniTechnologie, Milan, Italy has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Petroleum Environmental Research Forum intends to file additional written notification disclosing all changes in membership.

On February 10, 1986, Petroleum Environmental Research Forum filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 14, 1986 (51 FR 8903).

The last notification was filed with the Department on June 5, 1998. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on September 29, 1998 (63 FR 51956).

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99–31251 Filed 12–1–99; 8:45 am]

**BILLING CODE 4410–11–M**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Plug Power

Notice is hereby given that, on April 13, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Plug Power has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Plug Power, LLC, Latham, NY; SRI International, Menlo Park, CA; and Polyfuel, Menlo Park, CA. The nature and objectives of the venture are to develop and demonstrate carbon monoxide tolerant Proton Exchange Membrane (PEM) fuel cell systems.

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99–31256 Filed 12–1–99; 8:45 am]

**BILLING CODE 4410–11–M**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Portland Cement Association (''PCA'')

Notice is hereby given that, on June 2, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Portland Cement Association (''PCA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Penta Engineering Corporation, St. Louis, MO; Glen Falls Lehigh Portland Cement Company, Glen Falls, NY; and Cemex USA, Houston, TX have been added as parties to this venture. Also, Glen Falls Cement Co., Inc., Glen Falls, NY; and Sunbelt Corporation, Houston, TX have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Portland Cement Association (''PCA'') intends to file additional written notification disclosing all changes in membership.

On January 7, 1985, Portland Cement Association (''PCA'') filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 5, 1985 (50 FR 5015).

The last notification was filed with the Department on February 25, 1999. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on June 1, 1999 (64 FR 29357).

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99–31252 Filed 12–1–99; 8:45 am]

**BILLING CODE 4410–11–M**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Secure Digital Music Initiative

Notice is hereby given that, on June 28, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Secure Digital Music Initiative (''SDMI'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of involving the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: Adaptec, Milpitas, CA; AEI Music/Playmedia, Seattle, WA; American Federation of Musicians (AFM), New York, NY; American Federation of TV and Radio Artists (AFTRA), New York, NY; American Society of Composers, Authors and Publishers (ASCAP), New York, NY; America Online; Dulles, VA; Audio Matrix, New York, NY; Aris Technologies, Inc., Cambridge, MA; AT&T, Florham Park, NJ; Audible, Inc., Wayne, NJ; Audio Explosion, San Francisco, CA; Audiohighway.com, Cupertino, CA; Audio Soft, Geneva, Switzerland; Aureal Semiconductor, Inc., Fremont, CA; Beatnik, San Mateo, CA; BIEM, Paris, France; BMG Entertainment, Inc., New York, NY; Breaker Tech. Lmtd., London, England; Broadcast Music, Inc. (BMI), New York, NY; International Confederation of Societies of Authors and Composers (ICSAC), Paris, France; CDDB, Berkeley, CA; Cductive.com, New York, NY; CD World Corp., New York, NY; Channelware, Inc., Nepean, Ontario, Canada; Compaq Computer Corp., Houston, TX; Comverse InfoSys Limited, Tel Aviv, Israel; Creative Technology Ltd., Milpitas, CA; Diamond Multimedia, San Jose, CA; Dentsu, Inc., Tokyo, Japan; Deutsche Telekom, Bonn, Germany; Digimarc, Lake Oswego, OR; Digital on Demand, Carlsbad, CA; Digital Theater Systems, Inc., Agoura Hills, CA; DIVX, Herndon, VA; Dolby Laboratories, Inc., San Francisco, CA; EAIC Corporation (on behalf of Enso Audio Imaging), Seattle, WA; EMI-Capitol Records, New York, NY; EMusic.com, Inc., Redwood City, CA; Encoding.com, Seattle, WA; Federation of Music Producers Japan (FMJP), Tokyo, Japan; Fraunhaufer-Gesellschaft zur Foerderung der Angewandten Forschung e.V. for its Institut fuer Integrierte Schaltungen, Munich, Germany; Geidankyo (Japan Council of Performers Rights Admin), Tokyo, Japan; Harry Fox Agency, New York, NY; Hewlett Packard, Colorado Springs, CO; Hitachi Limited, Tokyo, Japan; HMV Group, London, England; International Federation of the Phonographic Industry (IFPI), London, England; I2GO.com, Atlanta, GA; IGUIDE—News America Digital Publishing, Inc., Los Angeles, CA; Infineon Technologies, Munich, Germany; Intertrust Technologies Corp., Sunnyvale, CA; Iomega Corp., Roy, UT; J. River, Inc., Minneapolis, MN; Japan Digital Content (on behalf of Waveless Radio Consortium), Tokyo, Japan; JVWebb, Inc., Houston, TX; Kent Ridge Digital Labs, Singapore; LG Electronic, Seoul, Korea; Liquid Audio, Redwood City, CA; Lucent Technologies, Atlanta, GA; Music Copyright Operational Services, Ltd. (MCOS), London, England; M. Ken Co, LTD, Tokyo, Japan; MAGEX, Montebello Vicentino, Italy; Matsushita, Tokyo, Japan; Micronas Semiconductors, Inc., San Jose, CA; Macro Vision, Sunnyvale, CA; MCY Music World, Inc., New York, NY; Memory Limited, Midlothian, UK; Microsoft Corp., Redmond, WA; Mitsubishi Corporation, Tokyo, Japan; Multimedia Archives & Retrieval Systems, London, England; musicmaker.com (formerly The Music Connection Corporation), Reston, VA; MusicMarc, Jerusalem, Israel; Music

Producers Guild of America, Los Angeles, CA; National Association of Recording Merchandisers (NARM), Marlton, NJ; National Music Publishers Association (NMPA), New York, NY; National Semiconductor Corporation (on behalf of Mediamatics), Santa Clara, CA; Nippon Telegraphic & Telephone Corp., Tokyo, Japan; Nokia, Tampere, Finland; NTT Mobile Communications Network, Inc., Tokyo, Japan; Philips Corp. North America, Briarcliff Manor, NY; Pioneer North America, Inc., Long Beach, CA; QPICT, Inc., Saratoga, CA; RealNetworks, Inc., Seattle, WA; Reciprocal, Inc. (Rights Exchange), Buffalo, NY; Recording Industry Association of America, Inc. (RIAA), Washington, DC; Recording Industry Association of Japan (RIAJ), Tokyo, Japan; RPK Security, Preverenges, Switzerland; The SDMI Foundation, Inc., Washington, DC; Samsung Electronics, Seoul, Korea; San Disk Corp., Sunnyvale, CA; Sanyo North America Corp., San Jose, CA; Seca (on behalf of Canal Plus), Paris, France; Sharp Corp., Osaka, Japan; Solana Technology Development Corp., San Diego, CA; Sonic Solutions, Novato, CA; Sonopress (BMG Storage Media), New York, NY; Sony Corp. of America, New York, NY; Sony Music Entertainment Inc., New York, NY; Sphere Multimedia Technologies Inc., Hallandale, FL; Supertracks.com, Portland, OR; ST & Hilo, Madrid, Spain; STMicroelectronics, Inc., Carrollton, TX; TDK Electronics Corp., Port Washington, NY; Texas Instruments, Dallas, TX; Thomson Consumer Electronics, Inc., Indianapolis, IN; Tokyo Electron Device Ltd., Tokyo, Japan; Toshiba Corp., Tokyo, Japan; Touch Tunes Digital Jukebox, Inc., Montreal, Canada; Universal Music Group, Los Angeles, CA; Victor Company of Japan, Limited (JVC), Yokohama, Japan; Warner Music Group, Burbank, CA; Wave Systems Corp., Lee, MA; Yamaha Corporation, Hamamatsu, Japan; and 4C Entity (an LLC owned by Toshiba, Intel, Matsushita, and IBM), Washington, DC.

The nature and objectives of the venture are to develop a Specification for the secure distribution and use of music in digital form that meets the needs of technology companies, the worldwide recording community and their customers. The Specification will be an open and interoperable standard.

Membership in this group research project remains open, and SDMI intends to file additional written notification disclosing all changes in membership.

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99–31260 Filed 12–1–99; 8:45 am]

**BILLING CODE 4410–11–M**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—VSI Alliance

Notice is hereby given that, on July 14, 1999 pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), VSI Alliance has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Patrick Beauvillard, Saint Lambert des Bois, France; Mark Buckner, Oak Ridge, TN; Raymond Burkley, Cupertino, CA; CG–CoreEl Logic Systems Ltd., Pune, India; Cogency Technology, Inc., Toronto, Ontario, Canada; Alon Drory, Tel-Aviv, Israel; Ganesh Gopalakrishnan, Salt Lake City, UT; Ken Hodor, Sunnyvale, CA; IDEC, Taejon, Republic of China; Integrated Chipware, Reston, VA; Geeng-Wei Lee, Taiwan, Republic of China; Jari Nurmi, Tampere, Finland; Patrick Schaumont, Leuven, Belgium; Sirius Communications NV, Rotselaar, Belgium; Mandayam Srivas, Menlo Park, CA; Frank Vahid, Riverside, CA; Virtual Component Exchange, Livingston, Scotland; and Voyager Technologies, Inc., Morgan Hill, CA have been added as parties to this venture. Also, Alpine Microsystems, Campbell, CA; Asahi Kasei Microsystems Co., Ltd., Atusgi-shi, Kanagawa, Japan; Chartered Semiconductor Manufacturing, Inc., Milpitas, CA; Cimaron Communications, Inc., Lawrence, MA; Cisco Systems, Inc., San Jose, CA; Chrysalis Symbolic Design, Inc., No. Billerica, MA; Electronic Tools Company, Sonoma, CA; Fuji Electric Co., Ltd., Tokyo, Japan; IK Technology Co., Ltd., Tokyo, Japan; LG Semicon America, San Jose, CA; Mayasoft Corp., Sunnyvale, CA; Nordic VLSI A.S.A., Tiller, Norway; PrairieComm. Inc., Arlington Heights, IL; Quickturn Design Systems, San Jose, CA; Seiko Instruments, Inc., Mihamaku Chiba-Shi, Japan; Silicon Automation Systems, Bangalore, India; Silicon & Software Systems, Dublin, Ireland; Summit Design, Inc., San Jose, CA; Thine Microsystems, Inc., Tokyo, Japan; and Worldwide Semiconductor Manufacturing Corp., Hsinchu, Taiwan, Republic of China have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and VSI Alliance intends to file additional written notification disclosing all changes in membership.

On November 29, 1996, VSI Alliance filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 4, 1997 (62 FR 9812).

The last notification was filed with the Department on April 20, 1999. A notice has not yet been published in the **Federal Register**.

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99–31249 Filed 12–1–99; 8:45 am]

**BILLING CODE 4410–11–M**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Wilfred Baker Engineering, Inc.

Notice is hereby given that, on March 30, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Wilfred Baker Engineering, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Conoco Inc., Ponca City, OK; and Murphy Oil USA, Inc., El Dorado, AR, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Wilfred Baker Engineering, Inc. intends to file

additional written notification disclosing all changes in membership.

On March 14, 1995, Wilfred Baker Engineering, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on May 11, 1995 (60 FR 25252).

The last notification was filed with the Department on September 5, 1996. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on October 3, 1996 (61 FR 51721).

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99–31255 Filed 12–1–99; 8:45 am]

**BILLING CODE 4410–11–M**

## DEPARTMENT OF LABOR

### Office of the Secretary

### Submission for OMB Review; Comment Request

November 24, 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. To obtain documentation for BLS, ETA, PWBA, and OASAM contact Karin Kurz ((202) 219–5096 ext. 159 or by E-mail to Kurz-Karin@dol.gov). To obtain documentation for ESA, MSHA, OHSA, and VETS contact Darrin King ((202) 219–5096 ext. 151 or by E-Mail to King-Darrin@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 assumption 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:* Occupational Safety and Health Administration.

*Title:* Crawler, Truck and Locomotive Cranes Inspection Certification.

*OMB Number:* 1218–0232.

*Frequency:* Monthly.

*Affected Public:* Business or other for-profit; State, local or tribal government.

*Number of Respondents:* 94,000.

*Estimate Time Per respondent:* 30 minutes.

*Total Burden Hours:* 169,200.

*Total Annualized capital/startup costs:* $0.

*Total Annual Costs (operating/maintaining systems or purchasing services):* $0.

*Description:* The construction standard on crawler, truck, and locomotive cranes (1926.550(b)(2) requires employers to conduct test, inspections, and maintenance checks and retain records for the cranes of this type that their employees use. The certification records, which attest to the safety of the cranes, are necessary to ensure compliance with the standard.

**Ira L. Mills,**

*Departmental Clearance Officer.*

[FR Doc. 99–31238 Filed 12–1–99; 8:45 am]

**BILLING CODE 4510–26–M**

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of November, 1999.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

**Negative Determination for Worker Adjustment Assistance**

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

*TA–W–36,509; Fabric Resources International, Ltd, Mullins, SC*
*TA–W–36,447; Federal Mogul Century Foundary, St. Louis, MO*
*TA–W–36,981; Penn Mould Industries, Inc., Washington, PA*
*TA–W–36,598; Pacific Softwoods Co., Philomath, OR*
*TA–W–36,699; Talisman Sugar Corp., Belle Glade, FL*
*TA–W–36,739; Turnkey International, Durham, NC*
*TA–W–36,771; Amron L.L.C., A Div. of Pohlman, Inc., Waukeska, WA*
*TA–W–36,638; Pabst Engineering, Onalaska, WI*

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

*TA–W–36,715; Dani Max LTD, New York, NY*
*TA–W–36,901; Lear Corp., Automotive Div., El Paso, TX*
*TA–W–36,951; Cogema Mining, Inc., Bruni, TX*
*TA–W–36,879; Consolidated AG Service (C.A.S.), Walnut Grove, MN*
*TA–W–36,975; Logan and Whaley Co., Long Star, TX*
*TA–W–36,849; Angelo Brothers Co., Philadelphia, PA*
*TA–W–36,926; Standard Motors Products, Four Seasons Div., Dyersburg, TN*
*TA–W–36,950; Parsons Energy and Chemicals Group, Houston, TX*
*TA–W–36,524; Dynamic Drilling Fluids, Denver, CO*

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

*TA–W–36,865; Modern Engineering, Co., Gallman, MS*

*TA–W–36,845; KCI Therapeutic Service, Inc., a/k/a Kinetic Concepts, Inc., San Antonio, TX*

*TA–W–36,948; Chromium Corp., Reciprocating Engine Components Div., Lufkin, TX*

*TA–W–36,970; Western States Machine Co., Hamilton, OH*

*TA–W–36,822; Corrosion Technology International (CTI), Inc., Green Bay, WI*

*TA–W–36,966; Magnum Molding, Inc., South Paris, ME*

*TA–W–36,895; As Is Coal Co, Beckley, WV*

*TA–W–36,482; Weatherford Artificial Lift Systems, Odessa, TX*

*TA–W–36,516; Jockey International, Inc., Carlisle Textile Plant, Carlisle, KY*

*TA–W–36,926A & B; Cowlitz Stud Mill, a Division of Pacific Lumber and Shipping Co., Morton, WA and Randle, WA*

Increased imports did not contribute importantly to worker separations at the firm.

*TA–W–36,827; Johnson & Johnson, Inc., d/b/a Codman & Shurtleff, Inc., Wilder, KY*

*TA–W–36,618; Jewelry Fashions, Inc., New York, NY*

The investigation revealed that criteria (1) and criteria (2) have not been met. A significant number or proportion of the workers did not become totally or partially separated from employment as required for certification. Sales or production did not decline during the relevant period as required for certification.

*TA–W–36,885; General Electric Bucyrus Lamp Plant, Bucyrus, OH*

*TA–W–36,755A; BTR Sealing Systems, Extrusion Plant, Maryville, TN*

The investigation revealed that criteria (1) has not been met. A significant number or proportion of the workers did not become totally or partially separated from employment as required for certification.

*TA–W–36,857; Cooper Cameron Corp., Ville Platte, LA*

The investigation revealed that criteria (2) and criteria (3) have not been met. Sales or production did not decline during the relevant period as required for certification. Increases of imports or articles like or directly competitive with articles produced by the firm or an appropriate subdivision have not contributed importantly to the separations or threat thereof, and the absolute decline in sales or production.

**Affirmative Determinations for Worker Adjustment Assistance**

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

*TA–W–36,755; BTR Sealing Systems, Finishing Plant, Maryville, TN: August 16, 1998.*

*TA–W–36,976; Competitive Edge Sportswear, Fall River, MA: September 29, 1998.*

*TA–W–36,972; Dimensions, Inc., (DNZ Limited), Stitch Development-Product Development, Reading, PA: October 4, 1998.*

*TA–W–36,914; Florsheim Group, Inc., Formerly Known as Florsheim Shoe Co., Cape Girardeau, MO: September 9, 1998.*

*TA–W–36,572; Rhone Poulenc AF Co., Mt. Pleasant, TN: June 25, 1998.*

*TA–W–36,927; MBU, Inc., New York, NY: September 21, 1998.*

*TA–W–36,540; Dalzell Corp., New Martinsville, WV: January 27, 1998.*

*TA–W–36,511; Willow Creek Apparel, Inc., Jonesville, NC: June 28, 1998.*

*TA–W–36,866; Jones & Vining, Inc., Shoe Last Div., Troy, MO: September 9, 1998.*

*TA–W–36,644; G.H. Bass & Co., South Portland, ME: July 14, 1998.*

*TA–W–36,917; G.H. Bass & Co., Manati, PR: October 1, 1998.*

*TA–W–36,703; Fabrico Manufacturing Corp., Chicago, IL August 3, 1998.*

*TA–W–36,730; Ray-Ban Sun Optics, Rochester, NY: August 11, 1998.*

*TA–W–36,864; Blano Sportswear, Inc., Blano, VA: September 3, 1998.*

*TA–W–36,848; Globe Business Furniture, Inc., Gordonsville, TN: September 8, 1998.*

*TA–W–36,704; Logos Neckwear, Inc., Paulsboro, NJ: July 26, 1998.*

*TA–W–36,286; Perennial Print, Inc., Paterson, NJ: April 24, 1998.*

*TA–W–36,718; Aquatech, Inc., Cookeville, TN: July 22, 1999.*

*TA–W–36,803; Nine West Manufacturing, a Div. of Nine West Group, Inc., Vanceburg Plant, Vanceburg, KY: April 10, 1999.*

*TA–W–36,765; Toyoshima Indiana, Inc., Spring Div. Indianapolis, IN: August 14, 1998.*

*TA–W–36,719; Aquatech, Inc., Cleveland, TN: July 23, 1998.*

*TA–W–36,937; Foster Industries, Inc., Wagener Manufacturing Co., Wagener, SC: September 30, 1998.*

*TA–W–36,697; Henry Silverman Jewelers, El Paso, TX: August 7, 1998.*

*TA–W–36,958, A & B; Cone Mills Corp., Fliffside Plant, Sliffside, NC, Haynes Plant, Henrietta, NC and Florence Plant, Forest City, NC: June 18, 1999.*

*TA–W–36,944; TAM Industries, Glennville, GA: September 27, 1998.*

*TA–W–36,919; Huffy Bicycle Co., Farmington, MO: September 29, 1998.*

*TA–W–36,815; A & B; Glamis gold, Inc., Reno, NV, Glamis Gold, d/b/a Dee Gold Mining, Elko County, NV, Glamis Gold, Inc. & Glamis Gold, Inc. d/b/a Marigold Mining Humboldt County, NV: August 26, 1998.*

*TA–W–36,871; Grant City Manufacturing, Grant City, MO: September 10, 1998.*

*TA–W–36,760; Pillowtex Corp., Opelika, AL: August 19, 1998.*

*TA–W–36,905; Getchell Gold Corp., Golconda, NV: August 3, 1998.*

*TA–W–36,727; Methode Electronics, Inc., East Willingboro, NJ: August 11, 1998.*

*TA–W–36,884; Pitman Drilling, Inc., Williston, ND: September 27, 1998.*

*TA–W–36,663; Excelsior Manufacturing Co., Chambersburg, PA: July 29, 1998.*

*TA–W–36,891; JPS Converter & Industrial Corp., A Subsidiary of JPS Textile, Inc., Borden Plant, Kingsport, TN: September 22, 1998.*

*TA–W–35,674; Bendorf Services & Supply Co., Breckinridge, TX: July 26, 1998.*

*TA–W–36,942; Magnolia Garment Corp., Magnolia, MS: September 27, 1998.*

*TA–W–36,923; Converter Concepts, Inc., Pardeeville, WI: September 24, 1998.*

*TA–W–36,883; VF Knitwear, Inc., Bassett Walker, Brookneal, VA: September 13, 1999.*

*TA–W–36,833; Donohue Industries, Inc., Lufkin, TX: August 27, 1998.*

*TA–W–36,842; Converse, Inc., Lumberton, NC: September 7, 1998.*

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of November, 1999.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the

workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases in imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

**Negative Determinations NAFTA–TAA**

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

*NAFTA–TAA–03339; Milacron Resin Abrasives, Inc., Carlisle, PA*
*NAFTA–TAA–03389; BHP Minerals International, Inc., Center for Minerals Technology, Reno, NV*
*NAFTA–TAA–03425; Cooper Cameron Corp., Ville Platte, LA*
*NAFTA–TAA–03403; Corrosion Technology International (CTI), Inc., Green Bay, WI*
*NAFTA–TAA–03343; Talisman Sugar Corp., Belle Glade, FL*
*NAFTA–TAA–03360; Logos Neckwear, Inc., Paulsboro, NJ*
*NAFTA–TAA–03502; Dimensions, Inc., (DNZ Limited), Stitch Development—Product Development, Reading, PA*
*NAFTA–TAA–03410; Ray-Ban Sun Optics, Rochester, NY*
*NAFTA–TAA–03393; Turkey International, Durham, NC*
*NAFTA–TAA–03426; KCI Therapeutic Services, Inc., a/k/a Kinetic Concepts, Inc., San Antonio, TX*
*NAFTA–TAA–03464; Standard Motors Products, Dour Seasons Div., Dyersburg, TN*
*NAFTA–TAA–03505; Western States Machine Co., Hamilton, OH*
*NAFTA–TAA–03501; Fabric Resources International Ltd, Mullins, SC*
*NAFTA–TAA–03478; Chromium Corp., Reciprocating Engine Components Div., Lufkin, TX*
*NAFTA–TAA–03306; Pacific Softwoods Co., Philomath, OR*
*NAFTA–TAA–03454; Tektronix, Inc., Video and Networking Div., Beaverton, OR*
*NAFTA–TAA–03457; Converse, Inc., Lumberton, NC*
*NAFTA–TAA–03447; Zinplas Corp., Plating Plant, a/k/a Grand Rapids Die Cast, Grant Rapids, MI*
*NAFTA–TAA–03421; Unitog Co (CINTAS), Warrensburg, MO*
*NAFTA–TAA–03154; Applied Molded Products, Watertown, WI*
*NAFTA–TAA–03352; Henry Silverman Jewelers, El Paso, TX*
*NAFTA–TAA–03467; General Electric Bucyrus Lamp Plant, Bucyrus, OH*
*NATFA–TAA–03537, A&B; Glamis Gold, Inc., Reno, NV, Glamis Gold, Inc., d/b/a Dee Gold Mining, Elko County, NV and Glamis Gold, Inc., and Glamis Gold, Inc., d/b/a Marigold Mining, Humboldt County, NV*
*NAFTA–TAA–03444; Jones and Vining, Inc., Shoe Last Div., Troy, MO*
*NAFTA–TAA–03503; Rayovac Corp., Fennimore, WI*
*NAFTA–TAA–03470; Highland Forest Products, Inc., Sweet Home, OR*
*NAFTA–TAA–03480; Unitron Industries, Ltd, Port Huron, MI*
*NAFTA–TAA–03318; Pabst Engineering, Onalaska, WI*

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

*NAFTA–TAA–03524; Cambior Exploration USA, Inc., Sparks, NV*

The investigation revealed that the workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

*NAFTA–TAA–03513; Accuride Corp., Henderson, KY*

The investigation revealed that criteria (2) has not been met. Sales or production, or both of such firm or subdivision have decreased absolutely.

*NAFTA–TAA–3494; BTR Sealing Systems, Extrusion Plant, Maryville, TN*

The investigation revealed that criteria (1) has not been met. A significant number or proportion of the workers in such workers' firm or an appropriate subdivision (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment.

**Affirmative Determination NAFTA–TAA**

*NAFTA–TAA–03459; VF Knitwear, Inc./ Bassett-Walker, Sparta, Div., Sparta, NC: September 13, 1998.*
*NAFTA–TAA–03531, A&B; Cone Mills Corp., Cliffside Plant, Cliffside, NC, Haynes Plant, Henrietta, NC and Florence Plant, Forest City, NC: June 18, 1999.*
*NAFTA–TAA–03308; G.H. Bass & Co., South Portland, ME: July 14, 1998.*
*NAFTA–TAA–03510; G.H. Bass & Co., Manati, PR: October 1, 1998.*
*NAFTA–TAA–3408; L.D. McFarland Co., Sandpoint, ID: August 20, 1998.*
*NAFTA–TAA–03504; Filko Automotive, Div. of Standard Motor Products, Bradenton, FL: September 13, 1998.*
*NAFTA–TAA–03535, A, B, C, D; Aalfs Manufacturing, Inc., Lemars, IA, Spencer, IA, Sioux City, IA, Sheldon, IA and Yankton, SD: September 30, 1998.*
*NAFTA–TAA–03423; Trinity Industries, Inc., Plant #102, Greenville, PA: July 1, 1999.*
*NAFTA–TAA–03468; QRC Corp., Quaker Rubber Co., Philadelphia, PA: September 15, 1998.*
*NAFTA–TAA–03528; Townwear Garment Co., Inc., Blairsville, GA: October 20, 1998.*
*NAFTA–TAA–03477; Wyman-Gordon Forgings, Inc., Machine Shop, Houston, TX: September 22, 1998.*
*NAFTA–TAA–03493; Foster Industries, Inc., Wagener Manufacturing Co., Wagener, SC: October 5, 1998.*
*NAFTA–TAA–03450; VF Knitwear, Inc./ Bassett-Walker, Brookneal, VA: September 13, 1998.*
*NAFTA–TAA–03351; Colorado Contract Cut and Sew, Denver, CO: August 5, 1998.*
*NAFTA–TAA–03481; United Distillers and Vintners North America (UDV), Allen Park, MI: September 30, 1998.*
*NAFTA–TAA–03440; Rio Grande Cutters, El Paso, TX: September 3, 1998.*
*NAFTA–TAA–03494A; BTR Sealing Systems, Finishing Plant, Maryville, TN: September 14, 1998.*
*NAFTA–TAA–03474; North State Garment Co., Inc., Farmville, NC: September 28, 1998.*

I hereby certify that the aforementioned determinations were issued during the month of November, 1999. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: November 19, 1999.

**Grant D. Beale,**

*Program Manager, Office of Trade Adjustment Assistance.*

[FR Doc. 99–31230 Filed 12–1–99; 8:45 am]

BILLING CODE 4510–30–M

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–36,600]**

### Copper Range Company, White Pine, Michigan; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at the Copper Range Company, White Pine, Michigan. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–36,600; Copper Range Company White Pine, Michigan (November 15, 1999)

Signed at Washington, DC this 17th day of November, 1999.

**Grant D. Beale,**

*Program Manager, Office of Trade Adjustment Assistance.*

[FR Doc. 99–31232 Filed 12–1–99; 8:45 am]

**BILLING CODE 4510–30–M**

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–36,080]**

### Mead Corporation, Mead School and Office Products, Binder Department, Tablet Department, Paper Filler Department, Saint Joseph, Missouri; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on September 15, 1999, applicable to workers of Mead Corporation, Binder Department, Mead School and Office Products, Saint Joseph, Missouri. The notice was published in the **Federal Register** on October 14, 1999 (64 FR 55751).

At the request of the petitioner, the Department reviewed the certification for workers of the subject firm. The workers are engaged in employment related to the production of binders, notebook cases and planners. New findings show that worker separations have occurred at the subject firm's Tablet and Paper Filler Departments at the Saint Joseph, Missouri plant.

The intent of the Department's certification is to include all workers of Mead Corporation, Mead School and Office Products affected by increased imports. Accordingly, the Department is amending the worker certification to include the workers of the Tablet and Paper Filler Departments.

The amended notice applicable to TA–W–36,080 is hereby issued as follows:

All workers of Mead Corporation, Mead School and Office Products, Binder Department, Tablet Department and Paper Filler Department, Saint Joseph, Missouri, who became totally or partially separated from employment on or after March 25, 1998 through September 15, 2001, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of November 1999.

**Grant D. Beale,**

*Program Manager, Office of Trade Adjustment Assistance.*

[FR Doc. 99–31237 Filed 12–1–99; 8:45 am]

**BILLING CODE 4510–30–M**

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–36,692]**

### Smith Tool Ponca City, Oklahoma; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at the Smith Tool, Ponca City, Oklahoma. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–36,692; Smith Tool Ponca City, Oklahoma (November 15, 1999)

Signed at Washington, DC this 17th day of November, 1999.

**Grant D. Beale,**

*Program Manager, Office of Trade Adjustment Assistance.*

[FR Doc. 99–31231 Filed 12–1–99; 8:45 am]

**BILLING CODE 4510–30–M**

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–36,127]**

### Tri-Pro Cedar Products, Spokane, Washington; Notice of Negative Determination Regarding Application for Reconsideration

By an application dated October 25, 1999, an attorney for the petitioners (hereafter referred to as petitioners) requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on August 27, 1999 and published in the **Federal Register** on September 29, 1999 (64 FR 52539).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The investigation findings show that the workers were primarily engaged in employment related to the production of cedar products.

The Department's denial was based on the fact that the ''contributed importantly'' test of the increased import criterion of the Group Eligibility Requirements of the Trade Act was not met. The ''contributed importantly'' test is generally demonstrated through a survey of the workers' firm's customers.

The Department's survey of the Tri-Pro Cedar Products' customers shows that none of the customers were decreasing purchases from Tri-Pro Cedar or increasing their reliance on import purchases of articles like or directly competitive with those produced at the Spokane mill. Other findings show that the company chose to close the Spokane mill and shift production of cedar products to another domestic facility.

The petitioners assert that in order for the subject firm to compete with the price advantage of imports over their product, production at Tri-Pro Cedar was consolidated. The company could not switch to alternate production of spruce/pine fir products because the price advantage imports held would have made production of those items

unprofitable. The petitioners believe TAA certification should also be given when a company cedes to imports products which it is capable of completion at the local facility when the advantages imports hold make such manufacturing economically unfeasible.

The Department cannot issue a worker group certification based on speculation of what could have been produced at the workers' firm. Rather, the Trade Act of 1974, as amended, requires the Department to examine the impact of imports of articles like or directly competitive with those produced by the petitioning workers' firm. Furthermore, price is not a criterion for a worker group certification under the Trade Act of 1974, as amended.

The petitioners cite a Court case that they believe to be analogous to their situation, *United Electrical, Radio and Machine Workers of America* v. *U.S. Department of Labor,* which sustained Labor's certification of a company that produced railway systems when the company substituted imports for manufacturing done at the plant.

In the Court case cited by the petitioners, the worker group was certified based on the finding that the subject firm substituted imports for production that was formerly done at the workers' firm. That is not the case for the workers of Tri-Pro Cedar Products; there were no company imports of articles like or directly competitive with those produced at the Spokane mill.

The petitioners add that they believe that workers in the wood products industry are exactly the type of workers that Congress intended to benefit from the TAA program.

In accordance with the Trade Act of 1974, as amended, the Department does not conduct its TAA investigation on an industry-wide basis.

**Conclusion**

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC this 17th day of November 1999.

**Grant D. Beale,**

*Program Manager, Office of Trade Adjustment Assistance.*

[FR Doc. 99–31235 Filed 12–1–99; 8:45 am]

BILLING CODE 4510–30–M

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–36,743]**

### Universal Music & Video Distribution, Incorporated Illinois Returns Processing Center Pinckneyville, Illinois; Dismisall of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at the Universal Music & Vedeo Distribution, Incorporated, Illinois Returns Processing Center, Pinckneyville, Illinois, The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–36,743; Universal Music & Video Distribution, Incorporated, Illinois Returns Processing Center, Pinckneyville, Illinois (November 18, 1999)

Signed at Washington, DC this 19th of November, 1999.

**Grant D. Beale,**

*Program Manager, Office of Trade Adjustment Assistance.*

[FR Doc. 99–31233 Filed 12–1–99; 8:45 am]

BILLING CODE 4510–30–M

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[NAFTA–3050]**

### Mead Corporation, Mead School and Office Products, Binder Department, Tablet Department, Paper Filler Department, Saint Joseph, Missouri; Amended Certification Regarding Eligibility To Apply for NAFTA—Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), the Department of Labor issued a Certification of Eligibility to Apply for NAFTA—Transitional Adjustment Assistance on September 15, 1999, applicable to workers of Mead Corporation, Mead School and Office Products, Binder Department located in Saint Joseph, Missouri. The notice was published in the **Federal Register** on October 14, 1999 (64 FR 55753).

At the request of the petitioner, the Department reviewed the certification for workers of the subject firm. The workers are engaged in employment related to the production of binders, notebook cases and planners. New findings show that worker separations have occurred at the subject firm's Tablet and Paper Filler Departments at the Saint Joseph, Missouri plant.

The intent of the Department's certification is to include all workers of Mead Corporation, Mead School and Office Products affected by the shift [in production to Mexico. Accordingly, the Department is amending the worker certification to include the workers of the Tablet and Paper Filler Departments.

The amended notice applicable to NAFTA–3050 is hereby issued as follows:

All workers of Mead Corporation, Mead School and Office Products, Binder Department, Tablet Department and Paper Filler Department, Saint Joseph, Missouri, who became totally or partially separated from employment on or after March 24, 1998 through September 15, 2001, are eligible for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, DC this 18th day of November 1999.

**Grant D. Beale,**

*Program Manager, Office of Trade Adjustment Assistance.*

[FR Doc. 99–31236 Filed 12–1–99; 8:45 am]

BILLING CODE 4510–30–M

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[NAFTA–3390]**

### RAMA Group of Companies, Inc. Charm Graphics Cheektowaga, New York; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFT–TAA and in accordance with Section 250(a), Subchapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2331), an investigation was initiated on August 18, 1999, in response to a petition filed on the same date on behalf of RAMA Group of Companies, Inc., Charm Graphics, Cheektowaga, New York.

A certification applicable to workers at the subject firm was issued on September 23, 1999, and is currently in effect (NAFT–3458). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of October, 1999.

**Edward A. Tomchick,**

*Program Manager, Office of Trade Adjustment Assistance.*

[FR Doc. 99–31234 Filed 12–1–99; 8:45 am]

**BILLING CODE 4510–30–M**

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

### National Advisory Committee on Occupational Safety and Health; Notice of Meeting

Notice is hereby given of the date and location and the next meeting of the National Advisory Committee on Occupational Safety and Health (NACOSH), established under section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the administration of the Act. NACOSH will hold a meeting on January 18 and 19, 2000, in Room N3437 A–D of the Department of Labor Building located at 200 Constitution Avenue NW, Washington, DC. The meeting is open to the public and will begin at 1 p.m. lasting until approximately 5 p.m. the first day, January 18. On January 19, the meeting will begin at 8:30 a.m. and last until approximately 4 p.m.

During its November 1998 meeting, NACOSH decided that one of its areas of activity over the next two years would be to study OSHA's standards development process. The Committee plans to complete this study at its January meeting by talking with regulators from other federal agencies to discuss their standards setting processes and any simplification they may have developed that might have applicability for OSHA. Representatives of the Customer Products Safety Commission, Department of Energy, Department of Transportation, Environmental Protection Agency and the Food and Drug Administration have been invited to participate in a panel discussion on Tuesday, January 18.

Other agenda items will include: an overview of current activities of the Occupational Safety and Health Administration (OSHA) and the National Institute for Occupational Safety and Health (OIOSH), a discussion of the validation of a form to evaluate safety and health programs, a discussion of OSHA's training institute, and workgroup reports.

Written data, views or comments for consideration by the committee may be submitted, preferably with 20 copies, to Joanne Goodell at the address provided below. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting. Because of the need to cover a wide variety of subjects in a short period of time, there is usually insufficient time on the agenda for members of the public to address the committee orally. However, any such requests will be considered by the Chair who will determine whether or not time permits. Any requests to make an oral presentation should state the amount of time desired, the capacity in which the person would appear, and a brief outline of the content of the presentation. Individuals with disabilities who need special accommodations should contact Theresa Berry (phone: 202–693–1999; FAX; 202–693–1634) one week before the meeting.

An official record of the meeting will be available for public inspection in the OSHA Technical Data Center (TDC) located in Room N2625 of the Department of Labor Building (202–693–2350). For additional information contact: Joanne Goodell, Occupational Safety and Health Administration (OSHA); Room N3641, 200 Constitution Avenue NW, Washington, DC 20210 (phone: 202–693–2400; FAX: 202–693–1641; e-mail joanne.goodell@osha.gov; or at www.osha.gov).

Signed at Washington, DC, this 24th day of November, 1999.

**Charles N. Jeffress,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. 99–31303 Filed 12–1–99; 8:45 am]

**BILLING CODE 4510–26–M**

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–461]**

### Illinois Power Company (Clinton Power Station); Order Approving Transfer of License and Conforming Amendment

**I.**

Illinois Power Company (IP or the licensee) is the holder of Facility Operating License No. NPF–62, which authorizes operation of the Clinton Power Station (CPS or the facility) at steady-state power levels not in excess of 2894 megawatts thermal. The facility is located at the licensee's site in DeWitt County, Illinois. The license authorizes IP to maintain and operate the facility.

**II.**

Under cover of a letter dated July 23, 1999, IP and AmerGen Energy Company, LLC, jointly submitted an application requesting approval of the proposed transfer of the CPS facility operating license to AmerGen Energy Company, LLC. The licensee and AmerGen also jointly submitted an application for a conforming amendment to reflect the transfer. Supplemental information was provided under cover of letters dated July 30, August 9, August 20, October 7, and October 11, 1999. Hereinafter, the July 23, 1999, license transfer application and supplemental information will be referred to collectively as the ''application.''

AmerGen is a limited liability company that was formed to acquire and operate nuclear power plants in the United States. PECO Energy Company (PECO) and British Energy, Inc., each own a 50-percent interest in AmerGen. British Energy, Inc., is a wholly-owned subsidiary of British Energy, plc. After completion of the proposed transfer, AmerGen would be the sole owner and operator of CPS. The conforming amendment would remove the current licensee and the antitrust license conditions, applicable to IP, from the facility operating license and would add AmerGen in place of IP.

Approval of the transfer of the facility operating license and the conforming license amendment was requested by IP and AmerGen pursuant to 10 CFR 50.80 and 50.90. Notice of the application for approval and an opportunity for a hearing was published in the **Federal Register** on August 19, 1999 (64 FR 45290). The Commission received one set of comments dated September 20 and November 2, 1999, from The Environmental Law and Policy Center of the Midwest and forwarded those comments to the NRC staff for its consideration, and also to IP and AmerGen. The comments contained in those letters are addressed in the staff's safety evaluation dated November 24, 1999.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application by IP and AmerGen, and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that AmerGen is qualified to hold the license and that the transfer of

the license to AmerGen is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations set forth in 10 CFR Chapter 1; the facility will operate in conformity with the application, the provisions of the Act and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendment can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendment will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed license amendment will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied. The findings set forth above are supported by the staff's safety evaluation dated November 24, 1999.

**III.**

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), and 2234, and 10 CFR 50.80, *It is hereby ordered* that the transfer of the license as described herein to AmerGen is approved, subject to the following conditions:

(1) The AmerGen Limited Liability Company Agreement dated August 18, 1997, and any subsequent amendments thereto as of the date of this Order, may not be modified in any material respect concerning decision-making authority over ''safety issues'' as defined therein without the prior written consent of the Director, Office of Nuclear Reactor Regulation.

(2) At least half of the members of AmerGen's Management Committee shall be appointed by a nonforeign member group, all of which appointees shall be U.S. citizens.

(3) The Chief Executive Officer (CEO), Chief Nuclear Officer (CNO) (if someone other than the CEO), and Chairman of the Management Committee of AmerGen shall be U.S. citizens. These individuals shall have the responsibility and exclusive authority to ensure, and shall ensure, that the business and activities of AmerGen with respect to the CPS license are at all times conducted in a manner consistent with the protection of the public health and safety and common defense and security of the United States.

(4) AmerGen shall cause to be transmitted to the Director, Office of Nuclear Reactor Regulation, within 30 days of filing with the U.S. Securities and Exchange Commission, any Schedules 13D or 13G filed pursuant to the Securities Exchange Act of 1934 that disclose beneficial ownership of any registered class of PECO stock.

(5) AmerGen is required to provide decommissioning funding assurance of no less than $210 million, after payment of any taxes, that will be deposited in the decommissioning trust fund for CPS at the time of CPS's transfer to AmerGen.

(6) The decommissioning trust agreement for CPS must be in a form acceptable to the NRC.

(7) With respect to the decommissioning trust fund, investments in the securities or other obligations of PECO, British Energy, Inc., AmerGen, or affiliates thereof, or their successors or assigns shall be prohibited. Except for investments tied to market indexes or other nonnuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are prohibited.

(8) The decommissioning trust agreement for CPS must provide that no disbursements or payments from the trust shall be made by the trustee until the trustee has first given the NRC 30 days prior written notice of payment. The decommissioning trust agreement shall further contain a provision that no disbursements or payments from the trust shall be made if the trustee receives prior written notice of objection from the Director, Office of Nuclear Reactor Regulation.

(9) The decommissioning trust agreement must provide that the agreement cannot be amended in any material respect without the prior written consent of the Director, Office of Nuclear Reactor Regulation.

(10) The appropriate section of the decommissioning trust agreement shall reflect that the trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a ''prudent investor'' standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.

(11) AmerGen shall take all necessary steps to ensure that the decommissioning trust is maintained in accordance with the application for approval of the transfer of the Clinton license and the requirements of this Order approving the transfer, and consistent with the safety evaluation supporting this Order.

(12) AmerGen shall take no action to cause PECO or British Energy, Inc., to void, cancel, or diminish the $110 million contingency commitment from PECO and British Energy, plc, the existence of which is represented in the application, or cause them to fail to perform or impair their performance under the commitment, or remove or interfere with AmerGen's ability to draw upon the commitment. Also, AmerGen shall inform the NRC in writing at any time that it draws upon the $110 million commitment.

(13) AmerGen shall, prior to the completion of the sale and transfer of CPS to it, provide the Director, Office of Nuclear Reactor Regulation, satisfactory documentary evidence that AmerGen has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.

(14) After receipt of all required regulatory approvals of the transfer of CPS, IP and AmerGen shall inform the Director, Office of Nuclear Regulation, in writing of such receipt within five business days, and of the date of the closing of the sale and transfer of CPS no later than seven business days prior to the date of closing. Should the transfer of the license not be completed by December 31, 2000, this Order shall become null and void, provided, however, on written application and for good cause shown, such date may in writing be extended.

*It is further ordered* that, consistent with 10 CFR 2.1315(b), a license amendment that makes changes, as indicated in Enclosure 2 to the cover letter forwarding this Order, to conform the license to reflect the subject license transfer is approved. The amendment shall be issued and made effective at the time the proposed license transfer is completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated July 23, 1999, and supplemental submittals dated July 30, August 9, August 20, October 7, and October 11, 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, Maryland, this 24th day of November 1999.

For the Nuclear Regulatory Commission.

**Brian W. Sheron,**

*Acting Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 99–31269 Filed 12–1–99; 8:45 am]

**BILLING CODE 7590–01–P**

## DEPARTMENT OF STATE

### Office of the Secretary

**[Public Notice: 3164]**

### Extension of the Restriction on the Use of United States Passports for Travel to, in, or Through Libya

On December 11, 1981, pursuant to the authority of 22 U.S.C. 211a and Executive Order 11295 (31 FR 10603), and in accordance with 22 CFR 51.73(a)(3), all United States passports were declared invalid for travel to, in, or through Libya unless specifically validated for such travel. This restriction has been renewed yearly because of the unsettled relations between the United States and the Government of Libya and the possibility of hostile acts against Americans in Libya.

The American Embassy in Tripoli remains closed, thus preventing the United States from providing routine diplomatic protection or consular assistance to Americans who may travel to Libya.

In light of these events and circumstances, I have determined that Libya continues to be an area ''* * * where there is imminent danger to the public health or physical safety of United States travelers'' within the meaning of 22 U.S.C. 221a and 22 C.F.R. 51.73(a)(3).

Accordingly, all United States passports shall remain invalid for travel to, in or through Libya unless specifically validated for such travel under the authority of the Secretary of State.

The Public Notice shall be effective upon publication in the **Federal Register** and shall expire at midnight November 24, 2000, unless extended or sooner revoked by Public Notice.

Dated: November 24, 1999.

**Madeleine Albright,**

*Secretary of State.*

[FR Doc. 99–31379 Filed 11–30–99; 4:08 pm]

**BILLING CODE 4710–06–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–99–6526]**

### Notice of Receipt of Petition for Decision That Nonconforming 1998–2000 Volvo S70 Passenger Cars Are Eligible for Importation

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Notice of receipt of petition for decision that nonconforming 1998–2000 Volvo S70 passenger cars are eligible for importation.

**SUMMARY:** This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1998–2000 Volvo S70 passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

**DATES:** The closing date for comments on the petition is January 3, 2000.

**ADDRESSES:** Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9 a.m. to 5 p.m.].

**FOR FURTHER INFORMATION CONTACT:** George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

**SUPPLEMENTARY INFORMATION:**

#### Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Champagne Imports of Lansdale, Pennsylvania (''Champagne'') (Registered Importer 90–009) has petitioned NHTSA to decide whether 1998–2000 Volvo S70 passenger cars are eligible for importation into the United States. The vehicles which Champagne believes are substantially similar are 1998–2000 Volvo S70 passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1998–2000 Volvo S70 passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that non-U.S. certified 1998–2000 Volvo S70 passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1998–2000 Volvo S70 passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence.* * * *, 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 109 *New Pneumatic Tires,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Retention,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* and 302 *Flammability of Interior Materials.*

Additionally, petitioner states that the vehicle comply with the Bumper Standard found at 49 CFR Part 581 and with the Theft Prevention Standard found at 49 CFR Part 541.

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) substitution of a lens marked ''Brake'' for a lens with a noncomplying symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp that displays the appropriate symbol; (c) recalibration of the speedometer/odometer to show distance in miles and speed in miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) installation of U.S.-model headlamp assemblies; (b) installation of U.S.-model front and rear sidemarker/reflector assemblies; (c) installation of U.S.-model taillamp assemblies; (d) installation of a high mounted stop lamp if the vehicle is not already so equipped.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection:* installation of a warning buzzer and a warning buzzer microswitch in the steering lock assembly.

Standard No. 118 *Power Window Systems:* rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* (a) installation of a U.S.-model seat belt in the driver's position, or a belt webbing actuated microswitch inside the driver's seat belt retractor; (b) installation of an ignition switch actuated seat belt warning lamp and buzzer; (c) replacement of the driver's and passenger's side air bags and knee bolsters with U.S.-model components on vehicles that are not already so equipped. The petitioner states that the vehicles are equipped with combination lap and shoulder belts that adjust by means of an automatic retractor and release by means of a single push button at the front outboard seating positions, with combination lap and shoulder restraints that release by means of a single push button at the rear outboard seating positions, and with a lap belt in the rear center designated seating position.

Standard No. 214 *Side Impact Protection:* installation of reinforcing door beams.

Standard No. 301 *Fuel System Integrity:* installation of a rollover valve in the fuel tank vent line.

The petitioner also states that all vehicles will be inspected prior to importation to ensure that they are equipped with anti-theft devices in compliance and modified if necessary.

The petitioner also states that a vehicle identification plate must be affixed to the vehicle to meet the requirements of 49 CFR Part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9 a.m. to 5 p.m.]. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

**Authority:** 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: November 29, 1999.

**Marilynne Jacobs,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 99–31298 Filed 12–1–99; 8:45 am]

BILLING CODE 4910–59–P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–99–6524]**

### Notice of Receipt of Petition for Decision That Nonconforming 1996 Ford Escort Passenger Cars Are Eligible for Importation

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Notice of receipt of petition for decision that nonconforming 1996 Ford Escort passenger cars are eligible for importation.

**SUMMARY:** This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1996 Ford Escort manufactured for sale in Nicaragua that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

**DATES:** The closing date for comments on the petition is January 3, 2000.

**ADDRESSES:** Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9 a.m. to 5 p.m.]

**FOR FURTHER INFORMATION CONTACT:** George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

**SUPPLEMENTARY INFORMATION:**

#### Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies, LLC. of Baltimore, Maryland (''J.K.'') (Registered Importer 90–006) has petitioned NHTSA to decide whether 1996 Ford Escort passenger cars manufactured for sale in Nicaragua are eligible for importation into the United States. The vehicle which J.K. believes is substantially

similar is the 1996 Ford Escort that was manufactured for sale in the United States and certified by its manufacturer, Ford Motor Company, as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1996 Ford Escort to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

J.K. submitted information with its petition intended to demonstrate that the non-U.S. certified 1996 Ford Escort, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1996 Ford Escort is identical to its U.S. certified counterpart with respect to compliance with Standard Nos. 101 *Controls and Displays,* 102 *Transmission Shift Lever Sequence . . . .,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 108 *Lamps, Reflective Devices and Associated Equipment,* 109 *New Pneumatic Tires,* 110 *Tire Selection and Rims,* 111 *Rearview Mirror,* 113 *Hood Latch Systems,* 114 *Theft Protection,* 116 *Brake Fluid,* 118 *Power Window Systems,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 203 *Impact Protection for the Driver from the Steering Control System,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 208 *Occupant Crash Protection,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Retention,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 301 *Fuel System Integrity,* and 302 *Flammability of Interior Materials.*

Petitioner also contends that the vehicle complies with the Bumper Standard at 49 CFR Part 581 and with the Theft Prevention Standard at 49 CFR Part 541.

The petitioner states that the only modification that must be made to the vehicle is the addition of a vehicle identification number plate that meets the requirements of 49 CFR Part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW, Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

**Authority:** 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: November 29, 1999.

**Marilynne Jacobs,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 99–31299 Filed 12–1–99; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration (RSPA), DOT

**[Docket No. RSPA–99–5611; Notice 19]**

### Pipeline Safety: Intent To Approve Project and Environmental Assessment for the Northwest Pipeline Corporation; Pipeline Risk Management Demonstration Project

**AGENCY:** Office of Pipeline Safety, Research and Special Programs Administration, DOT.

**ACTION:** Notice of intent to approve project and environmental assessment.

**SUMMARY:** As part of its Congressional mandate to conduct a Risk Management Demonstration Program, the Office of Pipeline Safety (OPS) has been authorized to conduct demonstration projects with pipeline operators to determine how risk management might be used to complement and improve the existing Federal pipeline safety regulatory process. This Notice announces OPS's intent to approve Northwest Pipeline Corporation (a part of Williams Gas Pipeline) as a participant in the Pipeline Risk Management Demonstration Program. This Notice also provides an environmental assessment of Northwest's demonstration project. Based on this environmental assessment, OPS has preliminarily concluded that this proposed project will not have significant environmental impacts.

This Notice explains OPS's rationale for approving this project, and summarizes the demonstration project provisions that would go into effect once OPS issues an order approving Northwest as a Demonstration Program participant. OPS seeks public comment on the proposed demonstration project so that it may consider and address these comments before approving the project. The Northwest demonstration project is one of several projects OPS plans to approve and monitor in assessing risk management as a component of the Federal pipeline safety regulatory program.

**ADDRESSES:** OPS requests that comments to this Notice or about this environmental assessment be submitted on or before January 3, 2000 so they can be considered before project approval. However, comments on this or any other demonstration project will be accepted in the Docket throughout the 4-year demonstration period. Written comments should be sent to the Dockets Facility, U.S. Department of Transportation, Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. Comments should identify the docket number RSPA–99–5611. Persons should submit the original comment document and one (1) copy. Persons wishing to receive confirmation of receipt of their comments must include a self-addressed stamped postcard. The Dockets Facility is located on the plaza level of the Nassif Building in Room 401, 400 Seventh Street, SW., Washington, DC. The Dockets Facility is open from 10:00 a.m. to 5:00 p.m., Monday through Friday, except on Federal holidays. You may also submit comments to the docket electronically. To do so, log on to the DMS Web at *http://dms.dot.gov.* Click on Help & Information to obtain instructions for filing a document electronically.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Callsen, OPS, (202) 366–4572, regarding the subject matter of this Notice. Contact the Dockets Unit, (202) 366–5046, for docket material. Comments may also be reviewed online at the DOT Docket Management System website at http://dms.dot.gov/.

**SUPPLEMENTARY INFORMATION:**

#### 1. Background

The Office of Pipeline Safety (OPS) is the Federal regulatory body overseeing pipeline safety. As a critical component of its Federal mandate, OPS administers and enforces a broad range of regulations governing safety and environmental protection of pipelines. These regulations have contributed to a good pipeline industry safety record by

assuring that risks associated with pipeline design, construction, operations, and maintenance are understood, managed, and reduced. Preserving and improving this safety record is OPS's top priority. On the basis of extensive research, and the experience of both government and industry, OPS believes that a risk management approach, properly implemented and monitored, offers opportunities to achieve:

(1) Superior safety, environmental protection, and service reliability;

(2) Increased pipeline operation efficiency and improved efficiency and utilization of industry and government resources; and

(3) Improved communication and dialogue among industry, the government, and other stakeholders.

A key benefit of this approach is the opportunity for greater levels of public participation.

As authorized by Congress, OPS is conducting a structured Demonstration Program to evaluate the use of a comprehensive risk management approach in the operations and regulation of interstate pipeline facilities. This evaluation will be performed under strictly controlled conditions through a set of Demonstration Projects to be conducted with interstate pipeline operators. A Presidential Directive to the Secretary of Transportation (October 16, 1996) stated that in implementing the Pipeline Risk Management Demonstration Program: ''The Secretary shall require each project to achieve superior levels of public safety and environmental protection when compared with regulatory requirements that otherwise would apply.'' Thus, the process to select operators for this Demonstration Program involves a comprehensive review to ensure that the proposed project will provide the superior safety and environmental protection required by this Directive. OPS may exempt a participating operator from particular regulations if the operator needs such flexibility in implementing a comprehensive risk management program; however, regulatory exemption is neither a goal nor requirement of the Demonstration Program. This document summarizes the key points of this review for Northwest's demonstration project, and evaluates the safety and environmental impacts of this proposed project.

**2. OPS Evaluation of Northwest's Demonstration Project Proposal**

Using the consultative process described in Appendix A of the Requests for Application for the Pipeline Risk Management Demonstration Program (62 FR 14719), published on March 27, 1997, OPS has reached agreement with Northwest on the provisions for a demonstration project covering Northwest's entire transmission pipeline system that OPS regulates. This section summarizes the key points considered in evaluating the Northwest demonstration project.

*Company History and Record*

Northwest Pipeline Corporation operates approximately 3,900 miles of interstate natural gas transmission line running through six western States, originating at the Canadian border near Sumas, Washington. The pipeline traverses the populated regions of western Washington and Oregon, through the agricultural areas of eastern Oregon, Washington, and Idaho States, and into the isolated areas of southwest Wyoming, Utah and Colorado. The original pipeline was installed in 1956, with parallel line segments added in the seventies, eighties, and nineties. The pipeline system has 52 compressor stations and 407 meter stations.

Before entering into consultations with Northwest, OPS determined that Northwest was a good demonstration program candidate based on an examination of the company's safety and environmental compliance record, its accident history, and its commitment to working with OPS to develop a project meeting the Demonstration Program goals.

Northwest has experienced 22 reportable releases since OPS began collecting accident data in 1984. Five of these releases were caused by damage from third parties excavating near the line; two events resulted from external corrosion; seven events were caused by construction or material defects; seven events were due to landslides damaging the pipeline; and one event occurred during routine maintenance, injuring several workers. This event, which occurred in 1987, caused the only injuries on record for any Northwest incident. Consequences of all but the most recent incidents are recorded as monetary estimates of property damage/loss, varying from $0.00 to $719,000.00. The reports rarely identify the basis for the property damage/loss figures; in some cases, these figures include the cost of pipeline excavation and repair. OPS is aware of environmental consequences from two of these incidents: a 1995 incident involving damage to land cover and a small grove of trees near the release, and a 1999 incident that caused a fire and damaged three to five acres of ground cover and trees. OPS has records of service interruptions to customers from six of the incidents; this year, 10,000 customers in Walla Walla, Washington were affected when a pipeline lateral failed due to a construction defect. OPS has not found any regulatory noncompliance with these events.

Northwest has attributed 14 reportable incidents to two causes: construction or material defects (seven), and landslides damaging the pipeline (seven). The company does not believe construction or material defects represent a significant risk to its system. These seven incidents were spread across six states over a 15-year period. Their causes are typical for a pipeline constructed in 1956 and include defective longitudinal seams in pipe received from the factory, a gouge made during original construction, and defective welds made in the field connecting pipe components to the mainline. The company has not experienced deaths, injuries, or notable environmental damage as a result of any of these incidents; in fact, two of these releases were discovered during routine leak surveys. The most recent incident due to a construction defect occurred on January 2, 1999, and resulted in the disruption of natural gas service to approximately 10,000 customers in Walla Walla, Washington. Although Northwest believes this failure was an isolated incident (it was due to a defective field weld from 1958), the company is evaluating other locations where similar construction defects could be present. For any pipeline locations where Northwest is proposing regulatory alternatives, the company has internally inspected the pipeline using an in-line inspection tool and has failed to find evidence of additional construction or material defects.

The company believes geologic hazards, or landslides, represent its most significant risk. Hazards due to landslides and other geologic activity receive very little emphasis in pipeline safety regulations since they are not a widespread problem in the industry. Three Northwest incidents due to landslides occurred in the early 1980's near Rangely, Colorado. As a result of this experience, the company has conducted an enhanced geological monitoring program and has not experienced additional incidents at that site. Four additional landslide incidents occurred between 1995 and 1999, all in western Washington where Northwest is proposing regulatory alternatives as part of this demonstration project.

The most recent landslide incident occurred on February 26, 1999, near North Bonneville, Washington, about 30 miles northeast of Portland, Oregon. The

26-inch mainline ruptured, resulting in a fire that damaged a newly-constructed, unoccupied lodge and two mobile homes, and burned three to five acres of ground cover and trees. Approximately 365 customers lost natural gas service. In 1996, the company had identified the potential for this slope failure and since then, has monitored pipe stress in the vicinity of the release. Because record rainfall in the area for December 1998 and January and February 1999 (244% in February) significantly increased the potential for slide activity, the line was helicopter patrolled a month before the failure.

The company is continuing its root cause analysis of the failure to determine why its monitoring approach in this case was insufficient. The company will include OPS in discussions about areas where it may increase its focus on geologic hazards as a result of this incident. Lessons learned from this incident will be applied to the risk management program by improving strategies and approaches for identifying the potential for and monitoring land movement (especially in wet weather), training personnel to recognize potential signs of land movement, and re-examining other areas identified as at risk for landslide activity. OPS will include these activities in the audit plan (see Section 6) it is developing for this project.

OPS believes this incident should not affect Northwest's eligibility to participate in the Demonstration Program. Rather, OPS believes this incident reinforces the need for a demonstration project focused on identifying geologic hazards and preventing failures that are caused by land movement. Four of the five reportable incidents on the western Washington segment in the vicinity of Northwest's proposed regulatory alternatives have been due to land movement (the fifth was due to excavator damage to the pipeline). The company has demonstrated that its existing geologic monitoring approach (described in Section 5.2) has successfully averted three land movement failures in this area. OPS believes Northwest can most effectively improve safety by continuing to refine its approach to identifying and remediating geologic hazards in western Washington.

Northwest and OPS also are collaborating on follow-up to a corrosion incident that occurred on January 13, 1998, in Wolf Creek in southwest Oregon. Northwest determined its cause to be stress corrosion cracking, a condition difficult to predict and detect. Section 5.2 describes the stress corrosion cracking monitoring program that Northwest has implemented. The company has not found indications of stress corrosion cracking at any other sites along the pipeline.

After reviewing data on the remainder of Northwest's reported incidents (which are due to corrosion and third party damage), OPS is satisfied with the company's follow-up activities and that any lessons learned have been appropriately factored into the company's risk management program. Section 5 describes the in-line inspection program Northwest is conducting to address corrosion risks, and the damage prevention program the company is conducting to address excavation risks.

*Consultative Evaluation*

During the consultations, a Project Review Team (PRT), consisting of representatives from OPS Headquarters and Western Region, pipeline safety officials from the Washington Utilities and Transportation Commission and the Utah Department of Commerce, and risk management experts, met with Northwest to discuss Northwest's existing Risk Management Program and its expected development during the course of the demonstration project. These discussions addressed the current risk assessment and risk control processes Northwest uses, planned expansion, improvement, and integration of these processes, proposed regulatory alternatives, and proposed performance measures to ensure superior performance is being achieved. The discussions addressed the adequacy of Northwest's risk management systems and technical processes, and communications with outside stakeholders. The consultation process also included an environmental assessment, which is described in Appendix B of this Notice.

The consultation process focused on three major review criteria:

1. Whether Northwest's proposed risk management demonstration program is consistent with the Risk Management Program Standard and compatible with the Guiding Principles set forth in that Standard;

2. Whether the risk control alternatives Northwest proposed can be expected to produce superior safety, environmental protection, and reliability of service compared to that achieved from compliance with the current regulations; and

3. Whether Northwest's proposed risk management demonstration program includes a company work plan and a performance monitoring plan adequately assuring that the expectations for superior safety, environmental protection, and service reliability are actually being achieved during implementation.

The demonstration project provisions described in this Notice evolved from these consultations, as well as from any public comments received to date. Once OPS and Northwest consider comments received on this Notice, OPS intends to issue an order approving the Northwest demonstration project.

**3. Statement of Project Goals**

The Northwest Pipeline System transports pressurized natural gas which is lighter than air and flammable. If released as a result of a pipeline leak or rupture, natural gas can potentially ignite causing fires or explosions. Ensuring that pipeline leaks and ruptures do not occur is the highest priority for OPS and Northwest. Through risk management, Northwest intends to continuously improve the level of safety in operating these lines. OPS and the company believe that by applying and refining Northwest's Risk Management Program, and by implementing the proposed risk control alternatives, the demonstration project will exhibit superior protection.

**4. Demonstration Project Locations**

Northwest is proposing to include its entire natural gas transmission system in the demonstration project. Northwest's pipeline system originates at the Canadian border near Sumas, Washington, and traverses the States of Washington, Oregon, Idaho, Wyoming, Utah, and Colorado. Northwest is focusing its proposed regulatory alternatives to control the increased risk from population increases along the pipeline (see Section 5.3) in six specific geographic locations in western Washington State:

- Four pipe segments (ranging from 1.2 to 2.1 miles each) located between the Chehalis and Washougal Compressor Stations.

—In Clark County, 3 miles north of Camas, Washington.
—Along the border of Cowlitz and Clark Counties, in Woodland, Washington.
—In Cowlitz County, about 1 mile north of Woodland, Washington.
—In Cowlitz County, about 3 miles southeast of Longview, Washington.

- One pipe segment (about 3 miles) located between the Washougal and Willard Compressor Stations in Skamania County in the Columbia River Gorge.
- One pipe segment (about 0.5 miles) located between the Mt. Vernon and

Snohomish Compressor Stations in Skagit County north of Seattle.

As experience is gained from these segments, and as risks are assessed for other portions of the Northwest gas transmission system, additional class change locations may be proposed for regulatory alternatives. OPS and Northwest will work together to establish criteria and a process for demonstrating when regulatory alternatives can provide superior protection at additional class change locations. (See Section 6 of the Notice for a description of how OPS will oversee this project.)

**5. Project Description**

*5.1 Risk Management Program Development*

Northwest's existing safety and pipeline integrity programs are based on and utilize the expertise of the people most familiar with the pipeline system's construction, operation, maintenance, and history to identify the specific sources and causes of risk, and define projects to reduce or control these risks. Corporate operating experience supplements this knowledge and experience. A number of Northwest's current risk control activities and programs build on and go beyond compliance with current pipeline safety regulations.

Northwest has begun to expand, enhance, and integrate its existing safety and integrity programs into a comprehensive risk management program that will satisfy the requirements of the Program Standard over the course of the demonstration project. During the demonstration project, Northwest is committed to building on its existing risk management system to improve how the company:

- Critically analyzes and systematically investigates all aspects of system design and operation for potential risks;
- Integrates risk-related information from all parts of the company into a comprehensive portrayal of risk, including the nature and location of the most significant risks on the pipeline system;
- Systematically and consistently considers public and environmental protection in the company's approach to develop, evaluate, and implement all capital improvement and risk reduction projects; and
- Enhances the communication and sharing of risk information within the company to improve awareness and understanding of the critical aspects of the company's operations that are essential to prevent accidents.

Northwest's risk management program work plan, submitted with its application and comprising Appendix A of this document, includes activities and milestones for all of the major program development activities that will be performed during the demonstration project.

*5.2 Risk Control Programs for Improved Protection*

- In assessing the risks on its system, Northwest has determined that some of the most significant risks are from geologic hazards where ground movement could result in pipeline failures. In 1997 and 1999, the company experienced failures in western Washington from landslides caused by high levels of rainfall on areas of slope instability. To address these risks, Northwest has implemented a comprehensive geologic hazard identification, monitoring, and remediation program, and will continue to expand and improve this program as part of the demonstration project.

The geologic hazards program helps identify where land movement might be a threat to pipeline safety, and implements activities that are designed to prevent failures in these locations. Northwest used geotechnical consultants to conduct a survey of its pipeline right-of-way to identify and prioritize areas susceptible to land movement. This geotechnical review identified several areas having an immediate threat of land movement where the company rerouted pipe, or took other actions to stabilize slopes and prevent land movement near the pipeline.

The company is also implementing a comprehensive monitoring program that measures precursors to land movement including pipe strain, soil movement, and moisture level. Company personnel regularly monitor these instruments for indication of potential land movement. Using this early warning, the company is able to relieve stress on the pipe and prevent ruptures. The company has demonstrated that through this warning and remediation, it has prevented at least three ruptures in recent years.

One new element of the geological hazard monitoring program is a collaborative project with OPS's Western Region to examine the feasibility of remotely monitoring strain gauges. Through remote monitoring, the company is immediately informed of indications of potential land movement and is able to respond more rapidly to take protective actions. Remote monitoring can be especially helpful in areas that may be difficult to access locally. This project involves transmitting strain gauge readings directly to the Northwest gas control center in Salt Lake City. When strain gauge readings indicate stresses on the pipe consistent with potential land movement, a Northwest employee is dispatched immediately to the scene to assess the situation, and begin remediation activities if appropriate. Through this remote monitoring program, and its expanded and improved geological hazards program, Northwest will improve protection for the public and environment in the vicinity of geologic hazards.

To provide further non-required protection, Northwest is also proposing a stress corrosion cracking coupon monitoring program. This program warns of possible stress corrosion cracking, a failure mechanism difficult to predict and detect. Through collaboration with Northwest in this program, OPS will better understand the conditions that contribute to stress corrosion cracking, thus, contributing to the ongoing OPS initiatives to address stress corrosion cracking nationwide.

*5.3 Regulatory Alternatives Providing Superior Protection*

In addition to the programs described in the previous section, Northwest has also identified a few short pipe segments in Washington where it believes alternatives to the current regulations addressing population increase near a pipeline (49 CFR 192.611) would result in superior safety, environmental protection, and reliability. These six locations are described in Section 4.

*5.3.1 Current Regulatory Requirements*

This section describes the current regulatory requirements in 49 CFR 192.611 that govern actions taken when population density increases along the pipeline.

OPS categorizes all locations along a gas pipeline according to the population near the pipeline (see 49 CFR 192.5). Locations with the smallest population (10 or fewer buildings intended for human occupancy within an area that extends 220 yards on either side of the centerline of any continuous one mile length pipeline) are designated as Class 1. As the population along the pipeline increases, the class location increases. For example, Class 2 locations have more than 10 but fewer than 46 buildings intended for human occupancy; Class 3 locations have 46 or more buildings, or are areas where the pipeline lies within 100 yards of either a building or small, well-defined

outside area (such as a playground, recreation area, outdoor theater, or other place of public assembly) that is occupied by 20 or more persons on at least 5 days a week for 10 weeks in any 12 month period. Class 4 locations are any class location unit where buildings with four or more stories above ground are prevalent (e.g. large apartment buildings).

Some of the Northwest line segments described in Section 4 are changing from Class 1 to 2 (in Skamania County, Washington, in the Columbia River Gorge; and in Cowlitz County one mile north of Woodland, Washington) and some are changing from Class 2 to 3 (in Clark County three miles north of Camas, Washington; on the border of Cowlitz and Clark Counties in Woodland, Washington; in Cowlitz County three miles southeast of Longview; and in Skagit County north of Seattle).

Pipeline safety regulations place more stringent design and operational requirements as the class location increases. When a pipe segment changes to a higher class (e.g., from class 1 to class 2), the operator must lower operating pressure to provide an additional margin of safety, or reconfirm that an adequate safety margin exists through pressure testing. In situations where it is not possible to reconfirm through testing, the operator must replace the pipe with new, stronger pipe if the operator does not want to lower operating pressure.

Because of the importance of providing reliable natural gas service to its customers, Northwest is not considering operating pressure reduction as a realistic alternative since this would decrease the quantity of gas that the company could deliver. To comply with pipeline safety regulations, Northwest would have to replace pipe in four of these short segments, and pressure test two others. Replacing older pipe with stronger, new pipe eliminates the possibility that defects from the original construction, as well as corrosion that may have occurred since installation, will result in a failure. In pressure tests, water is injected into the pipe at elevated pressures to test whether existing pipe is in good enough condition to operate at the elevated pressures.

5.3.2 Northwest's Risk Control Alternatives

For each class location change area described in Section 4, Northwest has performed risk analyses to understand and characterize the existing risks to the pipeline, and has defined specific alternatives to replacing pipe or pressure testing for controlling these risks. These activities are listed below, and summarized in Table 1.

- Internally inspecting class location change segments using geometry and magnetic flux leakage in-line inspection tools, which are not required under current regulations. These tools will identify any indications of wall loss *(e.g.* corrosion), as well as any dents and gouges from initial construction damage or third party excavators working along the pipeline right-of-way. OPS reviews results of these internal inspections as they are completed.
- Internally inspecting an extended length of pipe on either side of each class change segment to further extend the benefits of the better integrity analysis. The total length of pipe that has been[1] internally inspected is approximately 160 miles; of this, 10.8 miles comprise the six class location change sections.
- Repairing indications of corrosion or existing construction and outside force damage identified by the internal inspection. Northwest is using a conservative repair criteria in the class location change sites that repairs small dents and anomalies that are well below the threshold where pipeline integrity might be compromised.
- Conducting detailed, on-site geological hazard surveys for each of the class location change sites. These surveys will identify potential land movement and other geologic hazards, and will specify monitoring and remediation activities to address significant threats to the pipeline. Northwest has already installed strain gauges at known or suspected geologic hazards in or near the class location change sites. Near the Shirley Gordon class location change site, Northwest has already remediated one potential landslide, and installed a remotely monitored strain gauge (see discussion in Section 5.2).
- Enhancing damage prevention activities in the class location change sites, as well as system-wide. Damage caused by excavators near the pipeline represents one of the highest risks to the six class location change sites. This multi-faceted damage prevention program includes:

—Improving communication with local, county, and state planning commissions regarding future development plans near the pipeline so Northwest can address potential excavation risks. Northwest has recently obtained formal review status with the Washington Department of Natural Resources, and now participates in reviewing proposed projects such as logging, road development, and mining in the forested areas near its pipeline right-of-way. This allows Northwest to get involved at the planning stage to be sure such projects do not adversely impact the safety of its pipeline.
—Improving outreach with local developers, excavators, and utilities that may be working near the pipeline. Northwest is an active participant and sponsor of damage prevention meetings. The company distributes its Developer's Handbook which provides standards and procedures to be followed when planning land use development near Northwest's pipeline right-of-way. The Developer's Handbook also provides explicit instruction for performing excavation activities near the right-of-way to ensure that the pipeline is not damaged.
—Having more frequent face-to-face contact with landowners and residents near the pipeline right-of-way in class location change areas.
—Expanding distribution of information on pipeline awareness and potential hazards to nearby residents. Residents within 220 yards on either side of the pipeline receive pipeline safety information annually in the class location change sites.
—Promoting ''green belts'' and other strategies with landowners to protect pipeline easements from development and construction activity;
—Surveying landowners and residents near the class location change sites, excavators and emergency personnel to assess the effectiveness of public awareness and damage prevention programs. The feedback from these surveys will be used to improve Northwest's damage prevention program.
—Installing additional and more effective pipeline markers to alert potential excavators of the line's presence in the class location change sites; and
—Conducting more frequent aerial and local patrolling, including weekend patrols.

- Installing remote operators on its mainline block valves to rapidly close valves and isolate a segment of line that experiences a failure. This minimizes

[1] OPS reviewed the results of this internal pipe inspection and a follow-up remediation project to repair damage. This review confirmed that corrosion metal loss and construction defects are not significant threats to the pipeline system's integrity. This was confirmed not only in the six small segments, but across the entire pipeline distance examined in the inspection program. OPS concluded from these results that the regulatory-required solution to replace pipe or pressure test would have little impact on the most significant risks affecting Northwest's pipelines.

the quantity of gas that is released and, in the event of ignition, would minimize the duration of the fire and the associated environmental damage and property loss; and

• Engaging state and local emergency management organizations to participate in training and exercises for a more effective and coordinated response in an emergency.

TABLE 1—ALTERNATIVE ACTIVITIES

| Project site | Prescriptive requirements | Alternative activities |
|---|---|---|
| **Snohomish to Mt. Vernon 46.2 Miles** | | |
| 1. Snohomish, Class 2 to 3, 0.6 miles, Milepost 1394.7 to 1395.3, Highest risk: 3rd party damage. | Pipe Replacement ..... | o Run both wall loss & geometry pigs.<br>o Repair anomalies 46mi (at exemption site, use more stringent repair criteria than standard industry practice).<br>o Increase public awareness.<br>o Work w/local Emergency Mngmt. Depts. in joint training/conferences.<br>o Implement recommendations from on-site hazard surveys performed by geologic experts. |
| **Washougal to Chehalis 73 Miles** | | |
| 2. Camas, Class 2 to 3, 1.2 miles, Milepost 1216.9 to 1218.1, Highest risk: 3rd party damage. | Pipe Replacement ..... | • Run both wall loss & geometry pigs.<br>• Repair anomalies 73mi (at exemption site, use more stringent repair criteria than standard industry practice).<br>• Increase public awareness. |
| 3. Woodland, Class 2 to 3, 2.1 miles, Milepost 1242.9 to 1245.0, Highest risk: 3rd party damage. | Pipe Replacement ..... | • Work w/local Emergency Mngmt. Depts. in joint training/conferences.<br>• Implement recommendations from on-site hazard surveys performed by geologic experts (including additional strain gage at Shirley Gordon). |
| 4. Rose Valley, Class 2 to 3, 2.3 miles, Milepost 1256.3 to 1258.6, Highest risk: 3rd party damage. | Pipe Replacement ..... | • Increase/improve signs marking pipeline right-of-way.<br>• Monitor for stress corrosion cracking.<br>• Install two remotely operated valves to rapidly isolate the pipeline in the event of rupture. |
| 5. Shirley Gordon, Class 1 to 2, 1.8 miles, Milepost 1245.2 to 1247.0, Highest risk: land movement. | Pipe Requalification ..... | |
| **Willard to Washougal 41 Miles** | | |
| 6. Gorge Area, Class 1 to 2, 2.8 miles, Milepost 1199.0 to 1201.8, Highest risk: land movement. | Pipe Requalification ..... | Run both wall loss & geometry pigs.<br>• Repair anomalies 41mi (at exemption site, use more stringent repair criteria than standard industry practice).<br>• Increase public awareness.<br>• Work w/local Emergency Mngmt. Depts. in joint training/conferences.<br>• Implement recommendations from on-site hazard surveys performed by geologic experts.<br>• Monitor for stress corrosion cracking. |

As part of the company's risk evaluation, Northwest has compared the risk reduction produced by these alternatives to that achieved by the current regulations. OPS has reviewed this evaluation in detail and concluded that the alternative risk control activities can be expected to reduce safety and environmental risk below that which would be achieved by compliance with current regulations. Furthermore, because of the resources saved by not having to replace pipe in these six locations, Northwest is able to enhance its geological hazards and stress corrosion cracking programs described in Section 5.2, and conduct internal inspections on additional portions of its system.

OPS is proposing to exempt Northwest from the pressure confirmation requirements of 49 CFR 192.611. In lieu of compliance with this requirement, Northwest will implement and monitor the effectiveness of the risk control alternatives described in this section as well as its geologic hazards and stress corrosion cracking programs.

**6. Regulatory Perspective**

*Why Is OPS Considering This Project?*

OPS has conducted a careful and extensive review of Northwest's proposed Risk Management Demonstration Project. OPS believes that Northwest, in accordance with its work plan, will continue to build on its current risk management system to develop, document, and implement a risk management program fully consistent with the requirements and principles of the Risk Management Program Standard.

OPS believes that the proposed risk control alternatives should improve protection for the environment and the communities in the vicinity of Northwest's pipeline facilities. OPS believes Northwest's risk-based justification of the alternatives to the class change regulations is technically sound. During the demonstration project, OPS will review the process that Northwest uses to verify superior performance of the proposed risk control alternatives in reducing risk to the public, workers, the environment, and service availability.

OPS also believes that the Northwest demonstration project will help OPS achieve the overall goals of the Risk Management Demonstration Program. In particular, as a result of this project there will be an increased sharing of information between the company and government about potential pipeline risks and activities to address those risks. This sharing will increase OPS's knowledge and awareness about potential pipeline threats, and thereby support a more effective regulatory role in improving safety and environmental protection. Northwest will also further the development of analytical tools for identifying and assessing risks. As part of this effort they will be linking risk assessment analytical models directly to a geographical information system that provides accurate, up-to-date, location-specific information about pipe line design, operation, and right-of-way environmental characteristics. Northwest also intends to enhance its geologic hazard identification, monitoring, and remediation program through this project, including expanding the Northwest/OPS remote strain gauge monitoring project (described in Section 5.2). OPS will also get better information about conditions contributing to stress corrosion cracking (described in Section 5.2). Finally, OPS believes that Northwest will develop and demonstrate systematic processes for reallocating resources within the company to address the most significant risks.

*How Will OPS Oversee This Project*

After approving the Northwest Risk Management Demonstration Project, the PRT will continue to monitor the project. The PRT is designed to be a more comprehensive oversight process that draws maximum technical experience and perspective from all affected OPS regional and headquarters offices, and from any affected state agencies that would not normally provide oversight on interstate transmission projects.

One of the primary functions of the PRT will be to conduct periodic risk management audits. These risk management audits will be used to observe company performance of the specific terms and conditions of the OPS Order authorizing this Demonstration Project. OPS is developing a detailed audit plan, tailored to the unique requirements of the Northwest Demonstration Project. This plan will describe the audit process (e.g., types of inspections, methods, observation of company review of risks and risk control options, frequency of audits), and the specific requirements for reporting performance measurement data, lessons learned from incidents and other unexpected events, and milestone and other information to OPS.

OPS retains its authority to enforce Northwest's compliance with the pipeline safety regulations. OPS plans to exempt compliance from those regulations previously described in Section 5 where Northwest has demonstrated that its proposed risk alternatives are superior to the regulations. Should the demonstration project performance measures or other information subsequently indicate that superior protection has not been achieved or is unlikely to continue to be achieved, then OPS can require Northwest to again comply with those regulations from which it had been exempted.

*Information Provided to the Public*

OPS has previously provided information to the public about the Northwest project, and has requested public comment, using many different sources. OPS aired an electronic town meeting on September 17, 1997 that enabled viewers of the two-way live broadcast to pose questions and voice concerns about candidate companies (including Northwest). An earlier **Federal Register** Notice (62 FR 40135; July 25, 1997) informed the public that Northwest was interested in participating in the Demonstration Program, provided general information about technical issues, and identified the geographic areas the demonstration project would traverse.

Since August 1997, OPS has used an internet-accessible data system called the Pipeline Risk Management Information System (PRIMIS) to collect, update, and exchange information about all demonstration candidates, including Northwest (PRIMIS can be accessed from the OPS web site: http://ops.dot.gov). At a November 19, 1997, public meeting hosted by OPS in Houston, Texas, Northwest officials presented a summary of the proposed demonstration project and answered questions from meeting attendees. (Portions of this meeting were broadcast on January 15, 1998, and on March 26, 1998.) OPS has provided a prospectus, which includes a map of the demonstration project system, to State officials and community representatives who may be interested in reviewing project information, providing input, or monitoring the progress of the project. This Notice is OPS's final request for public comment before OPS intends to approve Northwest's participation in the Demonstration Program under the terms of the work plan.

Issued in Washington, DC, on November 23, 1999.

**Richard B. Felder,**

*Associate Administrator for Pipeline Safety.*

**BILLING CODE 4910–60–P**

## APPENDIX A: NORTHWEST PIPELINE CORPORATIONS WORK PLAN

TABLE I: NORTHWEST RISK MANAGEMENT PROGRAM WORK PLAN

| No. | Milestone Name | Activity | Milestone Dates |
|---|---|---|---|
| 1 | Develop a risk management program for Northwest and prepare a program document describing the program and processes. | • Develop an approach for incorporating risk management process into Northwest's daily operation. Developments include:<br>▸ Perform on-site data verification/gathering for all districts which includes the following tasks:<br>✓ Data gathering meetings<br>✓ Data entry<br>✓ Creation of IAP baseline for entire Northwest system<br>▸ Perform on-site training, model verification, identify potential high-risk areas, and evaluate risk control projects which includes the following tasks:<br>✓ Expert panel meetings<br>✓ Budget estimates and requests<br>✓ Project evaluation and justifications<br>✓ Budget approvals | 4th Quarter 1999 |
| | | • Submit initial performance measures. | 4th Quarter 1999 |
| | | • Submit a program document that will describe RM processes, integration of existing programs, communications plan, management of change and performance measures. | 1st Quarter 2000 |
| | | • Develop cost/benefit model that will improve existing economic tool used to evaluate and prioritize candidate projects by incorporating risk into the model. This includes:<br>▸ Define basis for how the relative importance for model categories are established,<br>▸ Develop guidance for consistent use of the multi-attribute model by Northwest personnel, and<br>▸ Define information requirements for completion of the model. | 1st Quarter 2000 |
| 2 | Develop a formalized risk management policy and procedure. | • Submit risk management policy and procedures that will:<br>▸ Detail steps of the risk assessment, risk control and performance monitoring of the process.<br>▸ Define and document the roles and responsibilities of all key RM personnel.<br>▸ Contain specific requirements for collecting, processing, storing, and reporting of risk assessment results and development of risk controls data. | 1st Quarter 2000 |

| | | | |
|---|---|---|---|
| 3 | Develop an integrity assessment program policy and procedure. | • Submit IAP policy and procedure that will:<br>▸ Contain steps for documenting the collection, processing, storing, and reporting of risk assessment data,<br>▸ Contain necessary steps for modifying the algorithm when necessary, and<br>▸ Contain necessary steps for yearly reviews of the algorithm. | 1st Quarter 2000 |
| 4 | Modify existing budget policy and procedure to include the risk management procedure in the budget process. | • Submit modified budget policy and procedure that will:<br>▸ Reflect the timing of the risk management process steps.<br>▸ Reflect the specific documentation for collecting, processing, storing, and reporting of budget decisions.<br>▸ Describe how risk is systematically and consistently incorporated into the project selection process. | 1st Quarter 2000 |
| 5 | Develop a compressor station policy and procedure. | • Develop and field-test the risk assessment process for compressor stations. | 1st Quarter 2000 |
| 6 | Provide additional formalization and documentation to Northwest's existing Geologic Hazard Program. | • Submit a revised geologic hazard policy and procedure that will:<br>▸ Provide specific indicators to constitute the frequency with which strain gauges and other land movement indicators will be monitored, taking into account weather and soil saturation conditions.<br>▸ Populate GIS database from all geologic hazard reports for enhanced data analysis.<br>▸ Submit final consolidated report on the cooperative agreement with the remotely monitored strain gauges.<br>▸ Perform a periodic review of geologic hazard program to determine and evaluate the effectiveness of the program and recommendations for improvement.<br>▸ Perform a program evaluation of all past geologic hazard recommendations and evaluation of need.<br>▸ Create and action plan to address evaluation reports and re-mediation activities specifically for the class location areas.<br>▸ Evaluate existing forms for improvement of documentation of geologic hazard reconnaissance.<br>▸ Perform geological training for field personnel. | January 31, 2000<br>October 30, 1999<br>4th Quarter 1999<br>Annual<br>January 31, 2000<br>January 31, 2000<br>October 30, 1999<br>Annual |
| 7 | Provide SCC testing enhancement schedule | • Install additional SCC coupon monitors based on SCC program evaluation.<br>• Replace pipe with potential for SCC near Myrtle Creek, Oregon.<br>• Perform additional SCC testing when pipeline is exposed due to internal inspection or SCC program criteria.<br>• Test internal inspection tool capable of detecting SCC in Oregon.<br>• Evaluate SCC monitoring program. | 4th Quarter 1999<br>4th Quarter 1999<br>Ongoing<br>4th Quarter 2000<br>Annual |

| | | | |
|---|---|---|---|
| 8 | Communications activity. | • Land use in planning and developing.<br>‣ Work with land use agencies throughout the system to provide input into development along the ROW.<br>• Obtain formal reviewing status with the Department of Natural Resources (DNR) for evaluation of projects associated with DNR approvals.<br>‣ Participate in DNR project review concerning forest practice issues within the State of Washington (logging, roadways, mining). Comments will be made during forests practices application process and will be evaluated by DNR during review and approval process. The forest practices approval will be conditions as deemed appropriate by the DNR.<br>• Develop handbook.<br>‣ Utilize existing handbook and modify as necessary.<br>• Class location area extended boundaries of communication.<br>‣ Complete all distribution of additional safety material to class location change areas considered for demo program.<br>• Communication survey.<br>‣ Complete survey evaluating existing public awareness and emergency response efforts and evaluate current communications program.<br>• Send Prospectus to county commissions and regional environmental agencies.<br>• Evaluate enhanced use of radio.<br>• Post risk management information on Williams internet internal web page. | Ongoing<br>1st Quarter 1999<br>Ongoing<br>4th Quarter 1999<br>3rd Quarter 1999<br>After Prospectus is prepared by OPS.<br>1st Quarter 2000<br>4th Quarter 1999 |
| 9 | Damage prevention. | • Weekend patrols.<br>‣ Evaluate weekend patrols for effectiveness.<br>• Increased patrol frequency.<br>‣ Continue with normal frequency of once a week for mainline north and once every other week for mainline south.<br>• Increased line-marking effectiveness in class location area if necessary.<br>• Evaluate DAMQAT and Common Ground "Best Practices" information for additional damage prevention program enhancements.<br>• Evaluate current damage prevention program for enhancements. | 3rd Quarter 2000<br>Ongoing<br>4th Quarter 1999<br>1st Quarter 2000<br>4th Quarter 1999 |

| | | | |
|---|---|---|---|
| 10 | Schedule for completion of Alternatives. | • Chehalis to Washougal section. | |
| | | ▸ Run MFL tool | 3rd Quarter 1998 |
| | | ▸ Run Geometry tool | 3rd Quarter 1998 |
| | | ▸ Repair anomalies according to repair criteria | 3rd Quarter 1999 |
| | | ▸ Complete SCC test | 3rd Quarter 1998 |
| | | ▸ Enhance public awareness in class location change segments | 3rd Quarter 1998 |
| | | ▸ Complete communications survey for newly contacted public | 3rd Quarter 1999 |
| | | ▸ Complete installation of remotely operated valves | 3rd Quarter 1998 |
| | | ▸ Complete communications hook up of remotely operated valves | 3rd Quarter 1999 |
| | | ▸ Complete geologic hazard evaluation for class location change segments | 3rd Quarter 1999 |
| | | ▸ Complete geologic hazard recommendations | TBD after geological hazard report is completed. |
| | | • Snohomish to Mt. Vernon section. | |
| | | ▸ Run MFL tool | 3rd Quarter 1996 |
| | | ▸ Run Geometry tool | 3rd Quarter 1996 |
| | | ▸ Repair anomalies according to repair criteria | 3rd Quarter 1999 |
| | | ▸ Enhance public awareness in class location change segment | 3rd Quarter 1999 |
| | | ▸ Complete communications survey for newly contacted public | 3rd Quarter 1999 |
| | | ▸ Complete geologic hazard evaluation for class location change segments | 3rd Quarter 1999 |
| | | ▸ Complete geologic hazard recommendations | TBD after geological hazard report is completed. |
| | | • Willard to Washougal section. | |
| | | • Run MFL tool | 4th Quarter 1999 |
| | | • Run Geometry tool | 4th Quarter 1999 |
| | | • Repair anomalies according to repair criteria | 3rd Quarter 2000 |
| | | • Enhance public awareness in class location change segment | 3rd Quarter 1999 |
| | | • Complete geologic hazard evaluation | 3rd Quarter 1999 |
| | | • Complete geologic hazard recommendations | TBD after geological hazard report is completed. |

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## Appendix B: Environmental Assessment

### A. Introduction and Background

As authorized by 49 U.S.C. 60126, the Office of Pipeline Safety (OPS) is implementing a Risk Management Demonstration Program to evaluate the use of risk management in the Federal pipeline safety regulatory process. This evaluation is being performed under strictly controlled conditions through a set of demonstration projects being conducted with interstate pipeline operators. Through the Demonstration Program, OPS will determine whether a risk management approach, properly implemented and monitored through a formal risk management framework, achieves superior safety and environmental protection, as well as increased efficiency and service reliability of pipeline operations. OPS also expects the program to evaluate how well risk management improves communication among industry, the government, and other stakeholders on important pipeline safety and environmental issues and concerns.

A Presidential Directive to the Secretary of Transportation (October 16, 1996) stated that in implementing the Risk Management Demonstration Program: ''The Secretary shall require each project to achieve superior levels of public safety and environmental protection when compared with regulatory requirements that otherwise would apply.'' Thus, the process to select operators for this Demonstration Program involves a comprehensive review to ensure that the proposed project will provide the superior safety and environmental protection required by this Directive.

In April 1997, Northwest Pipeline Corporation (Northwest) submitted a Letter of Intent to OPS asking to be considered as a Demonstration Program candidate. Using the consultative process described in Appendix A of the Requests for Application for the Pipeline Risk Management Demonstration Program (62 FR 14719), published on March 27, 1997, OPS worked extensively with the company to develop a definition of a Demonstration Project that will provide superior safety and environmental protection. OPS is prepared to finalize an agreement with Northwest on the Demonstration Project provisions and initiate this project.

This Environmental Assessment summarizes the OPS safety and environmental review for the Demonstration Project proposed by Northwest Pipeline Corporation (Northwest). This document is prepared in accordance with section 102(2)(c) of the National Environmental Policy Act (42 U.S.C. Section 4332), the Council on Environmental Quality regulations (40 CFR Sections 1500–1508), and Department of Transportation (DOT) Order 5610.1c, Procedures for Considering Environmental Impacts. It was prepared to assist in the agency's planning and decision-making. This document concisely describes OPS' proposed action to approve a Risk Management Demonstration Project with Northwest, addresses the alternative approaches considered, the environment affected by this action, the consequences to the environment of the alternatives considered, and a list of the agencies and organizations consulted. This Environmental Assessment provides sufficient evidence to determine that approval of the Northwest Risk Management Demonstration Project will have no significant impact on the environment.

### B. Description of Proposed Action

This section summarizes the proposed Northwest Risk Management Demonstration Project that has been established through the consultative process with OPS. The project's primary purpose is to demonstrate that Northwest's risk management program will improve safety and environmental protection.

Northwest has begun to expand, enhance, and integrate its existing safety and integrity programs into a comprehensive risk management program that will satisfy the requirements of the Risk Management Program Standard (distributed at a January 28, 1997, public meeting in New Orleans, LA, and available on the OPS website at http://ops.dot.gov) over the course of the four-year demonstration project. During the demonstration project, Northwest is committed to building on its existing risk management system to improve how the company:

- Critically analyzes and systematically investigates all aspects of system design and operation for potential risks;
- Integrates risk-related information from all parts of the company into a comprehensive portrayal of risk, including the nature and location of the most significant risks on the pipeline system;
- Systematically and consistently considers public and environmental protection in the company's approach to develop, evaluate, and implement all capital improvement and risk reduction projects; and
- Enhances the communication and sharing of risk information within the company to improve awareness and understanding of the critical aspects of the company's operations that are essential to prevent accidents.

Northwest has described its vision for risk management program enhancements over the next four years and beyond in its Risk Management Demonstration Project Application, and in discussions with OPS. Northwest's risk management program Work Plan, submitted with its application, includes descriptions and milestones for all of the major program development activities. In approving this project, OPS will issue a Risk Management Order that requires:

- Implementing all risk management program development milestones included in the Northwest Work Plan, including specific activities in the following areas:

1. Institutionalizing a Formalized Risk Program
2. Program Integration Across the Entire Pipeline System
3. Risk Assessment Processes and Tools
4. Risk Control Activity Selection Processes and Tools
5. Performance Measurement and Feedback Processes
6. Roles and Responsibilities
7. Training
8. Documentation
9. Communication

- Sharing information with OPS about key risks on the Northwest system and the most effective activities to manage these risks.
- Implementing Northwest's Performance Monitoring Program, and reporting of all program-wide and project-specific performance measures to OPS.

The remainder of this section describes the specific risk control programs and activities Northwest will perform on its system to achieve superior safety and environmental protection. Section B.1 discusses two major system-wide initiatives, while Section B.2 addresses specific risk control activities that are being proposed in lieu of compliance with pipeline safety requirements when population density increases in the vicinity of the pipeline.

#### *B.1 Risk Management Programs for Improved Protection*

In assessing the risks on its system, Northwest has determined that some of the most significant risks are from geologic hazards where ground movement could result in pipeline failures. In 1997 and 1999, the company experienced failures in western Washington from landslides caused by high levels of rainfall on areas of slope instability. To address these risks, Northwest has implemented a comprehensive geologic hazard identification, monitoring, and remediation program, and will continue to expand and improve this program as part of the demonstration project.

The geologic hazards program helps identify where land movement might be a threat to pipeline safety, and implements activities that are designed to prevent failures in these locations. Northwest uses geotechnical consultants to survey its pipeline right-of-way to identify and prioritize areas susceptible to land movement. The initial geotechnical review identified several areas having an immediate threat of land movement where the company rerouted pipe, or took other actions to stabilize slopes and prevent land movement near the pipeline.

As part of its on-going geological hazard and assessment program, the company may identify additional areas that require remediation or rerouting. In these situations, the company considers the local environmental conditions, interacts with the responsible state and federal agencies, and takes appropriate precautions for environmental protection. When pipeline rerouting is performed, approval by the Federal Energy Regulatory Commission requires a review of environmental impacts posed by the project. Through the Risk Management Demonstration Project, OPS will have a greater awareness of these activities and will have an opportunity to provide input to the geological hazards program.

The company is also implementing a comprehensive monitoring program that measures precursors to land movement including pipe strain, soil movement, and moisture level. As of early 1999, Northwest

had installed 76 strain gauges, 21 piezometers, and 15 inclinometers on their system at locations identified by the geological hazards survey as being susceptible to land movement. Most of this instrumentation is in the following locations:

- In the vicinity of Douglas Pass between Rangely and Grand Junction in northwest Colorado;
- Between Vancouver, Washington and The Dalles, Oregon (east of the Portland area along the Columbia River); and
- Between Vancouver, Washington and Chehalis, Washington (north of the Portland area along the I–5 corridor, west of the Cascade Range).

Company personnel regularly monitor these instruments for indication of potential land movement. Using this early warning, the company is able to relieve stress on the pipe and prevent ruptures. The company has demonstrated that through this advance warning and remediation, it has prevented at least three ruptures in recent years.

One new element of the geological hazard monitoring program is a collaborative project with the OPS Western Region to examine the feasibility of remotely monitoring strain gauges. Through remote monitoring, the company is immediately informed of indications of potential land movement and is able to respond more rapidly to take protective actions. Remote monitoring can be especially helpful in areas that may be difficult to access locally. The Northwest/OPS project installed remote transmitters at the following three locations:

- Kalama Site, located approximately 25 miles north of Portland, Oregon;
- Mt. Pleasant Site, located approximately 26 miles north of Portland, Oregon; and
- Vail Mountain Site, located approximately 70 miles north of Portland, Oregon.

Strain gauge readings are transmitted directly to the Northwest gas control center in Salt Lake City. When strain gauge readings indicate stresses on the pipe consistent with potential land movement, a Northwest employee is dispatched immediately to the scene to assess the situation, and begin remediation activities if appropriate. These remediation activities typically involve slope stabilization, or localized excavation to relieve excessive stresses on the pipeline. Through this remote monitoring program, and its expanded and improved geological hazards program, Northwest will improve protection for the public and environment in the vicinity of geologic hazards.

To provide further non-regulatory required protection, Northwest is also proposing a stress corrosion cracking coupon monitoring program. This program warns of possible stress corrosion cracking, a failure mechanism that is difficult to predict and detect. This program involves installing test coupons in the right-of-way (but not attached to the pipeline itself) in locations where soil conditions might be conducive to stress corrosion cracking. Northwest has currently installed coupons at several locations in western Oregon. Through collaboration with Northwest in this program, OPS will better understand the conditions that contribute to stress corrosion cracking, thus contributing to other OPS initiatives to address stress corrosion cracking nationwide.

*B.2 Risk Control Activities for Improved Protection*

In addition to the geotechnical and stress corrosion cracking programs previously described, Northwest has also identified a few short pipe segments in Washington where it believes alternatives to the current regulations addressing population increase near a pipeline (49 CFR 192.611) would result in superior safety, environmental protection, and reliability. These six locations are described in Section D of this environmental assessment.

B.2.1 Current Regulatory Requirements

This section describes the current regulatory requirements in 49 CFR 192.611 that govern actions taken when population density increases along the pipeline.

OPS categorizes all locations along a gas pipeline according to the population near the pipeline (see 49 CFR 192.5). Locations with the smallest population (10 or fewer buildings intended for human occupancy within an area that extends 220 yards on either side of the centerline of any continuous one mile length pipeline) are designated as Class 1. As the population along the pipeline increases, the class location increases. For example, Class 2 locations have more than 10 but fewer than 46 buildings intended for human occupancy; Class 3 locations have 46 or more buildings, or are areas where the pipeline lies within 100 yards of either a building or small, well-defined outside area (such as a playground, recreation area, outdoor theater, or other place of public assembly) that is occupied by 20 or more persons on at least 5 days a week for 10 weeks in any 12 month period. Class 4 locations are any class location unit where buildings with four or more stories above ground are prevalent (e.g., large apartment buildings).

The Northwest line segments described in Section D consist of some which are changing from Class 1 to 2 (in Skamania County, WA, in the Columbia River Gorge, and in Cowlitz County, one mile north of Woodland, WA), and some which are changing from Class 2 to 3 (in Clark County, three miles north of Camas, WA; on the border of Cowlitz and Clark Counties in Woodland, WA; in Cowlitz County, three miles southeast of Longview; and in Skagit County, north of Seattle).

Pipeline safety regulations place more stringent design and operational requirements as the class location increases. When a pipe segment changes to a higher class (e.g., from class 1 to class 2), the operator must lower operating pressure to provide an additional margin of safety, or reconfirm that an adequate safety margin exists through pressure testing. In situations where it is not possible to reconfirm through testing, the operator must replace the pipe with new, stronger pipe if the operator does not want to lower operating pressure.

Because of the importance of providing reliable natural gas service to its customers, Northwest is not considering operating pressure reduction as a realistic alternative since this would decrease the quantity of gas that the company could deliver. Because pipe wall thickness prevents the ability to pressure test the line, Northwest would have to replace pipe in these short segments to comply with pipeline safety regulations. Replacing older pipe with stronger, new pipe eliminates the possibility that defects from the original construction, as well as corrosion that may have occurred since installation, will result in a failure.

B.2.2 Northwest's Risk Control Alternatives

For each class location change area described in Section D, Northwest has performed risk analyses to understand and characterize the existing risks to the pipeline, and defined the following specific alternatives to replacing pipe for controlling these risks.

- Internally inspecting class location change segments using an in-line inspection tool;
- Internally inspecting an extended length of pipe on either side of each class change segment. The total length of pipe that has been [1] internally inspected is approximately 160 miles.
- Repairing indications of corrosion or existing construction and outside force damage identified by the internal inspection for the entire 160 mile distance which includes the six class location change sites;
- Performing enhanced damage prevention activities. Damage caused by excavators near the pipeline represents one of the highest risks to the six class location change sites. This multi-faceted damage prevention program includes:

—Improving communication with local, county, and state planning commissions regarding future development plans near the pipeline so Northwest can better address potential excavation risks;
—Improving outreach with local developers, excavators, and utilities that may be working near the pipeline;
—Having more frequent face-to-face contact with landowners and residents near the pipeline right-of-way;
—Expanding distribution of information on pipeline awareness and potential hazards to nearby residents;
—Promoting ''green belts'' and other strategies with landowners to protect pipeline easements from development and construction activity;
—Using more visible pipeline markers to alert potential excavators of the line's presence; and
—Increasing aerial and local patrolling frequency including weekend patrols.

- Installing remote operators on its mainline block valves to rapidly close valves and isolate a segment of line that experiences

[1] OPS reviewed the results of this internal pipe inspection and documentation of the follow-up remediation projects to repair damage. This review confirmed that corrosion metal loss and construction defects were not significant threats to the pipeline's integrity. This was confirmed in the six small segments and across the entire pipeline distance examined in the inspection program. Based on these results, OPS concluded that the regulatory-required solution to replace pipe would have little impact on the most important risks affecting Northwest's pipeline.

a failure. This minimizes the quantity of gas that is released, and, in the event of ignition, would minimize the duration of the fire and the associated environmental damage and property loss; and

• Engaging state and local emergency management organizations to participate in training and exercises for a more effective and coordinated response in an emergency.

As part of the company's risk evaluation, Northwest has compared the risk reduction produced by these alternatives to that achieved by the current regulations. OPS has reviewed this evaluation in detail and concluded that the alternative risk control activities can be expected to reduce safety and environmental risk below that which would be achieved by compliance with current regulations. Furthermore, because of the resources saved by not having to replace pipe in these six locations, Northwest is able to enhance its geological hazards and stress corrosion cracking programs described in Section B.1, and conduct internal inspections on additional portions of its system.

As part of approving the Northwest Risk Management Demonstration Project, OPS is proposing to exempt Northwest from the pressure confirmation requirements of 49 CFR 192.611. In lieu of compliance with this requirement, Northwest will implement and monitor the effectiveness of the risk control alternatives described in this section as well as its geologic hazards and stress corrosion cracking programs. Commitments for implementing these activities will be included in the Risk Management Order authorizing the Northwest Demonstration Project.

**C. Alternatives Considered**

The Northwest Risk Management Demonstration Project described in the previous section (i.e., the ''proposed action'') evolved through a consultative process that began in the fall of 1997 and concluded in 1999. Consistent with the guiding principles established in the Program Framework (62 FR 14719), the consultation was conducted in partnership with the company. The process was not designed to be a one-sided, review process in which OPS approves or rejects a Demonstration Project proposal. Instead, the consultation process uses the collective expertise and experience of the company, OPS, and state pipeline safety representatives to define a Demonstration Project that will achieve the OPS programmatic goals (including superior safety and environmental protection) and be acceptable to the company.

This consultation process was a highly iterative interaction involving a number of meetings and discussions between OPS and Northwest personnel. These reviews and discussions covered a broad range of management systems and technical subjects, all of which were important in defining the Demonstration Project. These subjects included:

• Existing safety, pipeline integrity, and risk management programs and processes;

• Pipeline design, operation and maintenance procedures and practices;

• Operating experience and compliance record;

• Leak and incident history, including a thorough discussion of ground movement related events that have occurred in the last several years;

• Potential risk management program and process improvements;

• The approach used to identify and evaluate risks on the Northwest system (including a discussion of the computer model used to assist in the risk assessment process);

• The risk assessment results, including the most important system-wide and location specific risks;

• The risk control activities and programs proposed by Northwest to address the most significant system-wide risks, as well as risks in the six class location change sites;

• Observation of the specific pipeline right-of-way conditions in the class location change areas described in Section D;

• Performance measures for evaluating the effectiveness of its risk management program, as well as the individual risk control programs and activities designed to achieve superior performance; and

• Communication and outreach activities to inform the public and solicit input on the project.

The starting point for the OPS/Northwest consultation was the project definition proposed in Northwest's initial Letter of Intent. Through a series of meetings, the Demonstration Project gradually evolved. During the consultation, a number of alternative project definitions were considered. The alternatives considered various risk management programmatic approaches, different types and combinations of risk control activities, and different approaches to implement risk control activities. The final set of risk management program improvements, and risk control activities and programs described in Section B was the result of this evolutionary process. All of the issues raised by OPS, state regulators, and other stakeholders about Northwest's proposed project have been discussed within the consultative process, resolved to OPS's satisfaction, and are reflected in Northwest's application. Implementation of this Risk Management Demonstration Project is OPS's preferred alternative.

While the specific provisions in Section B represent a solid starting point for a successful Demonstration Project, this does not mean that additional changes will not be made over the four-year demonstration period. It is important to recognize that the Risk Management Demonstration Project includes a performance monitoring and feedback element. Through performance measurement and evaluation, OPS and Northwest will monitor the effectiveness of the Demonstration Project provisions. Based on this experience and feedback, changes to the specific risk control activities and programs may be made to enhance the level of safety and environmental protection provided by this project.

In addition, Northwest and OPS have agreed to work together to continually evaluate the most significant risks on the Northwest system and to identify cost-effective risk control activities (beyond the current regulatory requirements) to address these risks. Performance monitoring and feedback will lead to program improvements and additional risk control activities. It is highly likely that the Demonstration Project will continue to evolve over the four-year period to provide enhanced protection of the people and the environment in the vicinity of Northwest's facilities.

In addition to approval of the Northwest Demonstration Project, OPS also considered denial of the Northwest Demonstration Project application. Denial of this project would result in a considerable loss of valuable information to OPS concerning the sources of risks along the Northwest pipeline and the most effective means of managing these risks. OPS believes that denial of this project will result in a lost opportunity to provide superior safety and environmental protection for the communities living along the pipeline. Denial would also significantly diminish OPS's ability to evaluate the effectiveness of an institutionalized, integrated, and comprehensive risk management program in producing superior performance, and would hinder OPS's ability to satisfy the objectives of the risk management demonstration program, and the requirements of the previously-mentioned Presidential Directive.

**D. Affected Environment**

The product transported in the Northwest Pipeline System is pressurized natural gas which is lighter than air and flammable. If released as a result of a pipeline leak or rupture, natural gas can potentially ignite causing fires or explosions. Northwest's and industry's experience demonstrates that pipeline rupture-initiated fires almost always result in localized damage to the vegetation and animal life immediately adjacent to the failure site. A review of Northwest's recent ruptures showed that the area impacted by fire is less than 7 acres. It is possible that a rupture occurring in a heavily forested area in the dry summer season [2] could result in a forest fire, which would have a more extensive impact on wildlife and vegetation. However, the likelihood of a such an occurrence is believed to be very low. Other than localized vegetation damage in the event of a fire or explosion, there are no significant environmental impacts from natural gas pipeline leaks or ruptures.

Even though the environmental impacts from natural gas pipeline failures are minimal, Northwest and OPS have conducted a review of the environment in the vicinity of the pipeline to understand the resources which could be affected by pipeline failures on the Northwest system. The remainder of this section summarizes the key environmental features both system-wide and in the locations impacted by the regulatory alternatives described in Section B.2.2.

Northwest Pipeline Corporation operates approximately 3,900 miles of interstate

[2] Ground movement, which has been the most predominant cause of incidents on the Northwest system, occurs in the rainy season when landslide areas become active. The wet vegetation and saturated conditions at this time of the year significantly reduce the likelihood of the fire spreading beyond the immediate rupture site.

natural gas transmission line running through six western states, originating at the Canadian border near Sumas, Washington. The Northwest pipeline system traverses various terrain ranging from the forested foothills of the Cascade Range in Washington to rolling farmlands of Oregon and Idaho to the high desert, rangeland and Colorado Plateau areas in Wyoming, Utah and Colorado. The Northwest pipeline system could best be described by splitting the system into three distinct segments. These segments are the forested areas of western and southern Washington, rolling farmlands of eastern Oregon and western Idaho, and the semi-arid rangelands of southeastern Idaho, southern Wyoming and western Colorado. A summary of the environmental features of each region is provided below.

The first segment cuts through forested areas of western and southern Washington and the Columbia River Gorge along the Oregon-Washington border. The pipeline system passes through numerous state parks, the Fort Lewis Military Reservation, and the Columbia River Gorge National Scenic Area. The forested areas can be characterized as forests dominated by Douglas fir and Western hemlock and an understory of common fern, Oregon grape, serviceberry, and others. Numerous swift flowing rivers and streams are crossed that provide habitat to numerous salmon and other game and non-game fish species. The forests provide habitat to many bird species including the Northern Spotted owl, peregrine falcon, bald eagles, and others. Due to the large amount of annual rainfall many wetlands are associated with the system; more than in any other area crossed by the pipeline system.

The majority of the pipeline parallels Interstate 5 from the Canadian border to the Columbia River and as such, this portion of Northwest's system intersects areas of high residential, commercial and industrial use. Population densities are higher throughout this area than any other area of the system. Cultural resources have been discovered throughout the area that are both pre-historic and historic in nature.

The second segment begins where the pipeline system leaves the Columbia River and climbs up the foothills of eastern Oregon, including the Blue Mountains, and continues on to the rangelands of southeastern Idaho. This area is characterized by rolling hills and contains farmlands and dairies, the Snake River and Snake River plain, agricultural lands, the Fort Hall Indian Reservation, and low to moderate population densities. The pipeline also crosses the Umatilla Indian Reservation and Umatilla National Forest. Annual precipitation is much lower than the first segment and most if not all of the agricultural areas are irrigated. Vegetation types range from agricultural crops to stands of spruce, fir and aspen to semi-arid grasses and shrubs. Wildlife that could be encountered in this segment includes mule deer, pheasants, small mammals, and birds of prey. Few wetlands are associated with this segment and most rivers and streams that are crossed are small. Only a few cultural resource sites have been located throughout this area.

The third segment begins near Pocatello Idaho, located in the southeast corner of the state and continues through southwestern Wyoming into eastern Utah and southwest Colorado, ending near Durango Colorado. Population densities near the pipeline are low. The pipeline crosses sections of the Wasatch-Cache National Forest, Caribou National Forest, Flaming Gorge National Recreation Area, the Colorado River, Ashley National Forest, Arches National Park and the Southern Ute Indian Reservation. The terrain varies from rolling hills, to steep mountain ranges containing pinyon-juniper woodlands, lodgepole pine, and Engleman spruce. The understory is shrub woodland. Western high desert and the Colorado Plateau characterize the majority of this section. Most of the land crossed is managed by the Bureau of Land Management and is used primarily as rangeland for cattle and sheep. Sagebrush is the dominant plant species and overall vegetation is sparse. Annual precipitation is generally less than 15 inches per year with the majority coming in the form of snow. Wildlife species include mule deer, antelope, moose, small mammals and foraging raptors. Only a small amount of agricultural lands are crossed. This area contains many cultural resource sites and most are pre-historic.

Although Northwest is including its entire pipeline system in the Demonstration Project, locations at which OPS is considering regulatory alternatives are limited to specific geographic locations in western Washington. As described in Section B, Northwest is proposing alternative ways to control the increased risk due to population increases along the pipeline at six specific locations. In addition, Northwest is performing internal inspection and repair activities for extended segments of their pipeline around each of these class location change sites. The local environmental features for these extended areas and the six specific class location change sites are described below.

*Right-of-way between the Chehalis and Washougal Compressor Stations* (73 miles). Northwest has performed internal inspection and repair activities for this section of their system as described in Section B.2.2. The pipeline route from Northwest's Chehalis compressor station to the Washougal compressor station traverses mostly areas of mixed forests containing Douglas fir, western hemlock, sword fern, maples, oaks and other hardwoods as well as native shrubs.

A good portion of the 53 miles of forested lands are considered commercial timber land owned by both large timber corporations and small local forest product companies. The pipeline also traverses 12 miles of agricultural land and 8 miles that are considered residential, industrial or commercial lands. Much of the pipeline route is accessible to the public. There are areas of low population densities beyond the designated residential areas where housing is typically located on large view lots throughout this segment.

This section of Northwest's pipeline crosses the Fort Lewis Military Reservation for 4.4 miles. This area is wooded and used primarily for training military personnel. No designated state parks or state recreational areas are crossed, although many of the larger streams are used for recreation.

Within this 73 miles section are 75 stream or river crossings and 30 wetland areas covering approximately 10,300 feet of right-of-way. The significant river crossings include the Little Washougal river, East Fork of the Lewis river, Lewis river, Kalama river, Coweman river, Toutle river and the Cowlitz river.

Within the Chehalis to Washougal section are four segments ranging in length from 1.2 to 2.3 miles where OPS is considering alternatives to the requirements of 49 CFR 192.611. These locations and the specific environmental features at each site are described below:

—*3 miles north of Camas, WA in Clark County:* This 1.2 mile segment is changing from class location 2 to 3 (See section B.2.1 for definition of class locations). This segment contains 50 houses on large lots evenly dispersed across the class location change area. Within this segment are two stream crossings. One of these streams is habitat for the Coho Salmon and Steelhead Trout. The Hairy-Stemmed Checkermallow (listed as an endangered species by Washington state) also grows in the vicinity of the pipeline right-of-way. There are no known cultural or paleontological resources in the class location change area.

—*Along the border of Cowlitz and Clark Counties in Woodland, WA:* This 2.1 mile segment is changing from class location 2 to 3. This segment contains approximately 90 houses, the majority of which are near the center of the segment. Homes are sparse toward both ends of the 2.1 mile segment. However, additional construction continues. The Lewis River (a tributary of the Columbia River) passes through this segment. There is also one wetland area, that experiences seasonal flooding. There are no threatened or endangered plant or aquatic species in this segment. There are no known cultural or paleontological resources in the class location change area.

—*1 mile north of Woodland in Cowlitz County:* This 1.8 mile segment is changing from class location 1 to 2. The section contains 22 houses evenly dispersed throughout the area, with several new large lots planned. This segment contains one creek crossing. There are no threatened or endangered plant or aquatic species in this segment. There are no known cultural or paleontological resources in the class location change area.

—*3 miles southeast of Longview, WA:* This 2.3 mile segment is changing from class location 2 to 3. There are 73 houses on large lots evenly dispersed throughout the class location change segment. This segment contains three stream crossings. There are no threatened or endangered plant or aquatic species in this segment. There are no known cultural or paleontological resources in the class location change area.

*Right-of-way between the Washougal and Willard Compressor Stations* (41 Miles): As part of its risk control alternatives, Northwest performed an internal inspection and repair project over this section in 1999. The right-of-way between the Willard and Washougal compressor stations features approximately 31 miles of dense stands of Douglas fir, western hemlock, sword fern, and associated understory. The pipeline crosses rugged,

rocky terrain and sections of the Gifford Pinchot National Forest as well as 26 miles of the Columbia River Gorge National Scenic Area. Due to the steep terrain, public access is low.

Other notable areas crossed are one mile of Washington State's Beacon Rock State park, and a small section of land owned by the City of North Bonneville. The pipeline is near the city of Stevenson, Washington and the Willard National Fishery. Approximately seven miles of crop and pastureland are crossed, and about three miles of the pipeline system are cross-residential or commercial lands. Population densities within this section are low. Within this 41 mile section are 31 stream crossings and 6 wetland areas. This section of Northwest's system receives more annual rainfall than any other location.

Within the Washougal to Willard section there is one 2.8 mile segment located in Skamania County in the Columbia River Gorge where OPS is considering alternatives to the requirements of 49 CFR 192.611. This segment is changing from class location 1 to 2. This segment has 26 houses dispersed evenly throughout the area on large lots. Within this class location change site are six stream crossings, each draining into the Columbia River, and two wetland areas. One of these creeks is habitat to the Chum and Coho Salmon. There are no known cultural or paleontological resources in the class location change area.

*Right-of-way between the Mt. Vernon and Snohomish Compressor Stations* (46 miles): Northwest has performed internal inspection and repair activities for this section of their system as described in Section B.2.2. The Mt. Vernon to Snohomish portion of the Northwest system can be characterized as mainly forested lands, including about four miles of evergreen forest, 22 miles of mixed forest, and 12 miles of deciduous forest. No national forests are crossed, but this section contains many areas that are commercially logged. Also in this section are small areas of crop and pastureland (approximately 3 miles) and residential areas (3 miles). This section also crosses a small commercial quarry for approximately 0.3 miles. The terrain varies from the coastal foothills of the Cascade Range to gently sloping to level pastureland. This section of the line also parallels Interstate 5.

Within the 46 mile section, there are 29 stream and river crossings. The major rivers are the North Fork Stillaguamish River, the South Fork Stillaguamish River, and the Snohomish River. There are 37 designated wetlands that intersect the pipeline right-of-way between the Snohomish and Mt. Vernon compressor stations.

In the Mt. Vernon to Snohomish section there is one 0.6 mile pipe segment in Skagit County, north of Seattle, WA where OPS is considering alternatives to the requirements of 49 CFR 192.611. This segment is changing from class location 2 to 3. This segment contains a combination of housing with acreage, large lots, and subdivision housing. This site contains no stream crossings or wetlands. There are no endangered or threatened species, cultural or paleontological resources near the right-of-way.

OPS believes Northwest's Demonstration Project is unlikely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. OPS has briefed the U.S. Fish and Wildlife Service and the National Marine Fisheries Service on this project, and they agree with OPS's assessment.

**E. Environmental Consequences of Proposed Action and Alternative**

This section describes the environmental impacts of the two alternatives described in this Environmental Assessment: approval or denial of the Northwest Risk Management Demonstration Project. As stated in the previous section, the environmental impacts of natural gas pipeline failures are minimal, restricted to the vegetation and fauna in the immediate vicinity of the failure location that may burn if a fire or explosion occurs. The more significant risk impacts affecting this decision relate to public safety, property protection, and service reliability.

*E.1 Environmental Impact of Project Approval*

OPS's preferred alternative is to approve the Northwest Demonstration Project described in Section B. OPS believes that the risk control activities Northwest is proposing for the Demonstration Project will provide superior safety and environmental protection when compared to current regulatory requirements. This additional environmental protection comes primarily from reducing the likelihood that pipeline failures will occur. If the number of failures is reduced, the cumulative environmental damage from these failures will also be reduced. The reduction in the likelihood of future pipeline failures is expected to be realized system-wide through several activities and programs that exceed regulatory requirements, including:

- An expanded and enhanced geological hazards program. Northwest should improve its ability to anticipate when land movement near its pipeline might occur, and take appropriate action to prevent failure. Since some of the more significant geological hazards are in forested lands, a fire resulting from a pipeline failure could cause localized damage to the flora and fauna in the immediate vicinity of the failure site. Although highly unlikely, a failure in a heavily forested area could result in a larger forest fire with more severe consequences. Northwest's geological hazard program should reduce the likelihood of such an event.
- The surveying, monitoring, and remediation activities associated with the Northwest geological hazards program have minimal environmental impact. The surveys to identify locations susceptible to ground motion are conducted on foot or from the air, and involve no ground disturbance. Installing monitoring equipment (strain gauges, piezometers, and inclinometers) involves only localized soil disturbance. The extent of ground disturbance associated with remediation activities depends on the geologic features of the site and the action taken to minimize the likelihood of land movement. Mitigation of landslides or other geologic hazards sometimes involves heavy equipment and soil disturbance for grading slopes, installing surface and subsurface drains, and stabilizing streams and riverbanks. However, this disturbance is confined to well-defined areas near the right-of-way, and is necessary to help prevent even larger disturbances that might be caused by a landslide. When remediation activities are required, Northwest consults with appropriate federal, state, and local environmental and land use agencies to ensure the proposed work provides appropriate protection for the area affected by the remediation.
- The stress corrosion cracking coupon monitoring program. Northwest should be able to better understand when this condition might occur, and thus take appropriate remedial action.

Conducting the stress corrosion cracking coupon monitoring program has minimal environmental impact. Installation and removal of the coupons involves localized ground disturbance within the right-of-way on ground that has already been disturbed during the pipeline construction. Northwest also constructs a small enclosure over the coupon installation site to house instrumentation and other test equipment. This structure covers an area approximately five by seven feet. Stress corrosion cracking coupon testing is not performed near areas with sensitive environmental resources.

In addition, Northwest is proposing specific activities to reduce the risk from increased population at the specific sites identified in Section D. These specific activities are being proposed in lieu of pipe replacement at these sites (See Section B.2.1)

- Enhanced third party damage prevention activities should reduce the likelihood that excavators will damage the line.
- Internal inspection and repair of anomalies will produce additional protection from corrosion, construction and material defects, and prior outside force damage.

In addition, Northwest is also proposing to install remote operators on block valves near areas of relatively high land movement potential. These remotely operated valves will allow the gas control center to rapidly isolate a section of the line if a failure occurs, thereby minimizing the duration of any fire that might occur. In some situations, the ability to rapidly isolate the failed segment of line might minimize the associated environmental damage caused by a fire. Installation of remote operators on valves involves no environmental impact.

Northwest will also be conducting improved training and exercises with emergency personnel on how to respond effectively to pipeline failures. A more effective, coordinated response effort could also be important in limiting the extent of environmental damage, should a fire result.

Finally, the cleaning tool that is run prior to conducting the pipeline internal inspection also provides some indirect environmental benefits. This tool removes liquid hydrocarbons that collect in the line. These liquids could be discharged through the relief valves and thus dispersed to the

environment during a system blowdown. Northwest has experienced such a release in the past. Without the system modifications performed to allow internal inspection, this cleaning operation can not be performed. For the Chehalis to Washougal section that was inspected in 1998, this cleaning recovered 1900 gallons of liquids.

For these reasons, OPS is satisfied that the proposed project will provide superior protection for people living near the Northwest pipeline system. Although the project is expected to provide environmental benefits, due to the minimal environmental impact associated with gas pipeline failures, these beneficial impacts are not expected to be significant.

*E.2 Environmental Impact of Project Denial*

If OPS denies this Demonstration Project, Northwest would be required to replace or requalify pipe in the six class location change segments. OPS has determined that the risk control programs and activities described in Section B.1 and B.2.2 will reduce risk more than replacing or requalifying pipe. Thus, if required to replace or requalify pipe, the level of environmental protection would be slightly less than with the proposed action.

Pipe replacement also introduces some adverse environmental impacts that are avoided with the proposed action. Pipe replacement involves excavation of the right-of-way to replace the pipe segment. This results in disturbance of the vegetation and wildlife in the immediate vicinity of the pipeline.

To illustrate the reduction in construction-related environmental impacts, Northwest estimates that replacement and requalification of the four class location change segments in the Chehalis to Washougal section would impact approximately 110 acres of vegetation.

Denial of this project would also result in a loss of access to information to OPS concerning the sources of risks along the Northwest pipeline, as well as information on stress corrosion cracking and geological hazards that would be useful in addressing these hazards on the nation's other pipeline systems.

**F. Environmental Justice Considerations**

In accordance with Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority and Low-Income Populations), OPS has considered the effects of the demonstration project on minority and low-income populations. As explained above, approval of this project is expected to result in improved safety and environmental protection compared to currently applicable regulations, along all sections of the Northwest gas pipeline transmission system. Residents near the facility will have a comparable or greater level of protection than they presently have, regardless of the residents' income level or minority status. Therefore, the proposed project does not have any disproportionately high or adverse health or environmental effects on any minority or low-income populations near the demonstration facility.

**G. Information Made Available to States, Local Governments, and Individuals**

OPS has made the following documents publicly available, and incorporates them by reference into this environmental assessment:

(1) ''Demonstration Project Prospectus: Northwest Pipeline Corporation'', October 1999, available by contacting Elizabeth M. Callsen at 202–366–4572. Purpose is to reach the public, local officials, and other stakeholders, and to solicit their input about the proposed project. Mailed to over 300 individuals, including Local Emergency Planning Committees (LEPC) and other local safety officials, Regional Response Teams (RRT) representing other Federal agencies, state pipeline safety officials, conference attendees, and members of public interest groups.

(2) Northwest ''Application and Work Plan for DOT-OPS Risk Management Demonstration Program'', available in Docket No. RSPA–99–5611 at the Dockets Facility, U.S. Department of Transportation, Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001, (202) 366–5046.

OPS has previously provided information to the public about the Northwest project and has requested public comment, using many different sources. OPS aired four electronic broadcasts (June 5, 1997; September 17, 1997; December 4, 1997; and March 1998.) reporting on demonstration project proposals (the last three of which provided specific information on Northwest's proposal). Two earlier **Federal Register** notices (62 FR 40135; July 25, 1997, and 62 FR 53052; October 10, 1997) informed the public that Northwest was interested in participating in the Demonstration Program, provided general information about technical issues and risk control alternatives to be explored, and identified the geographic areas the demonstration project would traverse.

Since August 1997, OPS has used an internet-accessible data system called the Pipeline Risk Management Information System (PRIMIS) to collect, update, and exchange information about all demonstration candidates, including Northwest (PRIMIS can be accessed from the OPS website at http://ops.dot.gov).

At a November 19, 1997, public meeting OPS hosted in Houston, TX, Northwest officials presented a summary of the proposed demonstration project and answered questions from meeting attendees. (Portions of this meeting were broadcast on December 4, 1997, and March 1998.)

**H. Listing of the Agencies and Persons Consulted, Including Any Consultants**

*Persons/Agencies Directly Involved in Project Evaluation*

Stacey Gerard, OPS/U.S. Department of Transportation
Tom Fortner, OPS/U.S. Department of Transportation
Ed Ondak, OPS/U.S. Department of Transportation
Bruce Hansen, OPS/U.S. Department of Transportation
Linda Daugherty, OPS/U.S. Department of Transportation
Chris Hoidal, OPS/U.S. Department of Transportation/Western Region
Zack Barrett, OPS/U.S. Department of Transportation/Western Region
Joe Robertson, OPS/U.S. Department of Transportation/Western Region
Kent Evans, Utah Department of Commerce
Dennis Lloyd, Washington Utilities and Transportation Commission
Robert Brown, Cycla Corporation (consultant)
Jim Quilliam, Cycla Corporation (consultant)
Jim vonHerrmann, Cycla Corporation (consultant)

*Persons/Agencies Receiving Briefings/Project Prospectus/Requests for Comment*

Regional Response Team (RRT), Regions 8 and 10, representing the Environmental Protection Agency; the Coast Guard; the U.S. Departments of Interior (including the U.S. Fish and Wildlife Service), Commerce (including National Marine Fisheries Service), Justice, Transportation, Agriculture, Defense, State, Energy, Labor; Health and Human Services; the Nuclear Regulatory Commission; the General Services Administration; and the Federal Emergency Management Agency.

**I. Conclusion**

Based on the above-described analysis of the proposed demonstration project, OPS has determined that there are no significant impacts associated with this action.

[FR Doc. 99–30906 Filed 12–1–99; 8:45 am]

**BILLING CODE 4910–60–P**

## DEPARTMENT OF TRANSPORTATION

### Saint Lawrence Seaway Development Corporation Advisory Board; Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation (SLSDC), to be held at 9:00 a.m. on Friday, December 3, 1999, at the Hotel Intercontinental, 360 Rue St. Antoine, Montreal, Quebec, Canada. The agenda for this meeting will be as follows: Opening Remarks; Consideration of Minutes of Past Meeting; Review of Programs; New Business; and Closing Remarks.

Attendance at meeting is open to the interested public but limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the meeting. Persons wishing further information should contact not later than December 2, 1999, Marc C. Owen, Advisory Board Liaison, Saint Lawrence Seaway Development Corporation, 400 Seventh Street, SW, Washington, DC 20590; 202–366–6823.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued at Washington, DC on November 29, 1999.

**Marc C. Owen,**

*Advisory Board Liaison.*

[FR Doc. 99–31273 Filed 11–29–99; 4:15 pm]

**BILLING CODE 4910–61–P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Finance Docket No. 33826]**

### North Carolina Ports Railway Commission d/b/a Beaufort & Morehead Railway—Acquisition and Operation Exemption—Beaufort & Morehead Railway, Inc.

North Carolina Ports Railway Commission d/b/a Beaufort & Morehead Railway (NCPRC), a state agency which is a non-operating railroad, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire the railroad franchise and business of Beaufort & Morehead Railway, Inc. (BMRI), an entity it already controls. BMRI will assign its lease of a line [1] of railroad extending from milepost 0.0 to milepost 0.87, a distance of .87 miles in Carteret County, NC, to NCPRC. BMRI will cease being a railroad, and NCPRC will become the operator of the line.

The transaction is scheduled to be consummated on or after November 26, 1999.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33826, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Fritz R. Kahn, Esq., 1100 New York Avenue, NW Suite 750 West, Washington, DC 20036.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: November 24, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

*Vernon A. Williams,*

*Secretary.*

[FR Doc. 99–31173 Filed 12–1–99; 8:45 am]

**BILLING CODE 4915–00–P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Docket No. AB–391 (Sub-No. 7X)]**

### Red River Valley & Western Railroad Company—Abandonment Exemption—in McLean, Sheridan and Wells Counties, ND

Red River Valley & Western Railroad Company (RRVW) has filed a notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon approximately 56.34 miles of rail line from milepost 29.16 west of Bowdon and to milepost 85.5, at the end of the track, west of Turtle Lake, in McLean, Sheridan and Wells Counties, ND. The line traverses United States Postal Service Zip Codes 58575, 58559, 58463, 58444 and 58451.

RRVW has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic moving over the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 1, 2000, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by December 13, 1999. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by December 22, 1999 with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Rose-Michele Weinryb, Esq., Weiner, Brodsky, Sidman & Kider, P.C., 1350 New York Avenue, NW, Suite 800, Washington, DC 20005–4797.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

RRVW has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by December 7, 1999. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), RRVW shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by RRVW's filing of a notice of consummation by December 2, 2000, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: November 22, 1999.

[1] *See Beaufort & Morehead Railway, Inc.—Lease and Operation Exemption—Beaufort & Morehead Railroad Company,* Finance Docket No. 31833 (ICC served Feb. 21, 1991).

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 99–30911 Filed 12–1–99; 8:45 am]

**BILLING CODE 4915–00–P**

## DEPARTMENT OF THE TREASURY

### Financial Crimes Enforcement Network

### Agency Information Collection Activities; Proposed Collection; Comment Request; Request for Research Form

**AGENCY:** Financial Crimes Enforcement Network, Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, the Financial Crimes Enforcement Network (''FinCEN'') invites the general public and other governmental agencies to comment on its proposal to revise the collection of information through its Request for Research form that is used by governmental officials when utilizing FinCEN's services.

**DATES:** Written comments should be received on or before January 31, 2000.

**ADDRESSES:** Direct all written comments to: Office of Chief Counsel, Financial Crimes Enforcement Network, Department of the Treasury, Suite 200, 2070 Chain Bridge Road, Vienna, VA 22182–2536, *Attention:* PRA Comments—Request for Research form. Comments also may be submitted by electronic mail to the following Internet address: ''regcomments@fincen.treas.gov'' with the caption in the body of the text, ''*Attention:* PRA Comments—Request for Research form.''

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or for a copy of the form should be directed to: Christine Schuetz, Attorney-Advisor, FinCEN at (703) 905–3644, or Penny Perry-Jackson, Program Management Specialist, FinCEN, at (703) 905–3540.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)), FinCEN is soliciting comments on the collection of information described below.

*Title:* Request for Research form.

*OMB Number:* 1505–0139.

*Form Number:* TDF90–22.45.

*Abstract:* FinCEN provides investigative support for federal, state and local law enforcement. The Request for Research form is a vehicle used to verify the identity of authorized personnel, and to enter information about such personnel into FinCEN's automated data base. It provides FinCEN with the means to ensure that law enforcement and other sensitive information is disclosed only to authorized personnel in accordance with FinCEN security requirements.

*Current Actions:* The Request for Research form is being revised to clarify some of the questions on the form and to request the submission of additional identifying information about the requestor and the subject(s) of the request. A new question also is being added to part C of the form that seeks the permission of the requestor for FinCEN to notify another agency that it and the requestor have made requests for research on the same subject(s).

*Type of Review:* Revision of currently approved collection.

*Affected Public:* Federal Government/ State and Local Government.

*Estimated Number of Respondents:* 7000.

*Estimated Time Per Respondent:* 30 minutes.

*Estimated Total Annual Burden Hours:* 3500.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Dated: November 22, 1999.

**James F. Sloan,**

*Director, Financial Crimes Enforcement Network.*

[FR Doc. 99–31297 Filed 12–1–99; 8:45 am]

**BILLING CODE 4820–03–P**

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

November 24, 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 January 31, 2000, to be assured of consideration.

**Internal Revenue Service (IRS)**

*OMB Number:* 1545–1509.

*Form Number:* IRS Form 941 TeleFile.

*Type of Review:* Extension.

*Title:* Employer's Quarterly Federal Tax Return.

*Description:* Form 941 TeleFile is used by employers to report by phone payments made to employees subject to income and social security and Medicare taxes and the amounts of these taxes.

*Respondents:* Business or other for-profit, Not-for-profit institutions, State, Local or Tribal Government.

*Estimated Number of Respondents/ Recordkeepers:* 230,000.

*Estimated Burden Hours Per Respondent/Recordkeeper:*

Recordkeeping: 4 hr., 32 min.
Learning about the law or the form: 18 min.
Preparing the Tax Record: 23 min.
TeleFile phone call: 11 min.

*Frequency of Response:* Quarterly.

*Estimated Total Reporting/ Recordkeeping Burden:* 4,968,000 hours.

*OMB Number:* 1545–1514.

*Regulation Project Number:* REG–209040–88 NPRM.

*Type of Review:* Extension.

*Title:* Qualified Electing Fund Elections.

*Description:* The regulations permit certain shareholders to make a special section 1295 election with respect to certain preferred shares of a PFIC. Taxpayers must indicate the election on a Form 8621 and attach a statement containing certain information and representations. Form 8621 must e filed annually. The shareholder also must obtain and retain a copy of, a statement from the corporation as to its status as a PFIC.

*Respondents:* Individuals or households, Business or other for-profit.
*Estimated Number of Respondents/Recordkeepers:* 1,030.
*Estimated Burden Hours Per Respondent/Recordkeeper:* Varies.
*Frequency of Response:* On occasion.
*Estimated Total Reporting Burden:* 600 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.

**Lois K. Holland,**

*Departmental Reports Management Officer.*

[FR Doc. 99–31286 Filed 12–1–99; 8:45 am]

BILLING CODE 4830–01–U

## DEPARTMENT OF TREASURY

## Internal Revenue Service

## Announcement of Opportunity To Obtain a Debt Indicator in a Pilot Program for Tax Year 1999 Form 1040 IRS e-file and On-Line Returns

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

**ACTION:** Notice.

**SUMMARY:** Authorized IRS e-file Providers, Form 1040 On-Line Transmitters and financial institutions may apply to obtain a Debt Indicator for their customer/client taxpayers in exchange for actively screening individual income tax returns and return information for potential fraud and abuse and to reporting the findings to the IRS in accordance with a proposal accepted with a proposal accepted by the IRS.

**ADDRESSES:** Questions or concerns should be directed to Lisa Johnson at the IRS, Electronic Tax Administration, Electronic Program Operations Office, OP:ETA:O:C, New Carrollton Federal Building, ATTN: Lisa Johnson, 5000 Ellin Road C4–187, Lanham, MD 20706 or via E-mail at LJJOHN00@m1.irs.gov or faxed to (202) 283–4786, ATTN: Lisa Johnson.

**SUPPLEMENTARY INFORMATION:**

### Background

The Debt Indicator is useful to taxpayers who wish to use their anticipated individual income tax return refunds to apply for bank products, for example, refund anticipation loans. The Debt Indicator tells a taxpayer whether or not there are any scheduled offsets against the refund by IRS, for example, for back taxes, or by the Financial Management Service (FMS), for example, for outstanding child support or federal debts, such as student loans. These bank products are offered by financial institutions in conjunction with tax practitioners that file returns electronically. An indicator called the Direct Deposit Indicator or DDI was available to taxpayers seeking bank products prior to 1994.

The DDI was discontinued because it was thought to be a contributing factor to fraudulent claims for the Earned Income Tax Credit. The new Debt Indicator seeks to address this issue through a joint fraud detection program. Authorized IRS e-file Providers, Form 1040 On-Line Filers, and financial institutions will sign agreements with the IRS to actively screen returns and return information for potential fraud and abuse and report findings to the IRS. Parties to the agreements are eligible to obtain the Debt Indicator for their taxpayers who apply for bank products and sign consents to disclose the Debt Indicator to Authorized IRS e-file Providers, Form 1040 On-Line Filers, and financial institutions. The application and instructions for applying to obtain an agreement follow.

Approved:

**Terence H. Lutes,**

*National Director, Electronic Program Operations Office, Electronic Tax Administration.*

### Application for Memorandum of Agreement Debt Indicator

Name: _____
DBA Name: _____
Address: _____
Authorized Representative: _____
Phone Number: _____
Fax Number: _____
ETIN(s): _____
EFIN(s) Covered By This Proposal: _____

(attach separate sheet if necessary)

IRS Authorized Representative: Lisa Johnson
Phone Number: (202) 283–0980
Fax Number: (202) 283–4786
E-mail: *LJJOHN00@m1.irs.gov*
Address: IRS, Attn: Lisa Johnson, OP:ETA:O:C, 5000 Ellin Road, Lanham, MD 20706.

### 1. Introduction

(A) The Internal Revenue Service (IRS) faces the challenge of eliminating barriers by providing incentives and using competitive market forces to make progress towards its goal to electronically transact 80% of IRS business by the year 2007 and the interim goal that, to the extent practicable, all returns prepared electronically should be filed electronically by the year 2002. One of these incentives was the issuance of the Debt Indicator Pilot Request For Agreement (RFA) that was issued on June 22, 1999. This RFA provided the opportunity for electronic return originators (EROs), transmitters and On-line service providers to obtain a Debt Indicator in exchange for screening the returns they transmit for potential abuse. Authorized e-file providers and financial institutions that did not submit proposals under this RFA or are not covered under one of the announced agreements may still apply to obtain the DI for the upcoming filing season through this Memorandum of Agreement (MOA).

(B) The Electronic Tax Administration (ETA) MOA between the Internal Revenue Service (IRS) and the Participant sets forth the complete agreement of the parties with regard to participation in the Debt Indicator Pilot

for electronically filed individual (1040 series) federal income tax returns during the 2000 filing season which covers the 1999 tax year. The parties agree that, except as provided below, the participant will be treated as an ERO, On-line service provider, transmitter, software developer or financial institution for the 2000 IRS e-file program as those terms are defined in Revenue Procedures 98–50 and 98–51. Also, except as provided below, the parties agree to comply with all relevant statutory, regulatory, and administrative requirements relating to the electronic filing program.

(C) The IRS is looking for creative and innovative abuse and fraud detection beyond what is required in Revenue Procedures 98–50 and 98–51 in addition to creative and innovative ways to perform the due diligence required by these Revenue Procedures. Partnered proposals offer greater opportunities for more comprehensive screening of returns and return information and have a greater chance of being accepted by the IRS.

(D) There is no deadline for filing this Agreement.

**2. Authority**

This Agreement is entered into pursuant to (1) the authority vested in the Commissioner of the IRS by Treasury Order 150–10 to administer and enforce the internal revenue laws and revenue procedures for electronic filing and (2) the authority vested in the Secretary of the Treasury by the IRS Restructuring and Reform Act of 1998, implemented in Section 6011 of the Internal Revenue Code, to promote the benefits of and encourage the use of ETA programs.

*3. Background and purpose*

In exchange for providing the screening procedures in the accepted proposal, the IRS will provide to the taxpayer through the selected Participant, a debt indicator for taxpayers who have entered into an agreement with a financial institution. This indicator may show the reason that the refund changed was because of a debt owed to either the IRS or Financial Management Service (FMS) or both.

The return software must also be modified to include a voluntary consent to disclose when the RAL indicator field is significant. This authorizes the Service to provide the debt indicator when financial agreements have been made with the taxpayer.

**4. Definitions**

(A) ''Days'' as used herein means calendar days unless otherwise stated.

(B) A ''fraudulent return'' is a return in which the individual is attempting to file using someone else's name or SSN on the return or where the taxpayer is presenting documents or information that have no basis in fact. NOTE: Fraudulent returns should not be filed with the Service.

(C) A ''potentially abusive return'' is a return (1) that is not a fraudulent return; (2) that the taxpayer is required to file; (3) but that may contain inaccurate or unsubstantiated information (including, but not limited to, the information subject to reporting) that may lead to an understatement of a liability or an overstatement of a credit, and production of a refund to which the taxpayer may not be entitled.

**Note:** The decision not to provide a RAL or other bank product does not necessarily make it an abusive return.

(D) Refund offset is the reduction of the taxpayer's claimed refund in whole or in part for unpaid IRS tax debt or past-due debts submitted to FMS' Treasury Offset Program for child support arrearages, Federal agency non-tax debt, or state income tax.

(E) Refund delay is the suspension of the refund process resulting from systemic reviews.

(F) Sub-Participant is an ERO, On-line service provider, Transmitter, or Financial Institution other than the Participant who has entered into an Agreement with the Participant to perform some of the duties and responsibilities of the Participant.

**5. Duties and Responsibilities of the Participant**

(A) The Participant will perform all the screening activities included in the checklist submitted with, and incorporated by reference into, this Agreement.

(B) The Participant must agree to track and report (by SSN) to the IRS on a weekly basis, the potentially abusive federal individual income tax returns electronically filed and the reason(s) the return may be abusive. The format is as follows and should be delivered via electronic mail to HQ-ORF@ci.irs.gov.

| Field name | Field length | Format |
|---|---|---|
| Filer EFIN | 6 | Alpha/Numeric |
| Primary SSN | 9 | Alpha/Numeric |
| W2 | 1 | Alpha (Y or blank) |
| Dependents | 1 | Alpha (Y or blank) |
| Schedule C | 1 | Alpha (Y or blank) |
| Filing Status Change | 1 | Alpha (Y or blank) |
| Telephone # Invalid | 1 | Alpha (Y or blank) |
| Duplicate SSN | 1 | Alpha (Y or blank) |
| Invalid SSN | 1 | Alpha (Y or blank) |
| Duplicate Address | 1 | Alpha (Y or blank) |
| Other | 1 | Alpha (Y or blank) |
| Return Filed | 1 | Alpha (Y or blank) |
| Explanation of Other | 250 | Alpha |

*Filer EFIN*—Electronic Filer Identification Number of the ERO processing the return.

*Primary SSN*—Primary SSN on the return, which is suspected of abuse/fraud.

*W2*—the W2 was the reason for suspecting abuse/fraud.

*Dependents*—questions about the dependents was the reason for suspecting fraud (i.e. last name of dependent is different from taxpayer).

*Schedule C*—no substantiation for the Schedule C.

*Filing Status Change*—questions about the filing status changes was the reason for suspecting abuse/fraud.

*Telephone Number Invalid*—telephone numbers given by the taxpayer were found to be either invalid, disconnected, or that the taxpayer was not known by the person answering the telephone.

*Duplicate SSN*—a duplicate primary, secondary, dependent or EIC qualifying

SSN is found within the ERO's own universe of returns.

*Invalid SSN*—the ERO determines that the primary, secondary, dependent or EIC qualifying SSN is invalid.

*Duplicate Address*—multiple returns filed for the same address for seemingly unrelated taxpayers found within the ERO's own universe of returns.

*Other*—any reason, not conforming to those previously listed, for which a return could be considered fraudulent.

*Return Filed*—the ''Y'' will indicate that the return was filed and blank will mean that the return was not filed.

If you have additional information, provide it in a flat file format, comma delimited (e.g., SSN information on returns that were not processed).

(C) The Participant will provide the Service with a Final Pilot Finding report. This report will be sent to the Authorized IRS Representative via email no later than May 31, 2000. The report shall include information on each of the following items:

- Number of RALs applied for and 1999 vs. 2000 comparison
- Average amount of RAL and 1999 vs. 2000 comparison
- Distribution of RAL applicants with respect to adjusted gross income (AGI)
- Range of fees charged for RALs
- Comparison of fees prior to DI pilot
- Breakdown of e-filers between RAL applicants and non-RAL applicants and 1999 vs. 2000 comparison

**6. Liability**

The IRS shall not be liable for any injury to the Participant's personnel or damage to the Participant's property unless such injury or damage is due to negligence on the part of the Government and is recoverable under the Federal Tort Claims Act (28 U.S.C. 1346(b)), or pursuant to other statutory authority.

**7. Third Party Rights**

This Agreement does not alter, change, or eliminate any rights or responsibilities that taxpayers have under the Internal Revenue Code.

**8. Period of Performance and Termination**

(A) This Agreement shall be in effect from the date of IRS' signature for the 2000 filing season with an option to extend for the 2001 filing season subject to a modification of the agreement.

(B) This Agreement may be terminated by either party upon 30 days after receipt of written notice signed by either of the signatories to this Agreement or by their successors or designees. The Participant understands that in the event the IRS terminates this Agreement, the Participant has no right to any claim against the Government, including a claim for termination costs.

**9. Modification**

This Agreement may be modified by the IRS, and the Participant may submit requests for modifications to the IRS Authorized Representative. All modifications must be in writing and signed by both of the signatories to this Agreement or by their successors or designees.

**10. Inspection**

(A) The IRS has the right to inspect the work performed by the Participant or any Sub-Participant as stated below. If the duties and responsibilities of the Participant or any Sub-Participant are not being met, then the IRS may terminate this Agreement for default, and the Participant and any Sub-Participant may be suspended from the IRS e-file program.

(B) The IRS may inspect the work performed by the Participant upon reasonable notice to the Participant's Authorized Representative and in a manner that will not interfere with the Participant's performance of this Agreement. The Participant shall provide access for this purpose to the IRS' Authorized Representative(s) to the location where the work is being performed. The IRS shall also have the right to inspect the Participant's Report(s) of the work performed as a result of this Agreement. The IRS's Authorized Representative shall provide the results of any inspections to the Participant's Authorized Representative for any necessary resolution.

**11. Release of Information**

The Participant shall provide written notice to the IRS and obtain consent in advance of releasing any national press releases for the purposes of performing the work described in this Agreement or publicizing this partnership with the IRS. The text and purpose of the intended release shall be provided to the IRS's Authorized Representative for this Agreement. The Service may monitor advertising standards as authorized in Section 12 of Revenue Procedure 98–50.

**12. Remedies**

There are no remedies other than the termination rights described in 11(B) and (C) of this Agreement unless provided in a modification to this Agreement. The Contract Disputes Act does not apply.

**13. Order of Precedence**

In the event the terms of this Agreement are inconsistent with the terms of the checklist, the Agreement shall take precedence.

**14. Governing Law**

This Agreement is subject to and governed by the laws of the United States of America, that is, by Federal law, and not by the laws of any State. The terms of this Agreement are not intended to alter, modify, or rescind any current Agreement or provision of Federal law now in effect. Any provision of this Agreement that conflicts with Federal law will be null and void.

Signatures

Participant:

**Terence H. Lutes,**

*National Director, ETA Operations.*

**Instructions**

The IRS is encouraging the formation of partnerships among EROs, transmitters, software developers and financial institutions to meet the requirements of this agreement more efficiently and to cover more participants. These partnerships may apply as a group and the privileges obtained through successful applications will be extended to all member partners.

Software developers, transmitters and financial institutions are encouraged to initiate these partnership applications on behalf of their customers—EROs, direct transmitters, small banks—to ensure that their entire customer bases have access to the Debt Indicator. Partnered proposals offer greater opportunities for more comprehensive screening of returns and return information and have a greater chance of being accepted by the IRS.

Individual EROs that apply will need to negotiate changes with their software company before they can participate.

In order to receive this indicator for you and/or your clients, use the application and sample checklist (Attachment 1) as resources to formulate your submission. Include all screening procedures currently employed by all members of the partnership. This could include crosschecks of all data received from EROs that could identify improbable information; software checks that can identify abusive scenarios within ERO practices and fraudulent or abusive situations; transmitter databases that can identify duplicated information as well as facilitating the reporting process; and fraud screening services and other checks.

**Attachment 1**

SAMPLE CHECKLIST

| | Current Check | Willing to Do for 2000 |
|---|---|---|
| **ERO** | | |
| -Identification: | | |
| Require two forms of valid identification (one must be a photo ID) | ☐ | ☐ |
| Verify telephone numbers | ☐ | ☐ |
| Verify residence | ☐ | ☐ |
| -Social Security Card | | |
| Require a valid SSN card for all SSNs on return | ☐ | ☐ |
| -Maintain Previous Client Database | | |
| Document change in filing status | ☐ | ☐ |
| Document change in number or names of dependents | ☐ | ☐ |
| Document multiple returns to same address in prior year | ☐ | ☐ |
| **INCOME VERIFICATION** | | |
| -Questionable W–2s | | |
| Verification of W–2s when one of the following exist: | | |
| • Typed, handwritten or altered forms | ☐ | ☐ |
| • W–2s with all copies attached | ☐ | ☐ |
| • Unknown companies (out of area) | ☐ | ☐ |
| • W–2s that differ from other forms issued from the same company | ☐ | ☐ |
| -Schedule C or Other Income Reporting Forms | | |
| Documentation of income | ☐ | ☐ |
| Validation and recording of expenses | ☐ | ☐ |
| -EITC and Filing Status Verification | | |
| Complete Due Diligence worksheet | ☐ | ☐ |
| Document lack of child care expenses where potential exists | ☐ | ☐ |
| Utilize tax package and requirements to ensure: | | |
| A child can be claimed as a dependent | ☐ | ☐ |
| The taxpayer can qualify as Head of Household | ☐ | ☐ |
| A child can be considered as a qualifying child for EITC purposes | ☐ | ☐ |
| -Return Verification | | |
| Document Schedule A deductions | ☐ | ☐ |
| Software Developer | | |
| Validate SSNs are within valid ranges | ☐ | ☐ |
| Check for Duplicate SSNs | ☐ | ☐ |
| Check for Multiple Head of Household Returns at the same address | ☐ | ☐ |
| Check for improbable Federal withholding amounts | ☐ | ☐ |
| Check for incorrect Social Security or Medicare Withholding | ☐ | ☐ |
| Verify math computations are correct | ☐ | ☐ |
| Verify format is correct | ☐ | ☐ |
| Transmitter | | |
| Verify ERO suitability | ☐ | ☐ |
| Maintain databases for the following: | | |
| Duplicate SSNs | ☐ | ☐ |
| Addresses and phone numbers for jails, drug treatment centers, health/welfare agencies, hotels, etc. | ☐ | ☐ |
| SSNs of deceased persons | ☐ | ☐ |
| Credit card fraud | ☐ | ☐ |
| Bank | | |
| Contract with a fraud screening service for bank products connected to tax returns | ☐ | ☐ |
| Request Credit Reports for loan customers | ☐ | ☐ |
| Other | | |
| Feel free to add any additional screens you currently employ. Attach additional pages as necessary. | | |

Use this space to further describe any of the above screens. Attach additional pages as necessary.

[FR Doc. 99–31313 Filed 12–1–99; 8:45 am]

BILLING CODE 4830–01–U

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0132]**

## Proposed Information Collection Activity: Proposed Collection; Comment Request

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This

notice solicits comments on the information needed to determine a veteran's eligibility for specially adapted housing or for a special home adaptation grant.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before January 31, 2000.

**ADDRESSES:** Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0132'' in any correspondence.

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501—3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Title:* Veteran's Application in Acquiring Specially Adapted Housing or Special Home Adaptation Grant, VA Form 26–4555.

*OMB Control Number:* 2900–0132.

*Type of Review:* Extension of a currently approved collection.

*Abstract:* The form is used to gather the necessary information to determine the veteran's eligibility for specially adapted housing or the special home adaptation grant.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 133 hours.

*Estimated Average Burden Per Respondent:* 10 minutes.

*Frequency of Response:* Generally one-time.

*Estimated Number of Respondents:* 800.

Dated: November 19, 1999.

By direction of the Secretary.

**Donald L. Neilson,**

*Director, Information Management Service.*

[FR Doc. 99–31262 Filed 12–1–99; 8:45 am]

**BILLING CODE 8320–01–U**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0562]**

## Proposed Information Collection Activity: Proposed Collection; Comment Request

**AGENCY:** Veterans Health Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Health Administration (VHA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement, without change, of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to access the rates that veterans are offered and received critical health promotion and disease prevention services.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before January 31, 2000.

**ADDRESSES:** Submit written comments on the collection of information to Ann W. Bickoff, Veterans Health Administration (193B1), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0562'' in any correspondence.

**FOR FURTHER INFORMATION CONTACT:** Ann W. Bickoff at (202) 273–8310 or FAX (202) 273–9381.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Title:* Survey of Health Promotion and Preventative Medicine Services, VA Form 10–21000(NR).

*OMB Control Number:* 2900–0562.

*Type of Review:* Reinstatement, without change, of a previously approved collection for which approval has expired.

*Abstract:* Congress has mandated that VA assess the rates that veterans are offered and receive critical health promotion and disease prevention services, and report these rates to Congress on an annual basis, Public Law 102–585. Existing data resources in VA are unable to provide complete documentation regarding receipt of those services. An annual mail survey is necessary to provide the necessary information.

*Affected Public:* Individuals and households.

*Estimated Annual Burden:* 5,777 hours.

*Estimated Average Burden Per Respondent:* 10 minutes.

*Frequency of Response:* Annually.

*Estimated Number of Respondents:* 51,900.

Dated: November 2, 1999.

By direction of the Secretary.

**Barbara H. Epps,**

*Management Analyst, Information Management Service.*

[FR Doc. 99–31263 Filed 12–1–99; 8:45 am]

**BILLING CODE 8320–01–U**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0018]**

## Proposed Information Collection Activity: Proposed Collection; Comment Request

**AGENCY:** Office of General Counsel, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Office of General Counsel (OGC), Department of Veterans Affairs (VA), is announcing an opportunity for

public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement, with change, of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to apply for accreditation to represent claimants for benefits before VA and to confer power of attorney on an attorney, agent or individual service organization representative for claim representation purposes.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before January 31, 2000.

**ADDRESSES:** Submit written comments on the collection of information to Sheldon Bolasny (022D1), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0018'' in any correspondence.

**FOR FURTHER INFORMATION CONTACT:** Sheldon Bolasny at (202) 273–6321 or FAX (202) 273–6404.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, OGC invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of OGC's functions, including whether the information will have practical utility; (2) The accuracy of OGC's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Titles and Form Numbers*

a. Application for Accreditation as Service Organization Representative, VA Form 21.

b. Appointment of Individual as Claimant's Representative, VA Form 22a.

*OMB Control Number:* 2900–0018.

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

*Abstract:* VA Form 21 is used to obtain basic information necessary to determine whether an individual may be accredited as a service organization representative for the purposes of representation of claimants before the VA. The information is used to evaluate qualifications, ensure against conflicts of interest, and allow appropriate organization officials to certify the character and qualifications applicants. It is designed to ensure that regulatory standards for accreditation have been met so that claimants for VA benefits have available a pool of qualified claims representatives to assist them in the preparation, presentation, and prosecution of their claims.

VA Form 22a is used by a claimant for VA benefits to confer power of attorney upon an attorney, agent, or individual service organization representative in order that the attorney, agent, or individual representative may represent the claimant in proceedings before VA. Generally, this power of attorney permits VA to release to the attorney, agent, or individual representative records pertinent to the benefit claim. The form contains a release to be completed by the claimant which permits the claimant to authorize or prohibit VA from disclosing medical records specifically protected by 38 U.S.C. 7332.

*Affected Public:* Individuals and households, Business or other for-profit, Not-for-profit institutions, and State, Local or Tribal Government.

*Estimated Annual Burden*

a. VA Form 21—275 hours.

b. VA Form 22a—2,500 hours.

*Estimated Average Burden Per Respondent*

a. VA Form 21—15 minutes.

b. VA Form 22a—15 minutes.

*Frequency of Response:* On occasion.

*Estimated Number of Respondents:*

a. VA Form 21—1,100.

b. VA Form 22a—10,000.

Dated: November 2, 1999.

By direction of the Secretary.

**Barbara H. Epps,**

*Management Analyst, Information Management Service.*

[FR Doc. 99–31264 Filed 12–1–99; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0017]**

## Proposed Information Collection Activity: Proposed Collection; Comment Request

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement, with change, of a previously approved collection for which approval has expired and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to carry out a Congressional mandated that VA maintain supervision of the distribution and use of VA benefits paid to a fiduciary on behalf of a beneficiary who is incompetent, a minor, or under legal disability.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before January 31, 2000.

**ADDRESSES:** Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0017'' in any correspondence.

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) The accuracy of VBA's estimate of

the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Titles and Form Numbers:*

a. Court Appointed Fiduciary's Account (legal size), VA Form 21–4706

b. Federal Fiduciary's Account, VA Form 21–4706b

c. Court Appointed Fiduciary's Account, VA Form 21–4706c

d. Account Book, VA Form 21–4718

*OMB Control Number:* 2900–0017.

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

*Abstract:* The information is used to audit accounts of fiduciaries and monitor estate supervision issues to include the need for suspension of benefits when warranted.

*Affected Public:* Individuals or households—Business or other for-profit—Not-for-profit institutions, and State, Local or Tribal Government.

*Estimated Annual Burden*

a. VA Form 21–4706—2,628 hours.

b. VA Form 21–4706b—4,370 hours.

c. VA Form 21–4706c—2,808 hours.

d. VA Form 21–4718—13,140 hours.

*Estimated Average Burden Per Respondent*

a. VA Form 21–4706—30 minutes.

b. VA Form 21–4706b—30 minutes.

c. VA Form 21–4706c—30 minutes.

d. VA Form 21–4718—2 hours and 30 minutes.

*Frequency of Response:* Once annually.

*Estimated Number of Respondents*

a. VA Form 21–4706—5,256

b. VA Form 21–4706b—8,740

c. VA Form 21–4706c—5,616

d. VA Form 21–4718—5,256.

Dated: November 2, 1999.

By direction of the Secretary:

**Barbara H. Epps,**

*Management Analyst, Information Management Service.*

[FR Doc. 99–31265 Filed 12–1–99; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0227]**

## Proposed Information Collection Activity: Proposed Collection; Comment Request

**AGENCY:** Veterans Health Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Health Administration (VHA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement, with change, of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments on the burden estimates relating to customer satisfaction surveys.

The purpose of this submission is to request reinstatement of approval of previously expired data collections. All surveys were previously approved under the Office of Management and Budget (OMB) Control No. 2900–0227. At this time VHA wishes to utilize OMB Control No. 2900–0227 to consolidate all nation-wide surveys under one approval for Headquarters sponsored patient satisfaction surveys. These voluntary customer service surveys meet the requirements of Executive Order 12862, Setting Customer Service Standards.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before January 31, 2000.

**ADDRESSES:** Submit written comments on the collection of information to Ann Bickoff, Veterans Health Administration (193B1), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0227'' in any correspondence.

**FOR FURTHER INFORMATION CONTACT:** Ann Bickoff at (202) 273–8310.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) The accuracy of VHA's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Title:* Nation-wide Customer Satisfaction Surveys.

*OMB Control Number:* 2900–0227.

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

*Abstract:* Executive Order 12862, Setting Customer Service Standards, requires Federal agencies and Departments to identify and survey its customers to determine the kind and quality of services they want and their level of satisfaction with existing service. VHA uses customer satisfaction surveys to gauge customer perceptions of VA services as well as customer expectations and desires. The results of these information collections lead to improvements in the quality of VHA service delivery by helping to shape the direction and focus of specific programs and services.

*Affected Public:* Individuals or households.

PROSTHETIC PATIENT SATISFACTION SURVEY, VA FORM 10–0142B

| Year | Number of respondents | Estimated burden hour | Estimated annual burden | Frequency of response |
|---|---|---|---|---|
| 2000 | 27,000 | 24 (minutes) | 10,800 | Annual. |
| 2001 | 27,000 | 24 | 10,800 | Annual. |
| 2002 | 27,000 | 24 | 10,800 | Annual. |

PROSTHETICS BLIND AID PHONE SURVEY, VA FORM 10–0142C

| Year | 1Number of Respondents | Estimated burden hour | Estimated annual burden | Frequency of response |
|---|---|---|---|---|
| 2000 | 1,900 | 30 (minutes) | 950 | Annual. |
| 2001 | 1,900 | 30 | 950 | Annual. |
| 2002 | 1,900 | 30 | 950 | Annual. |

INPATIENT SATISFACTION SURVEY—MENTAL HEALTH INSERT INCLUDED, VA FORM 10–1465–1

| Year | Number of respondents | Estimated burden hour | Estimated annual burden | Frequency of response |
|---|---|---|---|---|
| 2000 | 33,600 | 15 (minutes) | 8,400 | Annual. |
| 2001 | 33,600 | 15 | 8,400 | Annual. |
| 2002 | 33,600 | 15 | 8,400 | Annual. |

GENERAL OUTPATIENT SATISFACTION SURVEY, VA FORM 10–1465–3

| Year | Number of respondents | Estimated burden hour | Estimated annual burden | Frequency of response |
|---|---|---|---|---|
| 2000 | 48,000 | 15 (minutes) | 12,000 | Annual. |
| 2001 | 48,000 | 15 | 12,000 | Annual. |
| 2002 | 48,000 | 15 | 12,000 | Annual. |

GENERAL OUTPATIENT SATISFACTION SURVEY, VA FORM 10–1465–3.

In addition to the above, VA Form 10–1465–3 will be sent to a selection of Gulf Era Outpatients.

| Year | Number of respondents | Estimated burden hour | Estimated annual burden | Frequency of response |
|---|---|---|---|---|
| 2000 | 23,400 | 15 (minutes) | 5,850 | Annual. |
| 2001 | 23,400 | 15 | 5,850 | Annual. |
| 2002 | 23,400 | 15 | 5,850 | Annual. |

SPINAL CORD INJURY SATISFACTION SURVEY, VA FORM 10–1465–7

| Year | Number of respondents | Estimated burden hour | Estimated annual burden | Frequency of response |
|---|---|---|---|---|
| 2000 | 2,686 | 30 (minutes) | 1,343 | Annual. |
| 2001 | 2,686 | 30 | 1,343 | Annual. |
| 2002 | 2,686 | 30 | 1,343 | Annual. |

HOME BASED PRIMARY CARE SATISFACTION SURVEY, VA FORM 10–1465–9

| Year | Number of respondents | Estimated burden hour | Estimated annual burden | Frequency of response |
|---|---|---|---|---|
| 2000 | 3,876 | 22.5 (minutes) | 1,454 hours | Annual. |
| 2001 | 3,876 | 22.5 | 1,454 hours | Annual. |
| 2002 | 3,876 | 22.5 | 1,454 hours | Annual. |

NUTRITION ANALYSIS SATISFACTION SURVEY, VA FORM 10–5387

| Year | Number of respondents | Estimated burden hour | Estimated annual burden | Frequency of response |
|---|---|---|---|---|
| 2000 | 137,600 | 2 (minutes) | 4,587 hours | Annual. |
| 2001 | 137,600 | 2 | 4,587 hours | Annual. |
| 2002 | 137,600 | 2 | 4,587 hours | Annual. |

Most customer satisfaction surveys will be recurring so that VHA can create ongoing measures of performance and to determine how well the agency meets customer service standards. Each collection of information will consist of the minimum amount of information necessary to determine customer needs and to evaluate VHA's performance. VHA expects a total annual burden of approximately 45,384 hours in 2000, 2001, and 2002.

The areas of concern to VHA and its customers may change over time, and it is important to have the ability to evaluate customer concerns quickly. OMB will be requested to grant generic clearance approval for a 3-year period to conduct customer satisfaction surveys and focus groups. Participation in the surveys will be voluntary and the generic clearance will not be used to collect information required to obtain or maintain eligibility for a VA program or benefit. In order to maximize the voluntary response rates, the information collection will be designed to make participation convenient, simple, and free of unnecessary barriers. Baseline data obtained through these information collections will be used to improve customer service standards. VHA will consult with OMB regarding each specific information collection during this approval period.

Dated: November 1, 1999.

By direction of the Secretary:

**Sandra S. McIntyre,**

*Program Analyst, Information Management Service.*

[FR Doc. 99–31266 Filed 12–1–99; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0089]**

### Proposed Information Collection Activity: Proposed Collection; Comment Request

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a previously approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine eligibility for income-based benefits programs.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before January 31, 2000.

**ADDRESSES:** Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0089'' in any correspondence.

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Public Law 104–13; 44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Title:* Statement of Dependency of Parent(s), VA Form 21–509.

*OMB Control Number:* 2900–0089.

*Type of Review:* Extension of a currently approved collection.

*Abstract:* 38 U.S.C. 102 requires that income and dependency must be determined before benefits may be paid to or for a dependent parent. VA Form 21–509 is used to gather the necessary information from the applicant to make this determination.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 20,000 hours.

*Estimated Average Burden Per Respondent:* 30 minutes.

*Frequency of Response:* On occasion.

*Estimated Number of Respondents:* 40,000.

Dated: October 28, 1999.

By direction of the Secretary.

**Donald L. Neilson,**

*Director, Information Management Service.*

[FR Doc. 99–31267 Filed 12–1–99; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0013]**

### Proposed Information Collection Activity: Proposed Collection; Comment Request

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement, with change, of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine eligibility for issuance of a burial flag for a deceased veteran.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before January 31, 2000.

**ADDRESSES:** Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0013'' in any correspondence.

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites

comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Title:* Application for United States Flag for Burial Purposes, VA Form 21–2008.

*OMB Control Number:* 2900–0013.

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

*Abstract:* VA Form 21–2008 is the application form used to obtain a burial flag for a deceased veteran.

*Affected Public:* Individuals or households, Federal Government and State, Local or Tribal Government

*Estimated Annual Burden:* 162,500 hours.

*Estimated Average Burden Per Respondent:* 15 minutes.

*Frequency of Response:* Generally one time.

*Estimated Number of Respondents:* 650,000.

Dated: October 29, 1999.

By direction of the Secretary.

**Sandy McIntyre,**

*Management and Program Analyst, Information Management Service.*

[FR Doc. 99–31268 Filed 12–1–99; 8:45 am]

BILLING CODE 8320–01–P

# Corrections

**Federal Register**

Vol. 64, No. 231

Thursday, December 2, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP96-200-047]**

### Reliant Energy Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

*Correction*

In notice document 99–30305 appearing on page 63804 in the issue of Monday, November 22, 1999, the docket line should appear after the subagency as stated in the heading above.

[FR Doc. C9–30305 Filed 12–1–99; 8:45 am]

**BILLING CODE 1505–01–D**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34-41847; File No. SR-Amex 99-34]**

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Regarding the Extension of the Pilot Program Eliminating Position and Exercise Limits in FLEX Equity Options

September 9, 1999.

*Correction*

In notice document 99–24354, appearing on page 50843, in the issue of Monday, September 20, 1999, make the following corrections:

1. On page 50843, in the third column, the date line is added to read as set forth above.

2. On page 50845, in the first column, in the second line from the bottom, the FR Doc. number ''99-24357'' should read ''99-24354''.

[FR Doc. C9–24354 Filed 12-1-99; 8:45 am]

**BILLING CODE 1505–01–D**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 35-27102]**

### Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

*Correction*

In notice document 99–30437, appearing on page 65744, in the issue of Tuesday, November 23, 1999, make the following correction:

On page 65744, in the third column, above the third paragraph, add ''**Conectiv, et al. (70-9095)**''

[FR Doc. C9–30437 Filed 12-1-99; 8:45 am]

**BILLING CODE 1505–01–D**

federal register

Thursday
December 2, 1999

Part II

# National Archives and Records Administration

**36 CFR Parts 1220, 1222, and 1228**
**Agency Records Centers; Final Rule**
**Storage of Federal Records; Final Rule**

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### 36 CFR Part 1228

**RIN 3095–AA81**

### Agency Records Centers

**AGENCY:** National Archives and Records Administration (NARA).

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

**SUMMARY:** NARA is issuing revised regulations updating the standards that records center storage facilities must meet to store Federal records. Since the regulations were last updated in 1982, there have been a number of advances in sprinkler systems and other general facility standards that significantly improve the environment and general safeguards for Federal records. This rule also reflects updated information on certain measures that may prevent fire and water damage to records. NARA also recognizes the authority of agencies to contract with private entities for the storage of Federal records. NARA provides agencies with standards, procedures and guidelines for the use of such commercial records storage facilities. The regulation will apply to all agencies, including NARA, that establish and operate records centers, and to agencies that contract for the services of commercial records storage facilities.

As a result of the comments received on the proposed rule, we are adding new provisions that address handling conflicts with other regulatory requirements and requests for waivers. We are seeking public comments on these new provisions.

**DATES:** This rule is effective January 3, 2000, except §§ 1228.234, 1228.236, and 1228.238 which will be effective March 2, 2000.

The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of January 3, 2000.

Comments on §§ 1228.234, 1228.236, and 1228.238 must be received by January 31, 2000 at the address shown below. NARA intends to publish any changes to §§ 1228.234, 1228.236, and 1228.238 resulting from this comment period before March 2, 2000.

**ADDRESSES:** Comments must be sent to Regulation Comment Desk (NPLN), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Comments may be faxed to 301–713–7270.

**FOR FURTHER INFORMATION CONTACT:** Nancy Allard at (301) 713–7360, ext. 226.

**SUPPLEMENTARY INFORMATION:** NARA published a notice of proposed rulemaking on April 30, 1999, at 64 FR 23504. On June 7, 1999, NARA announced a June 18, 1999, public meeting on the proposed rule and extended the comment period to July 7, 1999 (64 FR 30276). Approximately 30 people attended the public meeting. NARA received timely comments from 11 Federal agencies, 5 professional organizations, 2 commercial records centers, and 5 other individuals or companies. In addition, NARA received a number of comments dated on or before July 7, 1999, forwarded from Congressional offices.

On September 15, 1999, at 64 FR 50028, NARA published an initial regulatory flexibility analysis to aid the public in commenting upon the small business impact of the proposed rule. Comments on the initial analysis were received from an industry association, 6 firms that provide records storage services, 12 Federal agencies, and two other individuals.

Following is a summary of the comments and a discussion of the changes that we made to the proposed rule.

Four Federal agencies concurred in full with the proposed rule in their written comments, as did two individuals and two companies. The National Association of Government Archives and Records Administrators, ARMA International, and the Society of American Archivists also expressed strong support for the proposed rule in their written comments. Two commercial records centers and PRISM International, a not-for-profit industry association that includes off-site storage company members, opposed the proposed rule in their written comments; these commenters and other commercial records centers also raised concerns in the June 18 public meeting. The other Federal agencies and the Federal Information and Records Managers Council, an organization of Federal information and records management professionals, raised questions or suggested changes to the proposed rule in their comments.

#### General Comments

One of the broad concerns expressed by some Federal and private sector comments was whether the cost of compliance with the proposed NARA standards would preclude the private sector from competing for Federal agency business or make them less competitive than NARA Federal Records Centers (FRCs). Part of the concern expressed in these comments was based on a misinterpretation of the proposed § 1228.234, which provided the specifications for NARA's tested fire-safety detection and suppression system as one alternative way to achieve a system that is designed to limit the maximum anticipated loss in any single fire event to a maximum of 300 cubic feet of records destroyed by fire. That section specified a maximum records storage height of 15 feet, which is not commonly used in commercial facilities, but is standard in NARA FRCs. To address this common misinterpretation, we have moved the NARA FRC specifications to a new Appendix B that clearly states the specifications are an optional alternative way of complying with the rule. Another basis for the concern with the cost of the proposed rule was the requirement in proposed § 1228.230(b) that records storage areas not exceed 250,000 cubic feet of records. We have also modified that requirement. Further discussion of the comments on the cost of compliance is found later in this **SUPPLEMENTARY INFORMATION** in the section titled Regulatory Flexibility Act (RFA) Certification.

Another concern expressed by some written comments and at the public meeting was whether all Federal records warrant the level of protection that would be provided by the proposed standard. As we noted in the preamble to the proposed rule and again at the public meeting and in the September 15, 1999, initial analysis, Federal records provide essential documentation of the Federal government's policies and transactions and protect the rights of individuals. The Government has an obligation to protect and preserve these records for their entire retention period, even if that retention period is only a few years, as is the case with IRS income tax returns. We believe that there is a minimum level of fire safety, security, and structural integrity that any facility storing Federal records must have, which are reflected in these standards. For environmental controls, where a difference in the level of protection is warranted for permanent records, we have taken a graded approach by retention and media. We also note that a higher level of physical security is appropriate for vital records and records of high intrinsic value, but this regulation focuses on the minimum requirements for protecting all Federal records.

Several industry comments and the FIRM Council expressed skepticism that NARA's own records centers will meet the standards. As we stated at the public meeting, all NARA FRCs are in compliance with those portions of the rule that become effective on ''day one,''

i.e., the effective date of this final rule. Many NARA records center facilities are not compliant with environmental and water damage control provisions that do not become effective until 2009.

**Relationship to Existing Industry Standards**

One commercial records storage vendor argued that existing industry storage standards should not be discarded in favor of NARA's proposed rule; conversely, an individual noted that the proposed rule ''fills a badly needed void in our Records Management literature. We do not have definitive or comprehensive standards for a Records Center.'' Currently there is no standard for records storage facilities larger than 49,999 cubic feet of records (NFPA 232 (1995), Standard for the Protection of Records). NFPA 232A (1995), Guide for Fire Protection for Archives and Records Centers, is a guide or recommended practice, and is not mandatory. However, NFPA 232A does recommend the sprinkler systems and compartmentalization required by this and NARA's previous rule. Other standards such as NFPA 13, 231 and 231C treat Federal records the same as the storage of blank paper (or even used paper for recycling), and are intended to provide life safety, protection of adjacencies, etc., but not necessarily to limit the loss of records to an acceptable level of risk. Further discussion of the appropriateness of using NFPA 13, 231, and 231C as the only fire protection requirements is found in the Regulatory Flexibility Act Certification section of this Supplementary Information.

**Conflicts With Other Codes**

Several comments questioned why local and regional building codes could not be followed in place of the proposed NARA standards. At the June 18 meeting, NARA staff explained that fire-safety components of building codes are designed to protect the life and safety of occupants, mitigate against the spread of a fire to adjacent structures, and to protect fire fighters, not to limit the loss of valuable contents. NARA's standards in this final rule supplement the building codes to provide a safety level for the items stored.

We recognize, however, that there may be instances where a NARA standard differs from a local or regional building code provision. We have added a new § 1228.234 that outlines how such conflicts should be handled. Following normal rules of precedence in applying differing standards or codes, we specify that if any NARA provisions conflict with local or regional codes, the more stringent fire protection and life-safety provision applies. If a mandatory NARA requirement cannot be reconciled with a mandatory local or regional requirement, the local or regional code applies. We invite public comment on this new § 1228.234, which has a delayed effective date so that we can consider any comments on it.

**Underground Storage Facilities**

Several industry comments pointed out that the proposed rule did not address the unique characteristics of underground storage facilities and ignored Mine Safety and Health Administration regulations for underground facilities. They stated that, in many cases, MSHA safety guidelines would exceed those outlined in the proposed rule. To address these concerns, we have added a provision in § 1228.234(b) that if any of the provisions of this subpart conflict with mandatory life safety or ventilation requirements imposed on underground storage facilities by MSHA's regulations at 30 CFR Chapter I, the MSHA requirement applies. We have also addressed the need for variances from NARA requirements for roofs of underground facilities in the new § 1228.236 and § 1228.238. We invite public comment on the new provisions in §§ 1228.234, 1228.236, and 1228.238, which have a delayed effective date so that we can consider any comments on them. As we noted at the June 18 public meeting, we are concerned with the potential for severe fire damage to records holdings in an underground facility because of the fuel load and characteristics of a mine. In this final rule, we do not require underground facilities to meet more stringent requirements for fire detection and suppression systems. We intend to work with the underground storage industry and MSHA to develop appropriate standards to protect Federal records stored in underground facilities against catastrophic fire. We will invite public comment on proposed standards that are developed.

**Definitions (§ 1228.224)**

In response to various comments, we have added definitions of ''auxiliary space,'' ''fire barrier wall,'' ''licensed fire protection engineer,'' and ''records storage area.'' With ''fire barrier wall'' we clarified that the type of wall required by this regulation is a wall other than a fire wall, having a fire resistance rating, constructed in accordance with NFPA 221 (1994), Standard for Fire Walls and Fire Barrier Walls, Chapter 4. A fire barrier wall is a less costly wall than a fire wall. We also changed the terminology throughout the regulation.

Several comments pointed out that fire protection engineers (FPEs) are not separately licensed or registered in some States. Our definition of FPEs includes both licensed or registered professional engineers with a recognized specialization in fire protection engineering and, for those States that do not separately licenced or register FPEs, licensed or registered professional engineers with training and experience in fire protection engineering who are professional members of the Society of Fire Protection Engineers.

**Multi-Story Facilities (§ 1228.228(b))**

We received several comments on the proposed § 1228.228(b), which requires facilities with two or more stories to be designed or certified by a licensed FPE. One agency questioned whether FPEs ''design'' facilities or perform design reviews for fire protection systems and features. The rule allows for either the active involvement of a licensed FPE in the facility design (a highly desirable, but not required effort) OR that a licensed FPE certify (i.e., conduct a design review or post construction inspection) to ensure that the facility actually meets the design criteria.

Another agency pointed out that evaluation of structural aspects of a multi-story facility were out of the professional scope of an FPE. We adopted the agency's recommendation that a civil/structural engineer also be involved in the design or certification.

PRISM International questioned whether this was a facility issue from which NARA could exempt itself rather than a fire safety issue and how much it would cost NARA to comply with the provision since NARA has several multi-story records centers. The provision is primarily a fire safety issue, but is placed in § 1228.228 because it is also a structural issue. All multi-story NARA facilities have four-hour rated intermediate floors and are compliant.

**Flood Walls (§ 1228.228(c))**

In response to a question from ARMA International, we have clarified that the required flood wall for buildings in a 100 year flood plain areas must conform to local or regional building codes.

**Protection From Water Damage (§ 1228.228(g) and (h))**

One agency pointed out in its comments that properly designed roof-mounted equipment could be installed in such a way to minimize potential damage to the roof membrane and that periodic roof inspection by appropriately certified professionals

should allow potential problems to be identified and corrected before any actual damage occurs. We agree with the agency but note that care must be taken also to ensure that the foot traffic required by maintenance personnel to service roof-mounted equipment does not damage the roof. We have modified paragraph (g) to require only that measures are taken to ensure that the roof membrane does not permit water to penetrate the roof. We state that the preferred way of achieving this is that no equipment be mounted on the roof, but that the agency's suggested alternative may be used instead.

The same agency also suggested that water damage from overhead piping could be prevented by stringent design, inspection, and supplemental techniques such as gutters or shields. We have adopted this suggestion in § 1228.228(h).

ARMA International suggested that the rule would be more complete if guidelines for preventing water damage also addressed water coming from below, e.g., backed up plumbing or broken toilet or kitchen pipes. We agree with this comment, but have not determined the appropriate way to address water entering at floor level. There are preservation concerns that floor drains may permit sewer gas to enter the records storage area and that the drains themselves may be an avenue for water to enter the storage area. We intend to address this issue in a future rulemaking. Until then, we believe that the requirement that the building be protected against floods (§ 1228.228(c)) and the fairly standard shelving assembly that raises the bottom shelf one to three inches off the floor mitigates this risk.

**Shelving (§ 1228.228(i))**

Several comments addressed the shelving requirements in paragraph (i). One individual recommended that several Federal specifications for bracing shelving be added. We have not adopted this comment, as the performance standard to brace to prevent collapse under full load is sufficient. An agency questioned whether we intended that the shelving be rated at least 50 pounds per square foot. We confirm that we do mean pounds per cubic foot, as different facilities use different shelving schemes, sometimes stacking two, or even three boxes high per shelf. A cubic foot of wet records can easily weigh 50 pounds.

**Security Requirements (§ 1228.228(k))**

In response to an agency comment, we have clarified paragraph (k) to permit agencies to require compliance with DOJ Level IV or Level V facility requirements if the facility is classified at the higher level. Appendix A contains only Level III requirements. We note that if an agency requires a commercial records storage facility to implement higher security requirements, the agency must furnish the facility with those requirements as part of its contract specifications.

**Integrated Pest Management (IPM) Program (§ 1228.228(m))**

One agency strongly endorsed the requirement to have an IPM program while another agency stated that it does not seem reasonable to require the same level of pest control in records storage areas as in food preparation areas. The IPM program is a systemic approach to pest management, and not a ''level of pest control'' exclusively for food preparation areas, and we have made no changes to this paragraph.

**Mechanical and Electrical Equipment in Records Storage Areas (§ 1228.228(n))**

Several respondents misunderstood that § 1228.228(n) applies only to new records storage facilities, i.e., facilities established or converted to use as records storage facilities on or after January 3, 2000. We have rewritten the introductory text to emphasize this more strongly.

In response to several comments questioning the prohibition on mechanical and electrical equipment in records storage areas, we have clarified that our intent was to avoid transformers, switchgear, and large motors, not lighting and code-required illuminated signs. We have split the proposed paragraph (n)(1) into separate paragraphs for mechanical and electrical equipment. Mechanical equipment containing motors rated in excess of 1 HP and high-voltage electrical distribution equipment (i.e., 13.2 kv or higher switchgear and transformers) are prohibited in this final rule. We did not adopt an agency's recommendation that high efficiency gas HVAC units with open flames be permitted in smaller records storage areas, given both the fire risk and the pollution risk, and the minimal impact of requiring the unit to be installed exterior to the records storage area.

Two agencies questioned the requirement for new facilities to provide a redundant source of primary electric service. A redundant source of electrical service provides a higher level of protection than batteries for fire alarm and fire protection systems, and is required only in new facilities. We have clarified that we did not intend to require instantaneous switching between supplies. A third agency asked whether exit signs should be included in the requirement for secondary power. Exit sign power is regulated by NFPA 101 (1997), Life Safety Code. NARA does not intend to be more restrictive in this case.

**Compartmentalization of Storage Areas (§ 1228.230(b))**

The requirement in paragraph (b) that each records storage area must not exceed a total capacity of 250,000 cubic feet of records drew both strong support and strong opposition in written comments and at the June 18 meeting. The purpose of this requirement was to limit the loss of Federal records in a catastrophic fire where the fire suppression system failed to contain a fire. One respondent from a firm that makes records storage vaults stated that

> ''* * * From a practical application, there is no doubt these improvements will drastically improve the risk profile of the records center and reduce losses should a fire occur. One only has to view the lessons learned from the fires at [four commercial storage facilities] to confirm what NARA has suggested. * * * [Two facilities] suffered total losses in warehouses where open space storage and high bay ceiling were in use. * * * [One facility] utilized demising walls and the fire was stopped at the first demising wall as this allowed the fire department to create a perimeter defense due to the fact that the fire could not breach the surrounding walls. Compartmentalization does work. * * * [In the fourth] fire, the demising walls and the low ceiling worked to limit the loss to 4,000 boxes when 100,000 were at risk. Clearly this design was most effective. An intelligent analysis of these fires points out that the NARA Standard is based on performance in actual fires and the resultant damage. Large open warehouses without in-rack sprinklers are destined to a complete loss as the fire is not only unstoppable but unfightable.''

A major commercial records storage vendor stated that the limitation of records storage areas ''will result in tremendous costs to retrofit existing buildings especially considering the additional ventilation problems which will have to be addressed.'' The vendor also stated that ''without substantial renovations, both existing commercial and NARA records centers will be virtually disqualified from further consideration.'' NARA records centers meet this requirement now, as do any agency records centers that were approved under the previous subpart K or that procured their records center space through the General Services Administration. The representative of the storage vault firm noted in his comments that many commercial

records centers would be able to comply.

From the lessons NARA learned from the 1973 fire that destroyed the top floor of the St. Louis National Personnel Records Center and that have been confirmed with the commercial sector fires in the past year, we believe that it is essential to provide safeguards against catastrophic loss of Federal records in a fire. We recognize, however, that commercial storage facilities have different space configurations and that they may not want to or be able to modify a facility to conform to this requirement. Therefore, we modified § 1228.230(b) as recommended by a Federal agency with extensive experience with commercial storage facilities. Paragraph (b) in this final rule provides that if the facility does not have fire compartmentalization in its records storage areas or the storage compartments are larger than 250,000 cubic feet, no more than 250,000 cubic feet of Federal records may be stored in the records storage area.

**Fire Barrier Walls (§ 1228.230(c)–(f))**

In response to an agency comment, we have modified paragraph (c)(2), which applies to new facilities only, to permit one or more knock-out panels in one exterior wall of each stack area instead of designing that wall with a maximum fire resistive rating of one hour. We also clarified in paragraph (f) that fire doors that maintain the same rating as the wall are permitted.

**Roof Support Structures (§ 1228.230(g))**

Two agencies questioned the requirement that roof support structures that cross or penetrate fire barrier walls must be cut and supported independently. Both agencies were concerned that it may be extremely difficult to achieve; one of the agencies suggested that the requirement be imposed for new facilities only. We disagree. This requirement was also in the existing regulation, which has been in effect for the past 17 years for NARA and agency records centers. It is not unreasonable to design a facility to avoid a roof collapse from bringing down the fire wall.

**Automatic Roof Vents (§ 1228.230(j))**

One agency and PRISM International questioned the prohibition on automatic roof vents. We agree that appropriately designed roof vents whose sole purpose is to ventilate a fully involved fire are effective. We have modified this section to continue to prohibit automatic roof vents in new facilities for routine ventilation purposes, because they are a source of later leakage, but to permit automatic vents designed solely for venting in case of a fire.

**300 Cubic Feet Limit on Loss of Records (§ 1228.230(s))**

Several vendors expressed the view in their written comments and at the public meeting that limiting loss of records to 300 cubic feet per incident is unreasonable, even though we noted in the proposed rule that this maximum limit has been set to reflect what current sprinkler technology can guarantee. The 300 cubic feet loss per incident is a design objective, based on live fire testing. It means that if the system works as intended (i.e., has not been sabotaged, is properly maintained, etc.) that the anticipated or likely loss will not exceed 300 cubic feet. This has been demonstrated in three separate live fire tests, each test including multiple burns, and in no case did the damage exceed 300 cubic feet.

Several questions were asked at the public meeting concerning whether NARA's existing facilities meet the 300 cubic feet standard and any testing or certification process used. NARA staff stated that NARA's centers meet the fire-safety requirements, which have been in place since at least 1982. The live fire tests were conducted for NARA by Factory Mutual and Underwriters Laboratory (compact shelving) during the 1970's and 1980's. NARA's centers were designed to the standard by fire professionals, but there was no certification process in place under the previous regulation.

In this final rule, we have moved §§ 1228.232 (agency certification of fire-safety detection and suppression systems) and 1228.234 (NARA's certified system) to § 1228.242 and Appendix B, respectively.

**Environmental Controls (§ 1228.232)**

The Society of American Archivists (SAA), two agencies, and an underground storage provider commented on this section (§ 1228.236 in the proposed rule). SAA stated its view that ''while in an ideal world permanent records would be stored in an environment suitable for permanent records from the beginning of their life cycle, the proposed NARA regulations strike a reasonable compromise for the real world.'' One agency questioned why humidity control was not a requirement for permanent paper records, while the underground storage provider pointed out that its salt mine temperature and humidity levels would fall within the specifications for office space air conditioning. The cited ASHRAE standards in paragraph (c) address temperature, humidity, and air exchange aspects of air conditioning. If an underground facility can meet all three aspects of the standards, its natural air conditioning would be permitted.

The other Federal agency questioned what standards should be applied to mixed-media records, e.g., combined microfiche and paper records. This is a problem not just for the Department of Defense (DOD) and NARA at our St. Louis facility, but for other agencies that may retire files that are primarily paper-based records but also contain microforms, x-rays, photographs, or other nontextual records. While the ideal solution is for agencies to segregate their nontextual records before sending them for storage, it is not an easily achievable solution. We will review this issue further and address it in a future rulemaking.

**Waivers of Requirements (§§ 1228.236 and 1228.238)**

In response to written comments and discussion at the public meeting, we have added two new sections to address when and how NARA would consider waiving a requirement in this subpart.

We will consider waiving a requirement in three situations—(1) when a system, method or device is equivalent or superior to a requirement prescribed in the NARA regulation; (2) for an agency records center that met the previous NARA standards but does not meet a new standard (e.g., environmental controls for permanent nontextual records); and (3) for roof-related requirements for underground storage facilities. The information to be provided and NARA's procedure for processing and approving waiver requests are specified in new §§ 1228.236 and 1228.238. We are delaying the effective date for these sections to permit public comment on them.

**Time Limits for Removing Records From a Noncompliant Records Storage Facility (§ 1228.240)**

In response to agency comments, we are clarifying both § 1228.240(a) in this final rule and § 1228.156 in a related final rule published elsewhere in this separate part of the **Federal Register** to require agencies to complete removal of records from noncompliant storage facilities within 18 months after initial discovery of the deficiencies.

**Content of Requests for Agency Records Centers (§ 1228.240(c))**

Proposed § 1228.240(a)(1) contained a requirement that an agency that proposes to store its records in an agency records center operated by

another agency must obtain NARA's approval to do so. We have clarified § 1228.240(c) to include requests for approval in this situation and to note that such requests do not have to provide documentation of compliance with the standards in this subpart (the agency-owner/operator will have provided the documentation).

We also recognize that some agencies may have had unofficial records storage facilities that did not meet the standards of the previous regulation. In response to one agency's suggestion, we have added a new paragraph (c)(2) to allow those agencies to submit requests for approval of an existing agency records center with a plan to bring the facility into compliance with current requirements within a three-year period.

**Certification of Fire-Safety Detection and Suppression System (§ 1228.242)**

The proposed rule contained a requirement in proposed § 1228.232 that any fire-safety detection and suppression system undergo independent live testing to be certified as meeting the requirements of § 1228.230(s). We received a number of written comments and comments at the public meeting opposing this requirement because it is too costly. We have reconsidered our position that full testing is the only way to demonstrate compliance. We have moved the revised section to § 1228.242, and offer three alternatives for documenting compliance:

- A statement that the facility is using a NARA-certified system described in Appendix B.
- A report of the results of independent live fire testing.
- A report of the results of computer modeling and a certification by a licensed FPE that the system has been designed to meet the requirement of § 1228.230(s).

NARA will approve systems within 10 work days if the facility has used a previously approved system design or the system is documented through live fire testing. For systems documented through the third alternative, NARA will give its approval within 30 calendar days if, in NARA's judgement, the system clearly demonstrates compliance with § 1228.230(s). If NARA questions whether the documentation demonstrates compliance, NARA will consult the appropriate industry standards body or other qualified expert before making the determination.

**NARA Inspection of Records Storage Facility (§ 1228.244)**

In response to an agency comment, we have added a paragraph that NARA will contact the agency operating a records center or holding a contract with a commercial facility in advance to set a date for the inspection.

**OMB Review Under Executive Order 12866**

This rule is a significant regulatory action for the purposes of Executive Order 12866, and has been reviewed by OMB at both the proposed and final rule stages. It is deemed significant because it is a NARA regulatory plan regulation. It is also deemed significant in accordance with section 3(f)(4) because it is related to the new reimbursable records center program.

**Congressional Review of Agency Rulemaking**

This rule is not a major rule as defined in 5 U.S.C. Chapter 8, Congressional Review of Agency Rulemaking.

**Regulatory Flexibility Act (RFA) Certification**

*Background*

Several respondents questioned NARA's certification statement in the proposed rule, which stated ''As required by the Regulatory Flexibility Act, we certify that this proposed rule will not have a significant impact on small entities.'' [1] The question was first raised at the June 18, 1999, public meeting. At that time, NARA staff stated that NARA had not done any formal cost analysis to support this certification and invited attendees to provide comments on the adequacy of that statement.

Two respondents, Underground Vaults and Storage, Inc. and Iron Mountain, specifically commented that the regulation would have a significant impact on small business. Underground did not state a specific cost. Iron Mountain, one of the largest records center vendors in the United States, asserted that the limitation of storage areas to 40,000 sq. ft. (§ 1228.222) would require that company to spend approximately $500,000 to retrofit each of its existing buildings. Extrapolating that figure to 2,400 small businesses providing records management services, Iron Mountain stated that the cost would be $1.2 billion to small businesses if each business only operated one similar sized center. A third respondent, Hugh Smith (Firelock) stated that smaller vendors are better able to meet the proposed standards because they have smaller warehouses than the larger vendors. PRISM International questioned which of the RFA requirements NARA had used to review the proposed rule. Additionally, some records storage facilities wrote to their members of Congress stating that the proposed rule would have a significant impact on them but did not specify any cost.

After evaluating these comments, NARA decided to publish an initial regulatory flexibility analysis (analysis) to provide further information and opportunity for public comment on the small business impact, if any, of the proposed rule. When the document was published in the **Federal Register**, NARA encouraged wide review of the analysis by posting it on NARA's web site with the proposed rule, and sending notifications to PRISM International, ARMA, SAA, NAGARA, and the Records Management and Archives List Serves. Additionally, NARA notified agency records officers of the availability of the analysis for comment and sought information on current and planned agency use of commercial records centers to assist in the assessment of the potential impact on small businesses.

*Succinct Statement of the Need for, and Objectives of, the Rule*

Current records center standards were last issued in 1982. They cite outdated industry standards and do not reflect other government-wide requirements that have been imposed since 1982. The 1982 regulation addresses only officially established agency records centers, although NARA Federal records centers voluntarily conform to that regulation. It is necessary to update the standards applicable to agency records centers and NARA centers to reflect these changes. Moreover, as more agencies are turning to the private sector for off-site storage, NARA finds that it is necessary to explicitly require agencies to ensure that records in their legal custody are stored in appropriate space wherever the records are stored.

Federal records provide essential documentation of the Federal Government's policies and transactions and protect rights of individuals. These records must be stored in appropriate space to ensure that they remain available for their scheduled life.

NARA is authorized, under 44 U.S.C. 2907, to establish, maintain and operate records centers for Federal agencies. NARA is authorized, under 44 U.S.C. 3103, to approve a records center that is maintained and operated by an agency. NARA is also authorized to promulgate

[1] As discussed in the document published September 15, 1999, at 64 FR 50028, the certification statement in the proposed rule inadvertently omitted the phrase ''a substantial number of'', although NARA intended that phrase to be part of the statement.

standards, procedures, and guidelines to Federal agencies with respect to the storage of their records in commercial records storage facilities. See 44 U.S.C. 2104(a), 2904 and 3102.

*Comments Received in Response to Initial Regulatory Flexibility Analysis*

NARA received comments on the analysis from PRISM International, 4 small businesses that provide records services, 2 other records storage businesses that did not specifically identify whether they were small businesses, and 2 consultants. Additionally 12 Federal agencies, or components of agencies, responded to the letter to records officers. We have carefully reviewed the comments and considered them before issuing this final rule.

*Summary of the Significant Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis*

The public comments on small business impact generally concerned three significant issues:

*(1) Availability of alternative standards.* PRISM and four records storage businesses argued that adherence to NFPA standards 13, 231, and 231C and local building codes provide sufficient protection for records in commercial records centers. One small business added that the proposed rule would ''effectively quadruple the fire protection requirements of Federal Records Centers and for commercial records centers storing government records.'' (We note, however, that NARA's Federal records centers meet the fire protection requirements now.) Another small business recommended waiving the 250,000 cubic foot limitation for facilities that can gain certification of compliance with NFPA 232A.

*(2) The cost of structural changes to comply with the proposed rule.* One small business identified the requirement to have records storage areas no larger than 250,000 cubic feet to be of particular concern. This business estimated that its cost to construct fire walls would be over $250,000, and that the walls would significantly reduce the efficiency of the workflow within the building. The commenter also projected losing $600,000 of potential gross revenues from potential Federal agency customers within their service area during the first year if the fire walls had to be constructed prior to moving in Federal customers.

Another records storage firm, which did not identify whether it was a small business, stated that adopting the proposed NARA rules would increase capital costs by 216 percent. The commenter identified the following specific areas where costs would be affected by NARA requirements: height/module restriction; seismic requirements*; interior 4-hour fire-walls 20 feet high; fire suppression; fire protection; added mechanical room for equipment; added mechanical equipment/HVAC; exterior 1-hour wall; 2 sides to access all modules; electrical/security system; and Level III security measures.* (Starred items are government-wide, not NARA, requirements. We note that in this final rule, there are no height restrictions and the module (records storage compartment) size restriction relates to the number of Federal records that can be stored in a module, not to the size of the module itself.)

PRISM International stated that building costs would more than triple under NARA's proposed requirements, and provided the results of a study done for PRISM by Hanscomb, Inc., an international construction consultant firm, in support of that statement. PRISM also commented that live fire tests required to obtain certification for alternate storage and fire protection designs were very expensive, costing $250,000 or more.

In its comments on the proposed rule prior to the publication of the September 15 analysis, Iron Mountain (which is not a small business) asserted that the limitation of storage areas to 40,000 sq. ft. (§ 1228.222) would require that company to spend approximately $500,000 to retrofit each of its existing buildings. Iron Mountain further asserted that there are 2,400 small businesses providing records management services; extrapolating its costs to this universe, Iron Mountain stated that the cost would be $1.2 billion to small businesses if each business only operated one similar sized center.

Several other public comments expressed concern that the cost of alterations needed to comply with the NARA requirements would discourage or prevent small businesses from doing business with the Federal Government.

*(3) Adoption of NARA standards for non-Federal records.* PRISM and two records storage firms raised concerns that private sector businesses might incorporate the NARA standards as technical specifications for storage of general business records. These commenters stated that such an action would stifle competition and raise prices.

*Other issues.* In addition to these three issues, several commenters reiterated their general concerns over the appropriateness of stringent standards for most Federal records and the applicability of the regulation to underground storage facilities, which are addressed elsewhere in this Supplementary Information.

*Summary of NARA's Assessment of Such Issues*

*(1) Availability of alternative standards.* As noted earlier in this Supplementary Information, we believe that Federal records require a greater level of protection against fire damage and loss than stocks of paper being stored as a commodity. Commodities can easily be replaced if damaged or lost; records containing evidence of Federal agency actions, individual rights, and fulfillment of individual and organizational obligations to the Federal government cannot be replaced. We also note that the professional organization responsible for developing and issuing fire protection standards, the National Fire Protection Association (NFPA), also recognizes that protection of records is distinct from protection of commodities. Since the adoption of the original edition of NFPA 232A, Guide for Fire Protection of Archives and Records Centers in 1970, the NFPA has recognized that large collections of inactive records is not the same as protecting bulk storage of recycled paper or new bond paper in bulk, and that separate guidance was needed.

In August 1999, NFPA and ANSI adopted a new NFPA 230, Standard for the Fire Protection of Storage (1999) and revised NFPA 13, Standard for the Installation of Sprinkler Systems (1999). Because these standards were adopted after the proposed NARA rule was published, we have not incorporated them in this final rule. We intend to do so at the next revision of this rule, which will be subject to public comment. Nevertheless, we considered the action of NFPA indicative of the fire protection industry's assessment of the adequacy of the editions of NFPA 13, 231, and 231C in effect prior to August 13, 1999. NFPA 230 (1999) cancelled NFPA 231, Standard for General Storage (1998) and NFPA 231C, Standard for Rack Storage (1998). The sprinkler-specific information from these canceled Standards was transferred to NFPA 13 (1999), which now includes a special hazard classification of ''high piled storage'' that can be used for the bulk storage of paper products over 12 feet high.

NFPA has clearly stated that the Technical Committee on General

Storage (formerly responsible for NFPA 231, General Storage and now responsible for NFPA 230, Standard for the Fire Protection of Storage) does not have responsibility for the protection of records: ''This Committee shall have primary responsibility for documents on safeguarding general warehousing and commodities against fire where stored indoors or outdoors. This Committee does not cover storage that is specifically covered by other NFPA standards.'' [2] The Technical Committee for Rack Storage (formerly responsible for NFPA 231C, Rack Storage) has clearly excluded the storage of records from the scope of NFPA 231C (see section 1–1 Application and Scope).

For these reasons, we reiterate our view that use of NFPA 13, 231, and 231C as the sole fire protection standard for records centers is not an appropriate alternative, even for small businesses.''

We also considered the alternative offered by one small business to waive the 250,000 cubic foot limitation for facilities that can gain certification of compliance with NFPA 232A. Because NFPA 232A is a guide, its provisions are cast in advisory language, e.g., ''Complete automatic sprinkler protection should be provided, including waterflow alarms * * *'' [NFPA 232 (1995) section 6–2.3(b)]. We note that NFPA 232A limits fire chambers to 40,000 square feet, which could allow storage of more than 250,000 cubic feet if higher shelving is used. NARA would be willing to grant a waiver to a small business if the business documents that it has adopted all of the provisions of NFPA 232A, i.e., it has adopted the recommendations as if they were mandatory. The waiver would be processed under § 1228.236.

*(3) The cost of structural changes to comply with the proposed rule.* The small business did not provide a detailed breakdown of its estimate of $250,000 to construct fire walls to create storage compartments with a capacity of 250,000 cubic feet of records. With the changes we have made in this final rule, however, the business would incur costs for constructing fire walls only if it intended to store more than 250,000 cubic feet of Federal records. The number of fire walls needed would vary depending on the number of compartments into which Federal records might be placed. Consolidating Federal holdings in the fewest possible compartments would reduce the need for and cost of building fire walls. Two large compartments could hold 250,000 cubic feet each, or a total of 500,000 cubic feet of Federal records.

We carefully reviewed the cost data provided by PRISM's consultant, Hanscomb. Hanscomb based its cost data on a hypothetical new center built to comply with the NARA proposed standards against a new commercial records center with a capacity of 907,000 storage locations (we assume that storage location refers to typical 1.1 cubic foot records storage boxes, and that 907,000 storage locations is similar to NARA's 1,000,000 cubic foot volume calculation).

The Hanscomb cost estimate contains several significant misinterpretations of the proposed NARA standards, which result in a grossly overstatement of the cost of a new records center built to the proposed NARA standards. Hanscomb estimated the total cost of structural changes to conform the new center to the proposed NARA standards to be $7,637,361. When we adjusted for the errors due to misinterpretation, the revised estimate (using Hanscomb's figures and 15 foot high shelving scenario) would be $2,508,294 for NARA-imposed requirements, and another $180,000 for government-wide security and pest management requirements. If the new center used higher shelving configurations, which the final rule clearly allows, the cost for NARA-imposed requirements would be significantly lower. A detailed discussion of Hanscomb's cost estimate and our adjustments is provided in Appendix A to this preamble, which appears at the end of this rule document.

Because both Hanscomb and another records center commenter misunderstood the requirement to design and install shelving in accordance with Executive Order 12941 or Executive Order 12699, we have restated the requirement as designing and installing shelving in accordance with the applicable regional building code. This should clarify that there is no additional cost for the NARA requirement.

In evaluating the comments on the analysis we also carefully considered Iron Mountain's comments on the cost of compliance. We assume that Iron Mountain meant constructing fire barrier (demising) walls to limit the capacity of records storage areas to 250,000 cubic feet, since the proposed rule did not set a square foot limit. In this final rule, we allow this requirement to be met through limiting the number of Federal records stored in a records storage area that does not meet the 250,000 cubic feet limit. We believe that this change would accommodate small records storage vendors in particular. We also believe that it is likely that Iron Mountain, which is not a small business, already meets that requirement. Iron Mountain holds a General Services Administration FSS multiple award schedule contract to provide records center storage to Federal agencies. The GSA contract requires Iron Mountain to meet NARA specifications in effect prior to this final rule which include the requirement for storing records no higher than 15 feet in storage areas no larger than 40,000 sq. ft.

No other comments were offered on the cost for existing records centers to comply with the regulation. The Health Care Financing Administration (HCFA), whose 54 contractors store Medicare records in both small and large commercial records centers, reported that the agency required the records center vendors used by its contractors to adhere to the existing NARA facility standards in 36 CFR 1228.220, or obtain a temporary waiver. All commercial storage facilities currently used by HCFA's contractors either fully or closely meet the standard. The Department of the Army also reported that its previous commercial storage facility in Seattle, a small business that was bought out by Iron Mountain, complied with standard except for using a dry-sectional sprinkler system instead of a wet sprinkler.

We acknowledge PRISM's statement that live fire testing is very expensive, and as noted earlier in this **SUPPLEMENTARY INFORMATION**, we have modified the requirement in this final rule to allow less expensive methods of certifying fire detection and suppression systems.

*Adoption of NARA standards for non-Federal records.* We acknowledge the concern that NARA's requirements for storage of Federal records may be adopted by some private sector companies. The NFPA Technical Committee on Records Protection has proposed a new standard that will address the storage of general business records, which will provide businesses an alternative standard that they can cite in their solicitations for records storage services. Nevertheless, NARA has the obligation to determine what level of protection is required for Federal records, wherever they are stored—in NARA records centers, agency records centers or private sector centers.

We do not agree that the NARA requirements will necessarily stifle competition. Indeed, small business

[2] NFPA Committee List 1999, page 59. See also NFPA 230 section 1–1.2 ''This standard shall not apply to the following: . . . (d) Inside or outside storage of commodities covered by other NFPA standards, except where specifically mentioned herein (e.g., pyroxylin plastics).''

records centers that meet the NARA requirements should be able to compete successfully against the dominant Iron Mountain/Pierce Leahy centers for Federal business.

*Statement of Any Changes Made in the Proposed Rule as a Result of Such Comments*

As discussed previously in this **SUPPLEMENTARY INFORMATION**, we have made a number of changes in the proposed rule as the results of the comments we received. The following changes, in particular, are intended to reduce the burden of this regulation on small businesses:

- The 250,000 cubic feet limitation on the size of the storage compartment has been modified to allow storage of no more than 250,000 cubic feet of Federal records in an uncompartmentalized facility or in each larger capacity compartment. We note that all but one of the Federal agencies that responded to our request for information on their use of commercial facilities reported that they store no more than 250,000 cubic feet of records in any one facility, and that most store considerably less than this amount. The one agency that did not report a maximum volume or range of holdings in commercial centers is unlikely to store more than 250,000 cubic feet in a single center (1.5 million cubic feet are stored in at least 54 locations).
- We are providing a procedure to grant waivers of certain requirements for alternative methods that provide equal or better protection.
- We are providing alternative ways to certify a facility's fire detection and suppression system.
- We have modified provisions relating to roof-mounted equipment and piping in storage areas to provide more flexibility in meeting those requirements.
- We have made changes that will clearly allow underground storage facilities to be considered for storage of Federal records.

*Description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available:*

As we stated in the Analysis published on September 15, 1999, we identified commercial records storage facilities as small entities if they met the Small Business Administration (SBA) definition of a small business under Standard Industrial Code (SIC) 4226, Special Warehousing and Storage, Not Elsewhere Classified. For SIC 4226, an SBA small business must have annual gross receipts of $18.5 million or less. According to census figures furnished to NARA by SBA, there are 1,230 firms in SIC 4226. Most of these firms do not have multiple establishments (the number of SIC 4226 establishments is 1,547). We received no comments on our selection of this SIC as the appropriate classification for small business records storage vendors.

We stated in the Analysis that we did not have an estimate of the number of small businesses to which the rule would apply because agencies are not required, under existing regulations, to report to NARA when they contract with the private sector for records storage services. Even if we assume that all 1,230 firms in SIC 4226 would be interested in an opportunity to provide records storage services for the Federal government, we estimate that the number of firms that would be offered such an opportunity is much more limited.

We specifically invited comments from agencies on any contracts that they currently hold with small businesses and any plans that they have to contract with small businesses for records center services in the next 2 years. Twelve agencies responded. Eleven of the agencies store some records in commercial records centers; all but two of these store their records only in centers operated by one of the two largest businesses. One regional office in Seattle currently uses a small business to store 8,500 cubic feet of records but plans to move ''a fair amount'' of the records to a NARA center within the next year. HCFA reported that its Medicare contractors use a combination of large and small business commercial facilities that are local to the contractor. The HCFA contractors store a total of 1,469,115 cubic feet of Medicare records (which are Federal records). FDIC stores a total of 3 million cubic feet in 47 large business commercial facilities. The three agencies with the next highest volume of records stored in commercial facilities also reported that they used only large businesses.

We believe that the continued trend toward consolidation of the records storage industry, will also have an impact on small business records centers' ability to compete for Federal business. In recent years, the two largest commercial records storage companies have acquired a large number of small and medium sized records storage companies, and these two large companies have now announced their intention to merge.

At present, the General Services Administration's Multiple Award Schedule (MAS) for Records Center Services (FSS–36–IV sin 51 504) has listed only two qualified companies, the large businesses discussed in the previous paragraph. The procurement process that an agency must follow when using an MAS or when entering into an interagency agreement with NARA or another Federal agency to provide records center services is much simpler than the process it must use when seeking open market services.

The agency responses to NARA's request for agency comment and the ease with which agencies can contract with large centers through the MAS lead us to believe that it is highly unlikely that more than ten percent of the small businesses in SIC 4226 would be offered an opportunity to provide commercial storage services for Federal agencies. We do not regard this number as a substantial number of small entities.

*Description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record:*

*Reporting/recordkeeping requirements:* The rule does not directly mandate reporting or recordkeeping within the meaning of the Paperwork Reduction Act. All reporting requirements are placed on Federal agencies, which must secure NARA approval before moving Federal records to a commercial records center. NARA anticipates that the Federal agencies would include 36 CFR part 1228, subpart K (the facility standards) in their contracts with commercial records centers. Section 1228.240(e) states that the agency may submit to NARA ''a copy of the agency's contract that incorporates this subpart in its provisions or a statement from the agency records officer that certifies that the facility meets the standards in this subpart.''

*Other compliance requirements:* All records centers that store Federal records, including commercial records centers operated by small businesses, must comply with the facility requirements in the rule. Certain specific requirements differ for newly constructed facilities and existing facilities. Also, existing facilities are allowed a 10-year period to become compliant with some of these requirements. The facility compliance requirements are found in §§ 1228.228, 1228.230, and 1228.232 of this final rule.

*Professional skills necessary for preparation of report or record:* If the records center owner has maintained the facility design records, no special professional skills would be necessary

to provide documentation to the contracting agency that the facility meets the NARA standards. If the design records are not available, the center would have need for the services of a licensed Fire Protection Engineer to inspect the facility and prepare a report on a one-time basis. We estimate that the inspection and preparation of a report would take no more than 8 hours total. We received no public comment on this estimate, which was published in the September 15 Analysis.

*Description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.*

To the extent possible, the rule specifies performance standards and incorporates by reference industry consensus standards. NARA chose this alternative over the other possible regulatory approach—extending the coverage of the existing regulation that governed agency records centers to all providers of records storage services to the Federal government—to provide as much flexibility as possible to all commercial and agency records centers, including small businesses. To further minimize significant economic impact on small entities as much as possible, we are also adopting a procedure for granting a waiver from specific standards when a facility has an alternative that is equal or superior to the NARA requirement. We also believe that the 10-year period we provide for complying with certain requirements will moderate the impact on small businesses since they will be able to plan for the necessary modifications and implement them during normal maintenance, e.g., removing roof-mounted equipment when roof repairs or replacement is done. We have further clarified the accompanying rule, Storage of Federal Records, published elsewhere in this separate part of the **Federal Register**, to emphasize that a facility is in compliance with these standards if the facility does not yet meet the requirements that will go into effect in 2009.

NARA could not adopt an alternative that exempted small entities from the standards, given the objective of ensuring appropriate protection for Federal records when they leave agency office space. For the reasons discussed previously in this **SUPPLEMENTARY INFORMATION** section, we also could not adopt an alternative that required small entities to comply only with local building codes or NFPA codes governing sprinkler systems.

*Statement of Factual Basis for Certification*

Under the RFA, at the time it publishes a proposed rule in the **Federal Register**, an agency must either prepare and publish a regulatory flexibility analysis, or must publish a certification that the regulation will not have a significant economic impact on a substantial number of small entities. The certification must be accompanied, at either the proposed rule or final rule stage, with a statement providing the factual basis for such certification. The statement providing the factual basis for our certification is provided here.

Although the final rule may have a significant economic impact on a small number of small businesses that wish to store records for the Federal Governement and that are entering the records storage business for the first time, we believe that the rule will not have a significant economic impact on a substantial number of small entities for several reasons:

(1) The number of small businesses that currently provide or are likely to provide records storage services to the Federal government is low, as reflected in the agency responses that NARA received.

(2) Those small businesses that do provide records storage services can store up to 250,000 cubic feet of Federal records without having to construct interior fire walls. From the agency responses that NARA received, most agency contracts for commercial storage are well below 250,000 cubic feet per facility. Only one agency reported 250,000 cubic feet of records in a single facility, and that was a large business. Although construction of interior fire walls would be a significant expense for small businesses, the revised limit on the number of records that can be stored in a storage compartment and the removal of the implicit limit of 15 feet on shelving records have eliminated this as a source of significant economic impact.

(3) The agencies that use small businesses to provide their records storage report that those facilities fully or almost completely comply with the more restrictive existing NARA standards. Consequently, there should be no significant economic impact to bring these small businesses into compliance with the general facility standards in this final rule. Where NARA itself is imposing other new requirements, e.g., environmental controls for permanent paper and nontextual records, the requirements have either been in force elsewhere in NARA regulations for three or more years or are required to be phased in over a 10-year period. Additionally, the environmental controls requirements will apply to only a small percentage of Federal records that would be stored in records centers. Only that area of a records center that will contain these records must be adapted for environmental controls. Alternatively, a records center could choose to store only temporary paper records, and not incur these costs.

**List of Subjects in 36 CFR Part 1228**

Archives and records, Incorporation by reference.

For the reasons set forth in the preamble, NARA amends part 1228 of title 36, Code of Federal Regulations, as follows:

## PART 1228—DISPOSITION OF FEDERAL RECORDS

1. The authority citation for part 1228 continues to read as follows:

**Authority:** 44 U.S.C. chs. 21, 29, and 33.

2. Revise subpart K to read as follows:

**Subpart K—Facility Standards for Records Storage Facilities**

Sec.

**General**



**Facility Standards**



**Handling Deviations From NARA's Facility Standards**



**Facility Approval and Inspection Requirements**

**Subpart K—Facility Standards for Records Storage Facilities**

**General**

**1228.220 What authority applies to this subpart?**

NARA is authorized to establish, maintain and operate records centers for Federal agencies under 44 U.S.C. 2907. NARA is authorized, under 44 U.S.C. 3103, to approve a records center that is maintained and operated by an agency. NARA is also authorized to promulgate standards, procedures, and guidelines to Federal agencies with respect to the storage of their records in commercial records storage facilities. See 44 U.S.C. 2104(a), 2904 and 3102. The regulations in this subpart apply to all records storage facilities Federal agencies use to store, service, and dispose of their records.

**1228.222 What does this subpart cover?**

(a) This subpart covers the establishment, maintenance, and operation of records centers, whether Federally-owned and operated by NARA or another Federal agency, or Federally-owned and contractor operated. This subpart also covers an agency's use of commercial records storage facilities. Records centers and commercial records storage facilities are referred to collectively as records storage facilities. This subpart specifies the minimum structural, environmental, property, and life-safety standards that a records storage facility must meet when the facility is used for the storage of Federal records.

(b) Except where specifically noted, this subpart applies to all records storage facilities. Certain noted provisions apply only to new records storage facilities.

**1228.224 Publications incorporated by reference.**

(a) *General.* The following publications cited in this section are hereby incorporated by reference into this part 1228. They are available from the issuing organizations at the addresses listed in this section. They are also available for inspection at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. These materials are incorporated as they exist on the date of approval, and a document indicating any change in these materials will be published in the **Federal Register**.

(b) *American Society of Testing and Materials (ASTM) standards.* The following ASTM standard is available from the American Society of Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA, 19428–2959, or on-line at *www.astm.org:*

E 119–98, Standard Test Methods for Fire Tests of Building Construction and Materials.

(c) *National Fire Protection Association (NFPA) standards.* The following NFPA standards are available from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9109, Quincy, MA 02269–9101, or on-line at *http://catalog.nfpa.org:*

NFPA 10, Standard for Portable Fire Extinguishers (1994 Edition).
NFPA 13, Standard for the Installation of Sprinkler Systems (1996 Edition).
NFPA 20, Standard for the Installation of Centrifugal Fire Pumps (1996 Edition).
NFPA 40, Standard for the Storage and Handling of Cellulose Nitrate Motion Picture Film (1997 Edition).
NFPA 42, Code for the Storage of Pyroxylin Plastic (1997 Edition).
NFPA 72, National Fire Alarm Code (1996 Edition).
NFPA 101, Life Safety Code (1997 Edition).
NFPA 221, Standard for Fire Walls and Fire Barrier Walls (1994 Edition).
NFPA 231, Standard for General Storage (1998 Edition).
NFPA 231C, Standard for Rack Storage of Materials (1998 Edition).
NFPA 232, Standard for the Protection of Records (1995 Edition).
NFPA 232A, Guide for Fire Protection of Archives and Records Centers (1995 Edition).

(d) *Underwriters Laboratory (UL) standards.* The following UL standards are available from the Underwriters Laboratory at *www.ul.com* or from Global Engineering Documents, 15 Inverness Way East, Englewood, CO 80112:

UL 611, Central-Station Burglar-Alarm Systems (February 22, 1996).
UL 827, Central-Station Alarm Services (April 23, 1999).
UL 1076, Proprietary Burglar Alarm Units and Systems (February 1, 1999).

(e) *American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. (ASHRAE) standards.* The following ASHRAE standards are available from ASHRAE at ASHRAE Customer Service, 1791 Tullie Circle NE, Atlanta, GA 30329 or online at *www.ASHRAE.org:*

ANSI/ASHRAE 55–1992, Thermal Environmental Conditions for Human Occupancy.
ANSI/ASHRAE 62–1989, Ventilation for Acceptable Indoor Air Quality.

(f) *American National Standards Institute (ANSI) standards.* The following ANSI standards are available from the American National Standards Institute, 11 West 42nd St., New York, NY 10036:

ANSI/NAPM IT9.18–1996, Imaging Materials—Processed Photographic Plates—Storage Practices.
ANSI/NAPM IT9.20–1996, Imaging Materials—Reflection Prints—Storage Practices.
ANSI/NAPM IT9.23–1996, Imaging Materials—Polyester Base Magnetic Tape—Storage.
ANSI/PIMA IT9.11–1998, Imaging Materials—Processed Safety Photographic Films—Storage.
ANSI/PIMA IT9.25–1998, Imaging Materials—Optical Disc Media—Storage.

**§ 1228.226 Definitions.**

The following definitions apply to this subpart:

*Auxiliary spaces* mean non-records storage areas such as offices, research rooms, other work and general storage areas but excluding boiler rooms or rooms containing equipment operating with a fuel supply such as generator rooms.

*Commercial records storage facility* has the meaning specified in § 1220.14 of this chapter.

*Existing records storage facility* means any records center or commercial records storage facility used to store records on September 30, 1999, and that has stored records continuously since that date.

*Fire barrier wall* means a wall, other than a fire wall, having a fire resistance rating, constructed in accordance with NFPA 221 (1994), Standard for Fire Walls and Fire Barrier Walls, Chapter 4.

*Licensed fire protection engineer* means a licensed or registered professional engineer with a recognized specialization in fire protection engineering. For those States that do not separately license or register fire protection engineers, a licensed or registered professional engineer with training and experience in fire protection engineering, operating within the scope of that licensing or registration, who is also a professional member of the Society of Fire Protection Engineers.

*Must* and *provide* mean that a provision is mandatory.

*New records storage facility* means any records center or commercial records storage facility established or converted for use as a records center or commercial records storage facility on or after January 3, 2000.

*Permanent record* has the meaning specified in § 1220.14 of this chapter.

*Records center* has the meaning specified in § 1220.14 of this chapter.

*Records storage area* means the area containing records that is enclosed by four fire walls, the floor, and the ceiling.

*Records storage facility* has the meaning specified in § 1220.14 of this chapter.

*Sample/select records* means records whose final disposition requires an analytical or statistical sampling prior to final disposition authorization, in which some percentage of the original accession will be retained as permanent records.

*Should* or *may* means that a provision is recommended or advised but not required.

*Temporary record* has the meaning specified in § 1220.14 of this chapter.

*Unscheduled records* has the meaning specified in § 1220.14 of this chapter.

**Facility Standards**

**§ 1228.228 What are the facility requirements for all records storage facilities?**

(a) The facility must be constructed with non-combustible materials and building elements, including walls, columns and floors. An agency may request a waiver of this requirement from NARA for an existing records storage facility with combustible building elements to continue to operate until October 1, 2009. In its request for a waiver, the agency must provide documentation that the facility has a fire suppression system specifically designed to mitigate this hazard and that the system meets the requirements of § 1228.230(s). Requests must be submitted to the Director, Space and Security Management Division (NAS), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001.

(b) A facility with two or more stories must be designed or certified by a licensed fire protection engineer and civil/structural engineer to avoid catastrophic failure of the structure due to an uncontrolled fire on one of the intermediate floor levels.

(c) The building must be sited a minimum of five feet above and 100 feet from any 100 year flood plain areas, or be protected by an appropriate flood wall that conforms to local or regional building codes.

(d) The facility must be designed in accordance with regional building codes to provide protection from building collapse or failure of essential equipment from earthquake hazards, tornados, hurricanes and other potential natural disasters.

(e) Roads, fire lanes and parking areas must permit unrestricted access for emergency vehicles.

(f) A floor load limit must be established for the records storage area by a licensed structural engineer. The limit must take into consideration the height and type of the shelving or storage equipment, the width of the aisles, the configuration of the space, etc. The allowable load limit must be posted in a conspicuous place and must not be exceeded.

(g) The facility must ensure that the roof membrane does not permit water to penetrate the roof. NARA strongly recommends that this requirement be met by not mounting equipment on the roof and placing nothing else on the roof that may cause damage to the roof membrane. Alternatively, a facility may meet this requirement with stringent design specifications for roof-mounted equipment in conjunction with a periodic roof inspection program performed by appropriately certified professionals.

(1) New records storage facilities must meet the requirements in this paragraph (g) January 3, 2000.

(2) Existing facilities must meet the requirements in this paragraph (g) no later than October 1, 2009.

(h) Piping (with the exception of fire protection sprinkler piping and storm water roof drainage piping) must not be run through records storage areas unless supplemental measures such as gutters or shields are used to prevent water leaks and the piping assembly is inspected for potential leaks regularly. If drainage piping from roof drains must be run though records storage areas, the piping must be run to the nearest vertical riser and must include a continuous gutter sized and installed beneath the lateral runs to prevent leakage into the storage area. Vertical pipe risers required to be installed in records storage areas must be fully enclosed by shaft construction with appropriate maintenance access panels.

(1) New records storage facilities must meet the requirements in this paragraph (h) January 3, 2000.

(2) Existing facilities must meet the requirements in this paragraph (h) no later than October 1, 2009.

(i) The following standards apply to records storage shelving:

(1) All storage shelving must be designed and installed to provide seismic bracing that meets the requirements of the applicable regional building code;

(2) Steel shelving or other open-shelf records storage equipment must be braced to prevent collapse under full load. Each shelving unit must be industrial style shelving rated at least 50 pounds per cubic foot supported by the shelf;

(3) Compact mobile shelving systems (if used) must be designed to permit proper air circulation and fire protection (detailed specifications that meet this requirement can be provided by NARA by writing to Director, Space and Security Management Division (NAS), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001.).

(j) The area occupied by the records storage facility must be equipped with an anti-intrusion alarm system, or equivalent, meeting the requirements of Underwriters Laboratory (UL) Standard 1076, Proprietary Burglar Alarm Units and Systems (February 1, 1999), level AA, to protect against unlawful entry after hours and to monitor designated interior storage spaces. This intrusion alarm system must be monitored in accordance with UL Standard 611, Central-Station Burglar-Alarm Systems (February 22, 1996).

(k) The facility must comply with the requirements for a Level III facility as defined in the Department of Justice, U. S. Marshals Service report Vulnerability Assessment of Federal Facilities dated June 28, 1995. These requirements are provided in Appendix A to this Part 1228. Agencies may require compliance with Level IV or Level V facility security requirements if the facility is classified at the higher level.

(l) Records contaminated by hazardous materials, such as radioactive isotopes or toxins, infiltrated by insects, or exhibiting active mold growth must be stored in separate areas having separate air handling systems from other records.

(m) To eliminate damage to records and/or loss of information due to insects, rodents, mold and other pests that are attracted to organic materials under specific environmental conditions, the facility must have an Integrated Pest Management program as defined in the Food Protection Act of 1996 (Section 303, Public Law 104–170, 110 Stat. 1512). This states in part that Integrated Pest Management is a sustainable approach to managing pests by combining biological, cultural, physical, and chemical tools in a way that minimizes economic, health, and environmental risks. The IPM program emphasizes three fundamental elements:

(1) *Prevention*. IPM is a preventive maintenance process that seeks to identify and eliminate potential pest access, shelter, and nourishment. It also continually monitors for pests

themselves, so that small infestations do not become large ones;

(2) *Least-toxic methods.* IPM aims to minimize both pesticide use and risk through alternate control techniques and by favoring compounds, formulations, and application methods that present the lowest potential hazard to humans and the environment; and

(3) *Systems approach.* The IPM pest control contract must be effectively coordinated with all other relevant programs that operate in and around a building, including plans and procedures involving design and construction, repairs and alterations, cleaning, waste management, food service, and other activities.

(n) For new records storage facilities only, the additional requirements in this paragraph (n) must be met:

(1) Do not install mechanical equipment containing motors rated in excess of 1 HP within records storage areas (either floor mounted or suspended from roof support structures).

(2) Do not install high-voltage electrical distribution equipment (i.e., 13.2kv or higher switchgear and transformers) within records storage areas (either floor mounted or suspended from roof support structures).

(3) A redundant source of primary electric service such as a second primary service feeder should be provided to ensure continuous, dependable service to the facility especially to the HVAC systems, fire alarm and fire protection systems. Manual switching between sources of service is acceptable.

(4) The facility must be kept under positive air pressure especially in the area of the loading dock.

In addition, to prevent fumes from vehicle exhausts from entering the facility, air intake louvers must not be located in the area of the loading dock, adjacent to parking areas or in any location where a vehicle engine may be running for any period of time. Loading docks must have an air supply and exhaust system that is separate from the remainder of the facility.

### § 1228.230 What are the fire safety requirements that apply to records storage facilities?

(a) The fire detection and protection systems must be designed or certified by a licensed fire protection engineer.

(b) All walls separating records storage areas from each other and from other storage areas in the building must be 4-hour fire resistant. The records storage areas must not exceed a total capacity of 250,000 cubic feet of records each and must be constructed to prevent migration of fire and smoke to other spaces of the building. If the facility does not have fire compartmentalization of its records storage area or has compartmentalized records storage areas larger than 250,000 cubic feet, the facility may not store more than 250,000 cubic feet total of Federal records in the records storage area.

(c) Fire barrier walls that meet the following specifications must be provided:

(1) For existing records storage facilities, at least one-hour-rated fire barrier walls must be provided between the records storage areas and other auxiliary spaces.

(2) For new records storage facilities, two-hour-rated fire barrier walls must be provided between the records storage areas and other auxiliary spaces. One exterior wall of each stack area must be designed with a maximum fire resistive rating of one hour, or, if rated more than one hour, there must be at least one knock-out panel in one exterior wall of each stack area.

(d) Penetrations in the walls must not reduce the specified fire resistance ratings. The fire resistance ratings of structural elements and construction assemblies must be in accordance with American Society of Testing and Materials E 119–98, Standard Test Methods for Fire Tests of Building Construction and Materials.

(e) The fire resistive rating of the roof must be a minimum of ½ hour for all records storage facilities. For new records storage facilities, the fire resistive rating of the roof must also be a maximum of 1 hour.

(f) Openings in fire barrier walls separating records storage areas must be avoided to the greatest extent possible. If openings are necessary, they must be protected by self-closing or automatic Class A fire doors, or equivalent doors that maintain the same rating as the wall.

(g) Roof support structures that cross or penetrate fire barrier walls must be cut and supported independently on each side of the fire barrier wall.

(h) If fire barrier walls are erected with expansion joints, the joints must be protected to their full height.

(i) For new records storage facilities, building columns in the records storage areas must be 4-hour fire resistant from the floor to slab above or to the location where they connect to the roof framing system. For existing records storage facilities, the building columns must be at least 2-hour fire resistant.

(j) Automatic roof vents for routine ventilation purposes must not be designed into new records storage facilities. Automatic roof vents, designed solely to vent in the case of a fire, with a temperature rating at least twice that of the sprinkler heads are acceptable.

(k) Where lightweight steel roof or floor supporting members (e.g., bar joists having top chords with angles 2 by 1½ inches or smaller, ¼-inch thick or smaller, and 13⁄16-inch or smaller web diameters) are present, they must be protected either by applying a 10-minute fire resistive coating to the top chords of the joists, or by retrofitting the sprinkler system with large drop sprinkler heads. If a fire resistive coating is applied, it must be a product that will not release (off gas) harmful fumes into the facility. If fire resistive coating is subject to air erosion or flaking, it must be fully enclosed in a drywall containment constructed of metal studs with fire retardant drywall. Retrofitting may require modifications to the piping system to ensure that adequate water capacity and pressure are provided in the areas to be protected with these large drop sprinkler heads.

(l) No open flame (oil or gas) unit heaters or equipment may be installed or used in any records storage area.

(m) For existing records storage facilities, boiler rooms or rooms containing equipment operating with a fuel supply (such as generator rooms) must be separated from records storage areas by 2-hour-rated fire barrier walls with no openings directly from these rooms to the records storage areas. Such areas must be vented directly to the outside to a location where fumes will not be drawn back into the facility.

(n) For new records storage facilities, boiler rooms or rooms containing equipment operating with a fuel supply (such as generator rooms) must be separated from records storage areas by 4-hour-rated fire barrier walls with no openings directly from these rooms to the records storage areas. Such areas must be vented directly to the outside to a location where fumes will not be drawn back into the facility.

(o) For new records storage facilities, fuel supply lines must not be installed in areas containing records and must be separated from such areas with 4-hour rated construction assemblies.

(p) Equipment rows running perpendicular to the wall must comply with NFPA 101 (1997), Life Safety Code, with respect to egress requirements.

(q) No oil-type electrical transformers, regardless of size, except thermally protected devices included in fluorescent light ballasts, may be installed in the records storage areas. All electrical wiring must be in metal conduit, except that armored cable may

be used where flexible wiring connections to light fixtures are required. Battery charging areas for electric forklifts must be separated from records storage areas with at least a 2-hour rated fire barrier wall.

(r) Hazardous materials, including records on cellulose nitrate film, must not be stored in records storage areas. Nitrate motion picture film and nitrate sheet film may be stored in separate areas that meet the requirements of the appropriate NFPA standard, NFPA 40 (1997), Standard for the Storage and Handling of Cellulose Nitrate Motion Picture Film, or NFPA 42 (1997), Code for the Storage of Pyroxylin Plastic.

(s) All records storage and adjoining areas must be protected by a professionally-designed fire-safety detection and suppression system that is designed to limit the maximum anticipated loss in any single fire event to a maximum of 300 cubic feet of records destroyed by fire. Section 1228.242 specifies how to document compliance with this requirement.

**§ 1228.232 What are the requirements for environmental controls for records storage facilities?**

(a) *Paper-based temporary records.* Paper-based temporary records must be stored under environmental conditions that prevent the active growth of mold. Exposure to moisture through leaks or condensation, relative humidities in excess of 70%, extremes of heat combined with relative humidity in excess of 55%, and poor air circulation during periods of elevated heat and relative humidity are all factors that contribute to mold growth.

(b) *Nontextual temporary records.* Nontextual temporary records, including microforms and audiovisual and electronic records, must be stored in records storage space that will ensure their preservation for their full retention period. New records storage facilities that store nontextual temporary records must meet the requirements in this paragraph (b) January 3, 2000. Existing records storage facilities that store nontextual temporary records must meet the requirements in this paragraph (b) no later than October 1, 2009. At a minimum, nontextual temporary records must be stored in records storage space that meets the requirements for medium term storage set by the appropriate standard in this paragraph (b). In general, medium term conditions as defined by these standards are those that will ensure the preservation of the materials for at least 10 years with little information degradation or loss. Records may continue to be usable for longer than 10 years when stored under these conditions, but with an increasing risk of information loss or degradation with longer times. If temporary records require retention longer than 10 years, better storage conditions (cooler and drier) than those specified for medium term storage will be needed to maintain the usability of these records. The applicable standards are:

(1) ANSI/PIMA IT9.11–1998, Imaging Materials—Processed Safety Photographic Films—Storage;

(2) ANSI/NAPM IT9.23–1996, Imaging Materials—Polyester Base Magnetic Tape—Storage;

(3) ANSI/PIMA IT9.25–1998, Imaging Materials—Optical Disc Media—Storage;

(4) ANSI /NAPM IT9.20–1996, Imaging Materials—Reflection Prints—Storage Practices; and/or

(5) ANSI/NAPM IT9.18–1996, Imaging Materials—Processed Photographic Plates—Storage Practices.

(c) *Paper-based permanent, unscheduled and sample/select records.* Paper-based permanent, unscheduled, and sample/select records must be stored in records storage space that provides 24 hour/365 days per year air conditioning (temperature, humidity, and air exchange) equivalent to that required for office space. See ASHRAE Standard 55–1992, Thermal Environmental Conditions for Human Occupancy, and ASHRAE Standard 62–1989, Ventilation for Acceptable Indoor Air Quality, for specific requirements. New records storage facilities that store paper-based permanent, unscheduled, and/or sample/select records must meet the requirement in this paragraph (c) January 3, 2000. Existing storage facilities that store paper-based permanent, unscheduled, and/or sample/select records must meet the requirement in this paragraph (c) no later than October 1, 2009.

(d) *Nontextual permanent, unscheduled, and/or sample/select records.* All records storage facilities that store microfilm, audiovisual, and/or electronic permanent, unscheduled, and/or sample/select records must comply with the storage standards for permanent and unscheduled records in parts 1230, 1232, and/or 1234 of this chapter, respectively.

## Handling Deviations From NARA's Facility Standards

**§ 1228.234 What rules apply if there is a conflict between NARA standards and other regulatory standards that a facility must follow?**

(a) If any provisions of this subpart conflict with local or regional building codes, the following rules of precedence apply:

(1) Between differing levels of fire protection and life safety, the more stringent provision applies; and

(2) Between mandatory provisions that cannot be reconciled with a requirement of this subpart, the local or regional code applies.

(b) If any of the provisions of this subpart conflict with mandatory life safety or ventilation requirements imposed on underground storage facilities by 30 CFR chapter I, 30 CFR chapter I applies.

(c) NARA reserves the right to require documentation of the mandatory nature of the conflicting code and the inability to reconcile that provision with NARA requirements.

**§ 1228.236 How does an agency request a waiver from a requirement in this subpart?**

(a) *Types of waivers that may be approved.* NARA may approve exceptions to one or more of the standards in this subpart for:

(1) Systems, methods, or devices that are demonstrated to have equivalent or superior quality, strength, fire resistance, effectiveness, durability, and safety to those prescribed by this subpart;

(2) Existing agency records centers that met the previous NARA standards in effect on January 2, 2000, but that do not meet a new standard required to be in place on January 3, 2000; and

(3) The application of roof requirements in §§ 1228.228 and 1228.230 to underground storage facilities.

(b) *Where to submit a waiver request.* The agency submits a waiver request, containing the information specified in paragraphs (c), (d), and/or (e) of this section to the Director, Security and Space Management Division (NAS), National Archives and Records Administration, 8601 Adelphi Rd., College Park, MD 20740–6001.

(c) *Content of request for waivers for equivalent or superior alternatives.* The agency's waiver request must contain:

(1) A statement of the specific provision(s) of this subpart for which a waiver is requested, a description of the proposed alternative, and an explanation how it is equivalent to or superior to the NARA requirement; and

(2) Supporting documentation that the alternative does not provide less protection for Federal records than that which would be provided by compliance with the corresponding provisions contained in this subpart. Documentation may take the form of certifications from a licensed fire protection engineer or a structural or

civil engineer, as appropriate; reports of independent testing; reports of computer modeling; and/or other supporting information.

(d) *Content of request for waiver for previously compliant agency records center.* The agency's waiver request must identify which requirement(s) the agency records center cannot meet and provide a plan with milestones for bringing the center into compliance.

(e) *Content of request for waiver of roof requirements for underground facility.* The agency's waiver request must identify the location of the facility and whether the facility is a drift entrance facility or a vertical access facility.

**§ 1228.238 How does NARA process a waiver request?**

(a) *Waiver for equivalent or superior alternative.* NARA will review the waiver request and supporting documentation.

(1) If in NARA's judgement the supporting documentation clearly supports the claim that the alternative is equivalent or superior to the NARA requirement, NARA will grant the waiver and notify the requesting agency within 30 calendar days.

(2) If NARA questions whether supporting documentation demonstrates that the proposed alternative offers at least equal protection to Federal records, NARA will consult the appropriate industry standards body or other qualified expert before making a determination. NARA will notify the requesting agency within 30 calendar days of receipt of the request that consultation is necessary and will provide a final determination within 60 calendar days. If NARA does not grant the waiver, NARA will furnish a full explanation of the reasons for its decision.

(b) *Waiver of new requirement for existing agency records center.* NARA will review the agency's waiver request and plan to bring the facility into compliance.

(1) NARA will approve the request and plan within 30 calendar days if NARA judges the planned actions and time frames for bringing the facility into compliance are reasonable.

(2) If NARA questions the feasibility or reasonableness of the plan, NARA will work with the agency to develop a revised plan that NARA can approve and the agency can implement. NARA may grant a short-term temporary waiver, not to exceed 180 calendar days, while the revised plan is under development.

(c) *Waiver of roof requirements for underground storage facilities.* NARA will normally grant the waiver and notify the requesting agency within 10 work days if the agency has not also requested a waiver of a different requirement under § 1228.236. If the agency has another waiver request pending for the same facility, NARA will respond to all of the waiver requests at the same time and within the longest time limits.

**Facility Approval and Inspection Requirements**

**§ 1228.240 How does an agency request authority to establish or relocate records storage facilities?**

(a) *General policy.* Agencies are responsible for ensuring that records in their legal custody are stored in appropriate space as outlined in this subpart. Under § 1228.156(a), agencies are responsible for initiating action to remove records from space that does not meet these standards if deficiencies are not corrected within 6 months after initial discovery of the deficiencies by NARA or the agency and to complete removal of the records within 18 months after initial discovery of the deficiencies.

(1) *Agency records centers.* Agencies must obtain prior written approval from NARA before establishing or relocating an agency records center. Each separate agency records center must be specifically approved by NARA prior to the transfer of any records to that individual facility. If an agency records center has been approved for the storage of Federal records of one agency, any other agency that proposes to store its records in that facility must still obtain NARA approval to do so.

(2) *Commercial records storage facilities.* An agency may contract for commercial records storage services. However, before any agency records are transferred to a commercial records storage facility, the transferring agency must ensure that the facility meets all of the requirements for an agency records storage facility set forth in this subpart and must submit the documentation required in paragraph (e) of this section.

(b) *Exclusions.* For purposes of this section, the term ''agency records center'' excludes NARA-owned and operated records centers. For purposes of this section and § 1228.244, the term ''agency records center'' also excludes agency records staging and/or holding areas with a capacity for containing less than 25,000 cubic feet of records. However, such records centers and areas, including records centers operated and maintained by NARA, must comply with the facility standards in §§ 1228.228 through 1228.232.

(c) *Content of requests for agency records centers.* Requests for authority to establish or relocate an agency records center, or to use an agency records center operated by another agency, must be submitted in writing to the Director, Space and Security Management Division (NAS), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001.

(1) The request must identify the specific facility and, for requests to establish or relocate the agency's own records center, document compliance with the standards in this subpart. Documentation requirements for § 1228.230(s) are specified in § 1228.242.

(2) If the request is for approval of an existing agency records center that did not comply with the requirements of this subpart in effect on January 2, 2000, the request must also contain the agency's plan to modify the facility to bring it into compliance with current requirements within a three year period. Such requests must be submitted to NARA no later than July 1, 2000.

(d) *Approval of requests for agency records centers.* NARA will review the submitted documentation to ensure the facility demonstrates full compliance with the standards in this subpart. For requests submitted under paragraph (c)(2) of this section, NARA also will review the submitted plan to ensure that the plan is realistic. NARA reserves the right to visit the facility, if necessary, to make the determination of compliance. NARA will inform the agency of its decision within 45 calendar days after the request is received, and will provide the agency information on the areas of noncompliance if the request is denied. Requests will be denied only if NARA determines that the facility does not demonstrate full compliance with the standards in this subpart. Approvals will be valid for a period of 10 years, unless the facility is materially changed before then or an agency or NARA inspection finds that the facility does not meet the standards in this subpart. Material changes require submission of a new request for NARA approval.

(e) *Documentation requirements for storing Federal records in commercial records storage facilities.* At least 45 calendar days before an agency first transfers records to a commercial records storage facility, the agency must submit documentation to NARA that the facility complies with the standards in this subpart. The documentation may take the form of a copy of the agency's contract that incorporates this subpart in its provisions or a statement from the agency records officer that certifies that

the facility meets the standards in this subpart. An agency must provide the documentation for each separate commercial records storage facility where its records will be stored. Documentation must be sent to the Director, Space and Security Management Division (NAS), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. The agency must submit updated documentation to NARA every 10 years if it continues to store records in that commercial records storage facility.

**§ 1228.242 What does an agency have to do to certify a fire-safety detection and suppression system?**

(a) *Content of documentation.* The agency must submit documentation to the Director, Space and Security Management Division (NAS), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001, that describes the space being protected (e.g., the type and stacking height of the storage equipment used, or how the space is designed, controlled, and operated) and the characteristics of the fire-safety detection and suppression system used. The documentation must demonstrate how that system meets the requirement in § 1228.230(s) through:

(1) A statement that the facility is using a NARA certified system as described in Appendix B to this part;

(2) A report of the results of independent live fire testing (Factory Mutual, Underwriters Laboratories or equivalent); or

(3) A report of the results of computer modeling, and a certification by a licensed fire protection engineer that the system has been designed to limit the maximum anticipated loss in any single fire event to a maximum of 300 cubic feet of records destroyed by fire. If this method of demonstrating compliance is chosen, the description of the system must include specific references to any industry standards used in the design, such as those issued by the National Fire Protection Association (see NFPA 13, NFPA 231, NFPA 231C, NFPA 232 and NFPA 232A).

(b) *NARA action.* (1) NARA will approve the fire-safety detection and suppression system within 10 work days if NARA has previously approved the system design for similarly configured space or if a report of independent testing of a new system design is furnished as documentation.

(2) If, in NARA's judgment, the supporting documentation provided in accordance with paragraph (a)(3) of this section clearly demonstrates compliance with § 1228.230(s), NARA will approve the fire-safety detection and suppression system within 30 calendar days.

(3) If NARA questions whether supporting documentation demonstrates compliance with § 1228.230(s), NARA will consult the appropriate industry standards body or other qualified expert before making a determination. Before any consultation, NARA may ask the agency for additional clarifying information. NARA will notify the requesting agency within 30 calendar days of receipt of the request that consultation is necessary and will provide a final determination within 60 calendar days. If NARA does not approve the system, NARA will furnish a full explanation of the reasons for its decision.

(4) NARA will maintain a list of approved alternative systems.

**§ 1228.244 When may NARA conduct an inspection of a records storage facility?**

(a) At the time an agency submits a request to establish an agency records center, pursuant to § 1228.240, NARA may conduct an inspection of the proposed facility to ensure that the facility complies fully with the standards in this subpart. NARA may also conduct periodic inspections of agency records centers so long as such facility is used as an agency records center. NARA will inspect its own records center facilities on a periodic basis to ensure that they are in compliance with the requirements of this subpart.

(b) Agencies must ensure, by contract or otherwise, that agency and NARA officials, or their delegates, have the right to inspect commercial records storage facilities to ensure that such facilities fully comply with the standards in this subpart. NARA may conduct periodic inspections of commercial records storage facilities so long as agencies use such facilities to store agency records. The using agency, not NARA, will be responsible for paying any fee or charge assessed by the commercial records storage facility for NARA's conducting an inspection.

(c) NARA will contact the agency operating the records center or the agency holding a contract with a commercial records storage facility in advance to set a date for the inspection.

3. Appendixes A and B are added to part 1228 to read as follows:

**Appendix A to Part 1228—Minimum Security Standards for Level III Federal Facilities**

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Reproduced from Section 2.3 (pp. 2-6 through 2-9) of
U.S. Department of Justice, United States Marshals Service report
*Vulnerability Assessment of Federal Facilities*

## RECOMMENDED STANDARDS CHART

| PERIMETER SECURITY | LEVEL III |
|---|---|
| ***PARKING*** | |
| CONTROL OF FACILITY PARKING | ● |
| CONTROL OF ADJACENT PARKING | ▲ |
| AVOID LEASES WHERE PARKING CANNOT BE CONTROLLED | ▲ |
| LEASES SHOULD PROVIDE SECURITY CONTROL FOR ADJACENT PARKING | ▲ |
| POST SIGNS AND ARRANGE FOR TOWING UNAUTHORIZED VEHICLES | ● |
| ID SYSTEM AND PROCEDURES FOR AUTHORIZED PARKING (PLACARD, DECAL, CARD KEY, ETC.) | ● |
| ADEQUATE LIGHTING FOR PARKING AREAS | ● |
| ***CLOSED CIRCUIT TELEVISION (CCTV) MONITORING*** | |
| CCTV SURVEILLANCE CAMERAS WITH TIME LAPSE VIDEO RECORDING | ○ |
| POST SIGNS ADVISING OF 24 HOUR VIDEO SURVEILLANCE | ○ |
| ***LIGHTING*** | |
| LIGHTING WITH EMERGENCY POWER BACKUP | ● |
| ***PHYSICAL BARRIERS*** | |
| EXTEND PHYSICAL PERIMETER WITH BARRIERS (CONCRETE AND/OR STEEL COMPOSITION) | ▲ |
| PARKING BARRIERS | ▲ |
| **ENTRY SECURITY** | **LEVEL III** |
| ***RECEIVING/SHIPPING*** | |
| REVIEW RECEIVING/SHIPPING PROCEDURES (CURRENT) | ● |
| IMPLEMENT RECEIVING/SHIPPING PROCEDURES (MODIFIED) | ● |

● **REQUIRED** ○ **RECOMMENDED** ▲ **DESIRABLE**

| **ENTRY SECURITY, cont.** | **LEVEL III** |
|---|---|
| ***ACCESS CONTROL*** | |
| EVALUATE FACILITY FOR SECURITY GUARD REQUIREMENTS | ● |
| SECURITY GUARD PATROL | ○ |
| INTRUSION DETECTION SYSTEM WITH CENTRAL MONITORING CAPABILITY | ● |
| UPGRADE TO CURRENT LIFE SAFETY STANDARDS (FIRE DETECTION, FIRE SUPPRESSION SYSTEMS, ETC.) | ● |
| ***ENTRANCES/EXITS*** | |
| X-RAY & MAGNETOMETER AT PUBLIC ENTRANCES | ○ |
| REQUIRE X-RAY SCREENING OF ALL MAIL/PACKAGES | ○ |
| HIGH SECURITY LOCKS | ● |
| **INTERIOR SECURITY** | **LEVEL III** |
| ***EMPLOYEE/VISITOR IDENTIFICATION*** | |
| AGENCY PHOTO ID FOR ALL PERSONNEL DISPLAYED AT ALL TIMES | ○ |
| VISITOR CONTROL/SCREENING SYSTEM | ● |
| VISITOR IDENTIFICATION ACCOUNTABILITY SYSTEM | ○ |
| ESTABLISH ID ISSUING AUTHORITY | ○ |
| ***UTILITIES*** | |
| PREVENT UNAUTHORIZED ACCESS TO UTILITY AREAS | ● |
| PROVIDE EMERGENCY POWER TO CRITICAL SYSTEMS (ALARM SYSTEMS, RADIO COMMUNICATIONS, COMPUTER FACILITIES, ETC.) | ● |
| ***OCCUPANT EMERGENCY PLANS*** | |
| EXAMINE OCCUPANT EMERGENCY PLANS (OEP) AND CONTINGENCY PROCEDURES BASED ON THREATS | ● |
| OEPs IN PLACE, UPDATED ANNUALLY, PERIODIC TESTING EXERCISE | ● |
| ASSIGN & TRAIN OEP OFFICIALS (ASSIGNMENT BASED ON LARGEST TENANT IN FACILITY) | ● |
| ANNUAL TENANT TRAINING | ● |

● **REQUIRED** ○ **RECOMMENDED** ▲ **DESIRABLE**

| INTERIOR SECURITY, cont. | LEVEL III |
|---|---|
| *DAYCARE CENTERS* | |
| COMPARE FEASIBILITY OF LOCATING DAYCARE IN OUTSIDE LOCATIONS | ● |
| EVALUATE WHETHER TO LOCATE DAYCARE FACILITIES IN BUILDINGS WITH HIGH THREAT ACTIVITIES | ● |
| **SECURITY PLANNING** | **LEVEL III** |
| *INTELLIGENCE SHARING* | |
| ESTABLISH LAW ENFORCEMENT AGENCY/SECURITY LIAISONS | ● |
| REVIEW/ESTABLISH PROCEDURE FOR INTELLIGENCE RECEIPT/DISSEMINATION | ● |
| ESTABLISH UNIFORM SECURITY/THREAT NOMENCLATURE | ● |
| *TRAINING* | |
| CONDUCT ANNUAL SECURITY AWARENESS TRAINING | ● |
| ESTABLISH STANDARDIZED UNARMED GUARD QUALIFICATIONS/ TRAINING REQUIREMENTS | ● |
| ESTABLISH STANDARDIZED ARMED GUARD QUALIFICATIONS/ TRAINING REQUIREMENTS | ● |
| *TENANT ASSIGNMENT* | |
| CO-LOCATE AGENCIES WITH SIMILAR SECURITY NEEDS | ▲ |
| DO NOT CO-LOCATE HIGH/LOW RISK AGENCIES | ▲ |
| *ADMINISTRATIVE PROCEDURES* | |
| ESTABLISH FLEXIBLE WORK SCHEDULE IN HIGH THREAT/ HIGH RISK AREAS TO MINIMIZE EMPLOYEE VULNERABILITY TO CRIMINAL ACTIVITY | ▲ |
| ARRANGE FOR EMPLOYEE PARKING IN/NEAR BUILDING AFTER NORMAL WORK HOURS | ○ |
| CONDUCT BACKGROUND SECURITY CHECKS AND/OR ESTABLISH SECURITY CONTROL PROCEDURES FOR SERVICE CONTRACT PERSONNEL | ● |
| *CONSTRUCTION/RENOVATION* | |
| INSTALL MYLAR FILM ON ALL EXTERIOR WINDOWS (SHATTER PROTECTION) | ○ |
| REVIEW CURRENT PROJECTS FOR BLAST STANDARDS | ● |
| REVIEW/ESTABLISH UNIFORM STANDARDS FOR CONSTRUCTION | ● |
| REVIEW/ESTABLISH NEW DESIGN STANDARD FOR BLAST RESISTANCE | ● |
| ESTABLISH STREET SET-BACK FOR NEW CONSTRUCTION | ○ |

● REQUIRED ○ RECOMMENDED ▲ DESIRABLE

Reproduced from Appendix B, *Details of Recommended Security Standards*
U.S. Department of Justice, United States Marshals Service report
*Vulnerability Assessment of Federal Facilities*

## B.1 Perimeter Security

| Parking | |
|---|---|
| **Term** | **Definition/Description** |
| **CONTROL OF FACILITY PARKING** | Access to government parking should be limited where possible to government vehicles and personnel. At a minimum, authorized parking spaces and vehicles should be assigned and identified. |
| **CONTROL OF ADJACENT PARKING** | Where feasible, parking areas adjacent to federal space should also be controlled to reduce the potential for threats against Federal facilities and employee exposure to criminal activity. |
| **AVOID LEASES WHERE PARKING CANNOT BE CONTROLLED** | Avoid leasing facilities where parking cannot be controlled. If necessary, relocate offices to facilities that do provide added security through regulated parking. |
| **LEASE SHOULD PROVIDE CONTROL FOR ADJACENT PARKING** | Endeavor to negotiate guard services as part of lease. |
| **POST SIGNS AND ARRANGE FOR TOWING UNAUTHORIZED VEHICLES** | Procedures should be established and implemented to alert the public to towing policies, and the removal of unauthorized vehicles. |
| **ID SYSTEM AND PROCEDURES FOR AUTHORIZED PARKING** | Procedures should be established for identifying vehicles and corresponding parking spaces (placard, decal, card key, etc.). |
| **ADEQUATE LIGHTING FOR PARKING AREAS** | Effective lighting provides added safety for employees and deters illegal or threatening activities. |

| Closed Circuit Television (CCTV) Monitoring | |
|---|---|
| **Term** | **Definition/Description** |
| **CCTV SURVEILLANCE CAMERAS WITH TIME LAPSE VIDEO RECORDING** | Twenty-four hour CCTV surveillance and recording is desirable at all locations as a deterrent. Requirements will depend on assessment of the security level for each facility. Time-lapse video recordings are also highly valuable as a source of evidence and investigative leads |
| **POST SIGNS ADVISING OF 24 HOUR VIDEO SURVEILLANCE** | Warning signs advising of twenty-four hour surveillance act as a deterrent in protecting employees and facilities. |

| Lighting | |
|---|---|
| **Term** | **Definition/Description** |
| **LIGHTING WITH EMERGENCY POWER BACKUP** | Standard safety code requirement in virtually all areas. Provides for safe evacuation of buildings in case of natural disaster, power outage, or criminal/terrorist activity. |

| Physical Barriers | |
|---|---|
| **Term** | **Definition/Description** |
| **EXTEND PHYSICAL PERIMETER, WITH BARRIERS** | This security measure will only be possible in locations where the Government controls the property and where physical constraints are not present. (barriers of concrete and/or steel composition) |
| **PARKING BARRIERS** | Desirable to prevent unauthorized vehicle access. |

**B.2 Entry Security**

| Receiving/Shipping | |
|---|---|
| **Term** | **Definition/Description** |
| **REVIEW RECEIVING/SHIPPING PROCEDURES (CURRENT)** | Audit current standards for package entry and suggest ways to enhance security. |
| **IMPLEMENT RECEIVING/SHIPPING PROCEDURES (MODIFIED)** | After auditing procedures for receiving/shipping, implement improved procedures for security enhancements. |

| Access Control | |
|---|---|
| **Term** | **Definition/Description** |
| **EVALUATE FACILITY FOR SECURITY GUARD REQUIREMENTS** | If security guards are required, the number of guards at any given time will depend on the size of the facility, the hours of operation, and current risk factors, etc. |
| **SECURITY GUARD PATROL** | Desirable for level I and II facilities and may be included as lease option. Level III, IV and V facilities will have security guard patrol based on facility evaluation. |
| **INTRUSION DETECTION SYSTEM WITH CENTRAL MONITORING CAPABILITY** | Desirable in Level I facilities, based on evaluation for Level II facilities, and required for Levels III, IV and V. |
| **UPGRADE TO CURRENT LIFE SAFETY STANDARDS** | Required for all facilities as part of GSA design requirements, (e.g. fire detection, fire suppression systems, etc.) |

| Entrances/Exits | |
|---|---|
| **Term** | **Definition/Description** |
| **X-RAY AND MAGNETOMETER AT PUBLIC ENTRANCES** | May be impractical for Level I and II facilities. Level III and IV evaluations would focus on tenant agencies, public interface, and feasibility. Required for Level V. |
| **REQUIRE X-RAY SCREENING OF ALL MAIL/PACKAGES** | All packages entering buliding should be subject to x-ray screening and/or visual inspection. |
| **HIGH SECURITY LOCKS** | Any exterior entrance should have a high security lock as determined by GSA specifications and/or agency requirements. |

**B.3 Interior Security**

| Employee/Visitor Identification | |
|---|---|
| **Term** | **Definition/Description** |
| **AGENCY PHOTO ID FOR ALL PERSONNEL DISPLAYED AT ALL TIMES** | May not be required in smaller facilities. |

| Employee/Visitor Identification | |
|---|---|
| **Term** | **Definition/Description** |
| **VISITOR CONTROL/SECURITY SYSTEM** | Visitors should be readily apparent in Level I facilities. Other facilities may ask visitors to sign-in with a receptionist or guard, or require an escort, or formal identification/badge. |
| **VISITOR ID ACCOUNTABILITY SYSTEM** | Stringent methods of control over visitor badges will ensure that visitors wearing badges have been screened and are authorized to be at the facility during the appropriate time frame. |
| **ESTABLISH ID ISSUING AUTHORITY** | Develop procedures and establish authority for issuing employee and visitor IDs. |

| Utilities | |
|---|---|
| **Term** | **Definition/Description** |
| **PREVENT UNAUTHORIZED ACCESS TO UTILITY AREAS** | Smaller facilities may not have control over utility access, or locations of utility areas. Where possible, assure that utility areas are secure and that only authorized personnel can gain entry. |
| **PROVIDE EMERGENCY POWER TO CRITICAL SYSTEMS** | Tenant agency is responsible for determining which computer and communication systems require back-up power. All alarm systems, CCTV monitoring devices, fire detection systems, entry control devices, etc. require emergency power sources. (ALARM SYSTEMS, RADIO COMMUNICATIONS, COMPUTER FACILITIES, ETC.) |

| Occupant Emergency Plans | |
|---|---|
| **Term** | **Definition/Description** |
| **EXAMINE OCCUPANT EMERGENCY PLAN (OEP) AND CONTINGENCY PROCEDURES BASED ON THREATS** | Review and update current OEP procedures for thoroughness. OEPs should reflect the current security climate. |

| Occupant Emergency Plans | |
|---|---|
| **Term** | **Definition/Description** |
| **ASSIGN AND TRAIN OEP OFFICIALS** | Assignment based on GSA requirement that largest tenant in facility maintain OEP responsibility. Officials should be assigned, trained and a contingency plan established to provide for the possible absence of OEP officials in the event of emergency activation of the OEP. |
| **ANNUAL TENANT TRAINING** | All tenants should be aware of their individual responsibilities in an emergency situation. |

| Day Care Center | |
|---|---|
| **Term** | **Definition/Description** |
| **RE-EVALUATE CURRENT SECURITY AND SAFETY STANDARDS** | Conduct a thorough review of security and safety standards. |
| **ASSESS FEASIBILITY OF LOCATING DAY CARE WITHIN FEDERAL FACILITY** | If a facility is being considered for a day care center, an evaluation should be made based on the risk factors associated with tenants and the location of the facility. |

**B.4 Security Planning**

| Intelligence Sharing | |
|---|---|
| **Term** | **Definition/Description** |
| **ESTABLISH LAW ENFORCEMENT AGENCY/SECURITY LIAISONS** | Intelligence sharing between law enforcement agencies and security organizations should be established in order to facilitate the accurate flow of timely and relevant information between appropriate government agencies. Agencies involved in providing security must be part of the complete intelligence process. |
| **REVIEW/ESTABLISH PROCEDURES FOR INTELLIGENCE RECEIPT/DISSEMINATION** | Determine what procedures exist to ensure timely delivery of critical intelligence. Review and improve procedures to alert agencies and specific targets of criminal/terrorist threats. Establish standard administrative procedures for response to incoming alerts. Review flow of information for effectiveness and time critical dissemination. |

| Intelligence Sharing | |
|---|---|
| **Term** | **Definition/Description** |
| **ESTABLISH UNIFORM SECURITY/THREAT NOMENCLATURE** | To facilitate communication, standardized terminology for Alert Levels should be implemented. (Normal, Low, Moderate, and High - As recommended by Security Standards Committee) |

| Training | |
|---|---|
| **Term** | **Definition/Description** |
| **CONDUCT ANNUAL SECURITY AWARENESS TRAINING** | Provide security awareness training for all tenants. At a minimum, self-study programs utilizing videos, and literature, etc. should be implemented. These materials should provide up-to-date information covering security practices, employee security awareness, and personal safety, etc. |
| **ESTABLISH STANDARDIZED ARMED AND UNARMED GUARD QUALIFICATIONS/ TRAINING REQUIREMENTS** | Requirements for these positions should be standardized government wide. |

| Tenant Assignment | |
|---|---|
| **Term** | **Definition/Description** |
| **CO-LOCATE AGENCIES WITH SIMILAR SECURITY NEEDS** | To capitalize on efficiencies and economies, agencies with like security requirements should be located in the same facility if possible. |
| **DO NOT CO-LOCATE HIGH/LOW RISK AGENCIES** | Low risk agencies should not take on additional risk by being located with high risk agencies. |

| Administrative Procedures | |
|---|---|
| **Term** | **Definition/Description** |
| **ESTABLISH FLEXIBLE WORK SCHEDULE IN HIGH THREAT/ HIGH RISK AREA TO MINIMIZE EMPLOYEE VULNERABLITY TO CRIMINAL ACTIVITY.** | Flexible work schedules can enhance employee safety by staggering reporting and departure times. As an example flexible schedules might enable employees to park closer to the facility by reducing the demand for parking at peak times of the day. |
| **ARRANGE FOR EMPLOYEE PARKING IN/NEAR BUILDING AFTER NORMAL WORK HOURS** | Minimize exposure to criminal activity by allowing employees to park at or inside the building. |
| **CONDUCT BACKGROUND SECURITY CHECKS AND/OR ESTABLISH SECURITY CONTROL PROCEDURES FOR SERVICE CONTRACT PERSONNEL** | Establish procedures to ensure security where private contract personnel are concerned. Procedures may be as simple as observation or could include sign-in/escort. Frequent visitors may necessitate a background check with contractor ID issued. |

| Construction/Renovation | |
|---|---|
| **Term** | **Definition/Description** |
| **INSTALL MYLAR FILM ON ALL EXTERIOR WINDOWS (SHATTER PROTECTION)** | Application of shatter resistant material to protect personnnel and citizens from the hazards of flying glass as a result of impact or explosion. |
| **REVIEW CURRENT PROJECTS FOR BLAST STANDARDS** | Design and construction projects should be reviewed if possible, to incorporate current technology and blast standards. Immediate review of ongoing projects may generate savings in the implementation of upgrading to higher blast standards prior to completion of construction. |
| **REVIEW/ESTABLISH UNIFORM STANDARDS FOR CONSTRUCTION** | Review, establish, and implement uniform construction standards as it relates to security considerations. |

| Construction/Renovation | |
|---|---|
| **Term** | **Definition/Description** |
| **REVIEW/ESTABLISH NEW DESIGN STANDARD FOR BLAST RESISTANCE** | In smaller facilities or those that lease space, control over design standards may not be possible. However, future site selections should attempt to locate in facilities that do meet standards. New construction of government controlled facilities should review, establish, and implement new design standards for blast resistance. |
| **ESTABLISH STREET SET-BACK FOR NEW CONSTRUCTION** | Every foot between a potential bomb and a building will dramatically reduce damage and increase the survival rate. Street set-back is always desirable, but should be used in conjunction with barriers in Level IV and V facilities. |

Excerpted from Appendix C, *Classification Table*
U.S. Department of Justice, United States Marshals Service report
*Vulnerability Assessment of Federal Facilities*

| LEVEL | TYPICAL LOCATION |
|---|---|
| III | Agency Mix:<br>Government Records |

BILLING CODE 7515–01–C

## Appendix B to Part 1228—Alternative Certified Fire-safety Detection and Suppression System(s)

1. *General.* This Appendix B contains information on the Fire-safety Detection and Suppression System(s) tested by NARA through independent live fire testing that are certified to meet the requirement in § 1228.230(s) for storage of Federal Records. Use of a system specified in this appendix is optional. A facility may choose to have an alternate fire-safety detection and suppression system approved under § 1228.242.

2. *Specifications for NARA facilities using 15 foot high records storage.* NARA fire-safety systems that incorporate all components specified in paragraphs 2.a. through o. of this appendix have been tested and certified to meet the requirements in § 1228.230(s) for an acceptable fire-safety detection and suppression system for storage of Federal records.

a. The records storage height must not exceed the nominal 15 feet (+/−3 inches) records storage height.

b. All records storage and adjoining areas must be protected by automatic wet-pipe sprinklers. Automatic sprinklers are specified herein because they provide the most effective fire protection for high piled storage of paper records on open type shelving.

c. The sprinkler system must be rated at no higher than 285 degrees Fahrenheit utilizing quick response (QR) fire sprinkler heads and designed by a licensed fire protection engineer to provide the specified density for the most remote 1,500 square feet of floor area at the most remote sprinkler head in accordance with NFPA 13 (1996), Standard for the Installation of Sprinkler Systems. For facilities with roofs rated at 15 minutes or greater, provide ½″ QR sprinklers rated at no higher than 285 degrees Fahrenheit designed to deliver a density of 0.30 gpm per square foot. For unrated roofs, provide 0.64″ QR ''large drop'' sprinklers rated at no higher than 285 degrees Fahrenheit. For facilities using 7 or 8 shelf track files, use QR sprinklers rated at no higher than 285 degrees Fahrenheit. For new construction and replacement sprinklers, NARA recommends that the sprinklers be rated at 165 degrees Fahrenheit. Installation of the sprinkler system must be in accordance with NFPA 13 (1996), Standard for the Installation of Sprinkler Systems.

d. Maximum spacing of the sprinkler heads must be on a 10-foot grid and the positioning of the heads must provide complete, unobstructed coverage, with a clearance of not less than 18 inches from the top of the highest stored materials.

e. The sprinkler system must be equipped with a water-flow alarm connected to an audible alarm within the facility and to a continuously staffed fire department or an Underwriters Laboratory approved central monitoring station (see UL 827, Central-Station Alarm Services (April 23, 1999)) with responsibility for immediate response.

f. A manual fire alarm system must be provided with a Underwriters Laboratory approved (grade A) central monitoring station service or other automatic means of notifying the municipal fire department. A manual alarm pull station must be located adjacent to each exit. Supplemental manual alarm stations are permitted within the records storage areas.

g. All water cutoff valves in the sprinkler system must be equipped with automatic closure alarm (tamper alarm) connected to a continuously staffed station, with responsibility for immediate response. If the sprinkler water cutoff valve is located in an area used by the public, in addition to the tamper alarm, the valves must be provided with frangible (easily broken) padlocks.

h. A dependable water supply free of interruption must be provided including a continuous site fire loop connected to the water main and sized to support the facility with only one portion of the fire loop operational. This normally requires a backup supply system having sufficient pressure and capacity to meet both fire hose and sprinkler requirements for 2-hours. A fire pump connected to an emergency power source must be provided in accordance with NFPA 20 (1996), Standard for the Installation of Centrifugal Fire Pumps, when adequate water pressure is not assured. In the event that public water mains are not able to supply adequate volumes of water to the site, on-site water storage must be provided.

i. Interior fire hose stations equipped with a 1½ inch diameter hose may be provided in the records storage areas if required by the local fire department, enabling any point in the records storage area to be reached by a 50-foot hose stream from a 100-foot hose lay. If provided, these cabinets must be marked ''For Fire Department Use Only.''

j. Where fire hose cabinets are not required, fire department hose outlets must be provided at each floor landing in the building core or stair shaft. Hose outlets must have an easily removable adapter and cap. Threads and valves must be compatible with the local fire department's equipment. Spacing must be so that any point in the record storage area can be reached with a 50-foot hose stream from a 100-foot hose lay.

k. In addition to the designed sprinkler flow demand, 500 gpm must be provided for hose stream demand. The hose stream demand must be calculated into the system at the base of the main sprinkler riser.

l. Fire hydrants must be located within 250 feet of each exterior entrance or other access to the records storage facility that could be used by firefighters. Each required hydrant must provide a minimum flow capacity of 500 gpm at 20 psi. All hydrants must be at least 50 feet away from the building walls and adjacent to a roadway usable by fire apparatus. Fire hydrants must have at least two, 2½ inch hose outlets and a pumper connection. All threads must be compatible with local standards.

m. Portable water-type fire extinguishers (2½ gallon stored pressure type) must be provided at each fire alarm striking station. The minimum number and locations of fire extinguishers must be as required by NFPA 10 (1994), Standard for Portable Fire Extinguishers.

n. Single level catwalks without automatic sprinklers installed underneath may be provided in the service aisles if the edges of all files in the front boxes above the catwalks are stored perpendicular to the aisle (to minimize files exfoliation in a fire). Where provided, the walking surface of the catwalks must be of expanded metal at least .09-inch thickness with a 2-inch mesh length. The surface opening ratio must be equal or greater than 0.75. The sprinkler water demand for protection over bays with catwalks where records above the catwalks are not perpendicular to the aisles must be calculated hydraulically to give .30 gpm per square foot for the most remote 2,000 square feet.

Dated: November 23, 1999.

**John W. Carlin,**

*Archivist of the United States.*

**Note:** The following appendix will not appear in the Code of Federal Regulations

## Appendix A to the Preamble—Analysis of Cost Estimate

This appendix provides a detailed discussion of the cost estimate submitted by PRISM International as part of its comments on the Initial Regulatory Flexibility Analysis, published September 15, 1999. The cost estimate was prepared by Hanscomb, an international construction consulting firm, for a hypothetical new commercial records center located in Dulles, VA built to comply with the NARA proposed standards. Hanscomb stated that the ''base'' commercial records facility is an ''industry standard commercial records facility.'' In this appendix we refer to this facility as the ''base facility'' and to the facility that would be built to Hanscomb's interpretation of NARA specifications as the ''proposed facility.'' We refer to NARA recalculations based on correction of errors as ''NARA'' estimates.

Description of base facility. Hanscomb describes the base facility as a 73,442 square foot building that has no compartmentalization or interior fire walls. The capacity of the building is 1,000,000 cubic feet of records (total building volume 2,864,238 cubic feet) with a storage height of 39 feet.

Description of proposed facility. Hanscomb describes the proposed facility as having storage compartments of 250,000 cubic feet, in storage areas not exceeding 12,500 square feet with a 15 foot storage height. To provide a comparable records storage capacity to the base facility, the square footage of the proposed building would be increased to 188,700 square feet. (We note that the final rule clearly does not limit shelving to 15 feet. We are currently sponsoring live fire testing to demonstrate that the 300 cubic foot loss per incident level of protection can be achieved in 28-foot high shelving with in-shelf sprinklers. However, for the purpose of evaluating Hanscomb's estimate, we are only addressing clear errors in their estimate. We are also assuming that the proposed facility would store only Federal records, which is the most conservative assumption that can be made.)

Errors in cost estimate. The Hanscomb cost estimate contains several significant misinterpretations of the NARA standards contained in the proposed rule.

- The NARA standard limits the volume of records stored in a single fire chamber to

250,000 cubic feet of Federal records, not a total room volume of 250,000 cubic feet as Hanscomb assumes. Using the NARA standard, the total room size would be ca. 800,000 cubic feet or 40,000 square feet, which represents a storage capacity of 250,000 cubic feet of records, the required service aisles, and the space between the top of the records and the roof. Hanscomb's proposed facility is over-sized by at least 28,700 square feet. A typical NARA records center layout, with 15 foot high shelving and compartmentalization, is 160,000 square feet. The error also grossly overstates the amount of interior fire barrier walls required (proposed 2,158 linear feet versus NARA's 800 linear feet), and overstates the number of connecting fire-rated doors (proposed facility's 10 versus NARA's 4). The error also overstates the electrical feed cost, which is based on square footage. Adjusting for the error in sizing the proposed building would lower the cost of the proposed facility by at least $1,381,387 as shown below:

| | Hanscomb proposed facility cost | NARA adjusted cost |
|---|---|---|
| General construction [1] | $2,415,036 | $1,700,254 |
| Interior fire walls @ $450/sq.ft. | 971,100 | 360,000 |
| Interior fire doors @ $5,000 each | 50,000 | 20,000 |
| Electrical—double primary feed | 47,175 | 21,640 |

[1] NARA adjusted cost multiplied Hanscomb unit costs in category 1 by 86,558 square feet instead of 115,258 square feet (Corrected increased proposed building size of 160,000 square feet minus base facility square footage of 73,442 square feet).

• Hanscomb assumes that Federal seismic requirements would add two pounds of steel tonnage per square foot to brace the building, at a cost of $180,000. The actual requirement, in both the proposed and final rule, is that ''the facility must be designed in accordance with regional building codes to provide protection from building collapse or failure of essential equipment from earthquake hazards, tornadoes, hurricanes and other potential natural disasters.'' (§ 1228.228(d)). We believe that the base facility, if built to regional building code requirements, would have the necessary bracing. We also have clarified § 1228.228(i)(1) to reflect this requirement to adhere to the applicable regional building code.

• Hanscomb also has added $150,000 for a mechanical room for equipment and boilers. The proposed and final NARA rule does not require an additional mechanical room. We do require that the mechanical room with the boiler(s) be separated from the storage area by a 4-hour rated fire barrier wall. NFPA 101, Life Safety Code, requires a 1-hour rated fire barrier wall, so we have adjusted the Hanscomb cost to reflect the additional cost of the NARA 4-hour fire barrier wall requirement, at $14,000.

• Hanscomb further assumes that the entire facility would be required to have HVAC systems designed for the storage of permanent records, even if the vast majority of the records were temporary, ''as mix of records types would be unknown.'' The NARA standard has no requirement for HVAC for the storage of temporary records. Because Federal agencies are required to separate their records by retention authority prior to transferring the records to a records center, segregating boxes of permanent records from boxes of temporary records is not a problem. The permanent records would always be retired to the records center in separate accessions. Based on NARA holdings of agency records in our records centers, less than 5 percent of the Federal records that might be retired to a records center are permanent. If the proposed facility wished to store both permanent and temporary records, it could provide office-level HVAC for a much smaller area than Hanscomb estimates. If 5 percent of the 1.0 million cubic feet storage capacity of the base facility is devoted to permanent records, the proposed facility would need to provide HVAC to a 10,000 square foot compartment holding 50,000 cubic feet of permanent records. This scenario would cost $150,000 rather than the $2,830,000 in the Hanscomb estimate.

• The Hanscomb estimate misinterprets several of the NARA fire protection requirements. The estimate for the proposed facility assumes that additional upright sprinklers would be required to protect the roof. This would be necessary if the roof was constructed of wood trusses and decking, but Hanscomb specifies metal decking and sheet metal roofing. This represents an additional $94,350 that is not actually required by the proposed NARA regulation. Hanscomb also assumes incorrectly that the trusses, as well as the columns, must be four-hour rated. The actual requirement where lightweight steel roof support members are used is to either provide a 10-minute fire resistive coating to the top chords of the joists, or to use large-drop sprinklers. We estimate that this misunderstanding added at least $250,000 to Hanscomb's estimate. We also find Hanscomb's estimate of $98,100 for providing two exterior walls with a maximum one-hour fire rating to be unsupported. We assume that any exterior wall would require column footings and columns, so those additional costs are inappropriate. We fail to recognize that applicability of ''Fire Protection 4 hr, 12040 sq.ft at $5.00 per sq.ft.'' to the NARA requirement that at least one exterior wall have a maximum (not minimum) fire rating of one hour. Adjusting the costs of the proposed facility to correct these errors would lower the cost of the proposed facility by at least $442,450.

• Hanscomb estimates that the fire suppression costs due to NARA requirements are $180,000 for a 10-foot by 10-foot grid. Hanscomb's estimate includes both an overstatement of the size of the facility and an arithmetical error (188700 square feet @ $0.50 does not equal $180,000.) We are unable to evaluate Hanscomb's fire detection and suppression system costs to determine what, if any, of the costs are attributable to NARA requirements and not NFPA or local code requirements. NFPA 231C (1998) and NFPA 13 (1999) provide multiple different ways to protect ''rack'' or ''high piled'' storage, and it is simply impossible to compare without knowing what was installed in the Hanscomb facility. Storage height, aisle width, levels of in-rack sprinklers, type of sprinkler (ordinary spray, quick response, etc) all impact on the design, and thus the costs. However, both standards require a sprinkler system that exceeds the minimum for ''Ordinary Hazard, Class III'' commodities when the storage height exceeds 15 feet. Adjusting only for the sizing and arithmetical errors would reduce the cost of the proposed facility by $100,000.[1]

• Hanscomb further attributes costs to the proposed facility that are in fact required by other Federal requirements (security system—$160,000 [2] and pest control prevention—$20,000).

Other issues. The NARA requirement for a secondary water supply exists only in those cases where the public main is dead-ended rather than looped or where there is no public fire main and the water is taken from a reservoir or natural lake. The majority of municipal water mains are ''looped.'' Dead-ends on fire mains are most likely to occur in more rural areas. For purposes of this cost estimate, we accepted Hanscomb's estimate of $25,000 as appropriate.

We also note that if the owner of a new records storage facility chose to use a shelving configuration other than 15 feet high, as permitted in the NARA rule, there would be significant cost savings from the Hanscomb estimate for general construction costs. While there would be some additional costs for the fire suppression system and for obtaining Fire Protection Engineer Certification of the system, these would be significantly less than the adjusted general construction costs of $1,700,254 for a proposed facility with 15-foot-high shelving.

A summary of the Hanscomb total added costs due to the proposed NARA requirements and NARA's adjustments follow:

[1] NARA adjusted cost multiplied Hanscomb unit cost ($0.50) by 160,000 square feet instead of 188,700 square feet.

[2] This estimate appears over-stated, as the typical records center has very few exterior doors to monitor, and the open aisle allow for the use of beam detectors. We have also adjusted the cost to reflect a 160,000 sq. ft. building.

| | Hanscomb estimated cost [1] | NARA adjusted cost (15′ shelving) |
|---|---|---|
| Current cost of base building | $3,543,540 | $3,543,540 |
| Added ''NARA'' Requirements | $7,637,361* | 2,508,293 |
| Added Govt.-Wide Requirements | *The $388,700 government-wide requirement costs are incorporated in Added ''NARA'' Requirements. | 180,000 |
| Cost of building With NARA Req. | $11,180,901 | 6,051,834 |
| % Increase | 216% | 71% |

[1] These numbers reflect the costs presented in the original submission from PRISM International. We have not adjusted Hanscomb's arithmetical errors here.

[FR Doc. 99–30973 Filed 12–1–99; 8:45 am]
**BILLING CODE 7515–01–P**

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### 36 CFR Parts 1220, 1222, and 1228

**RIN 3095–AA86**

### Storage of Federal Records

**AGENCY:** National Archives and Records Administration.

**ACTION:** Final rule.

**SUMMARY:** NARA is amending its records management regulations governing records creation, maintenance, and disposition to update provisions relating to the storage of Federal records. Current regulations focus on the use of NARA records centers for off-site storage and provide procedures for securing NARA approval of agency records centers. However, in addition to records centers operated by NARA and other Federal agencies, some agencies now use commercial records storage facilities for the storage of their records. Among the changes is a new requirement that agencies maintain the same level of intellectual control over records stored in their own records centers and commercial records storage facilities, as is required for records stored in NARA records centers. As part of this requirement, agencies must report to NARA when permanent or unscheduled records are sent for storage to an agency records center or commercial storage facility. The revised regulations specify that agencies must store Federal records in space with appropriate environmental controls to ensure their preservation until the expiration of their retention period (for temporary records) or until the date of transfer to the National Archives of the United States (for permanent records).

**EFFECTIVE DATE:** January 3, 2000.

**FOR FURTHER INFORMATION CONTACT:** Nancy Allard at 301–713–7360.

**SUPPLEMENTARY INFORMATION:** NARA published a notice of proposed rulemaking on April 30, 1999, at 64 FR 23510. We considered all comments that were received through July 7, 1999, the closing date for comments on a related proposed rule, Agency Records Centers. We received comments from 7 Federal agencies, the Society of American Archivists, a commercial records center vendor, and a records management consultant. Following is a discussion of these comments and the changes that we made to the proposed rule.

**Section 1220.18**

One agency recommended that we modify § 1220.18 to allow agency-owner to inspect its records regardless of physical location (inspect in FRCs). The cited provision deals with NARA access to records for inspection for appraisal and evaluation purposes. The appropriate vehicle for the provision recommended by the agency is the contract with a commercial storage facility or the interagency agreement with NARA or another agency operating an agency records center.

**Section 1228.50(a)(1)**

One agency found the discussion of published schedules confusing. We have revised the paragraph to define what a published schedule contains before noting what is not included in the published schedule.

**Sections 1222.50(c) and 1228.154(f)**

Three agencies offered comments on § 1222.50(c). One agency asked that we clarify that agencies did not have to remove records from facilities if the noncompliance relates to a standard which must be phased in during the next 10 years, and we have done so. Two agencies stated that 6 months was not sufficient time to move records from noncompliant facilities. One of the agencies recommended allowing at least one year. The other agency, citing procurement lead times, recommended moving permanent records if the facility is not brought up to standards within 6 months and moving the remaining records within another year. We have changed the requirement to provide that agencies must initiate removal of records from a noncompliant center within 6 months and complete removal within 18 months after initial discovery of the deficiencies. We have also modified § 1228.154(f) to conform with this change.

**Section 1228.54**

One agency asked that this section be modified to allow agencies to retain records needed under court order or agency imposed moratorium for longer than one year without NARA approval. Another agency questioned the need for NARA approval of requests for extension of retention periods for records stored in centers other than NARA's and objected to the requirement that agencies provide NARA with copies of formal instructions that extend retention periods. We have not changed this section. Agencies are reminded that 44 U.S.C. 3303a makes retention periods in approved agency records schedules mandatory unless the Archivist of the United States, under his authority in 44 U.S.C. 2909, permits the agency to retain the records longer upon submission of evidence of need.

Another agency recommended that this section address situations where NARA determines that records are no longer permanent but the custodial agency wants to keep them permanently or to donate them to a non-profit organization. Section 1228.60, which is not revised in this rule, does provide for donation of temporary records, which include those records previously appraised as permanent by NARA but subsequently found to be disposable.

**Section 1228.152 Chart**

The Office of the Secretary, Department of Defense (DOD) noted that NARA has determined that Official Military Personnel Files (OMPFs) are permanent records and stated that they should be included with other permanent records on the chart. A commercial records center vendor also recommended that OMPFs be permitted in any records storage facility. We have adopted DOD's comment. We caution

DOD agencies that they must follow DOD-wide policy in retiring their records to a records storage facility.

**Section 1228.154(c)**

Three agencies and the Society of American Archivists (SAA) offered comments on this section. One agency argued that the requirement to notify NARA when the agency sends permanent records for storage should be replaced by a requirement that agencies maintain the information on permanent records and supply it to NARA upon request. Another agency recommended that the requirement be changed to require agencies that were transferring records to an agency-owned records center to provide NARA only with summary information on an annual basis. A third agency recommended that the rule be modified to require that agencies report to NARA whenever permanent or unscheduled records are moved from an agency or commercial records center to which they were originally sent. The SAA endorsed the information that must be maintained on records sent to storage.

We have adopted only the third comment. The amount of information that agencies must furnish to NARA when transferring permanent or unscheduled records to records storage facilities is the same information agencies themselves must have to locate and access the records. It is important to keep that information up to date. We do not believe that submitting the information to NARA as the records are transferred is more burdensome than maintaining the information in a central location in the agency or compiling a summary report for NARA for records that are not transferred to a NARA center. For records transferred to a NARA center, the transfer paperwork will be used to comply with this requirement. The reporting requirements for permanent and unscheduled should be consistent throughout the Government. As permanent records are a very small percentage of all agency records, the reporting requirement should place a minimal burden on the agencies. Information on unscheduled records is required to assist NARA in inspecting the records as part of their appraisal.

**Section 1228.156(b)**

One agency pointed out a discrepancy between Section 1228.154(b) and this paragraph concerning the timing of submission of information on unscheduled records. The agency recommended that both sections be modified to permit an agency to submit schedules and provide the information within 90 days after the records are transferred to a records storage facility. We have changed Section 1228.156(b) to conform with Section 1228.154(b). Section 1228.154 requires submission of a proposed schedule for the records and NARA confirmation that the schedule is accepted for processing before the records are moved to a records storage facility. We believe that this requirement provides an incentive for the agency to take the necessary steps to schedule the records. Moreover, if the SF 115 is missing information about the records that is necessary for NARA processing, the agency can locate it quickly.

Another agency objected to the requirement to submit information on permanent records sent to storage outside of NARA facilities, contending that this information could change over time and is not needed by NARA until the records are transferred 30 to 50 years later. We did not adopt this comment. As we note in our discussion of the comments on Section 1228.154, the information to be furnished to NARA on permanent records is the same level of information agencies themselves need to locate and access the records. The change we are making to Section 1228.154 will ensure that the information is kept up to date. We do not believe that submitting the information to NARA as the records are transferred is more burdensome than maintaining the information in the agency.

**Sections 1228.160 and 1228.168(b)**

One agency recommended that these sections be revised to authorize electronic submission of the SF 135 and SF 180 to NARA. At the present time, we do not have the capability to accept and process the electronic versions of these forms. The wording of the regulation will not prohibit electronic forms when we are able to accept them.

**Section 1228.170**

One agency recommended that we clarify that NARA will not destroy records in its own records centers without first receiving written concurrence from the agency. Since we have already instituted this procedure, we have adopted the comment.

**Section 1228.272**

DOD was concerned that this section would not permit the agency to control transfer of military personnel records at the level of the individual OMPF, which would adversely affect the finding aids to those records. This requirement was intended to ensure that permanent records stored by facilities that use bar coding to control and track boxes will identify and ship permanent records as collections of records series, as required on the agencies' approved SF 115s. We will be working with DOD to incorporate the terms of transfer of the OMPFs in the SF 115, which will be a binding agreement on both agencies, and, if necessary, will be made an exception to this regulation.

One agency recommended that NARA provide agencies with a checklist of requirements to consider when establishing a contract for commercial facilities. This suggestion is outside the scope of the regulation but we plan to make the checklist of facility requirements that we use to inspect agency centers available as a tool for agencies to use.

Finally, we have made several nonsubstantive editorial changes, such as using active voice in several sentences and correcting a typographical error in the existing text of redesignated Section 1228.272.

This rule is contained in NARA's Regulatory Plan and is a significant regulatory action under Executive Order 12866 of September 30, 1993. As such, it has been reviewed by OMB. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on a substantial number of small entities. This rule is not a major rule as defined in 5 U.S.C. Chapter 8, Congressional Review of Agency Rulemaking.

**List of Subjects in 36 CFR Parts 1220, 1222, and 1228**

Archives and records.

For the reasons set forth in the preamble, NARA amends 36 CFR parts 1220, 1222, and 1228 as follows:

## PART 1220—FEDERAL RECORDS; GENERAL

1. The authority citation for part 1220 continues to read as follows:

**Authority:** 44 U.S.C. 2104(a) and chs. 29 and 33.

2. In § 1220.14, revise the definitions of ''Disposition'', ''Permanent record'' and ''Recordkeeping requirements''; and add new definitions in alphabetical order for ''Commercial records storage facility'', ''Records center'', and ''Records storage facility'' to read as follows:

**§ 1220.14 General definitions.**

* * * * *

*Commercial records storage facility* is a private sector commercial facility that offers records storage, retrieval, and disposition services.

* * * * *

*Disposition* means those actions taken regarding records no longer needed for the conduct of the regular current business of the agency.

* * * * *

*Permanent record* means any Federal record that has been determined by NARA to have sufficient value to warrant its preservation in the National Archives of the United States Permanent records include all records accessioned by NARA into the National Archives of the United States and later increments of the same records, and those for which the disposition is permanent on SF 115s, Request for Records Disposition Authority, approved by NARA on or after May 14, 1973.

*Recordkeeping requirements* means all statements in statutes, regulations, and agency directives or authoritative issuances, that provide general and specific requirements for Federal agency personnel on particular records to be created and maintained by the agency.

* * * * *

*Records center* is defined in 44 U.S.C. 2901(6) as an establishment maintained and operated by the Archivist or by another Federal agency primarily for the storage, servicing, security, and processing of records which need to be preserved for varying periods of time and need not be retained in office equipment or space.

* * * * *

*Records storage facility* is a records center or a commercial records storage facility, as defined in this section, i.e., a facility used by a Federal agency to store Federal records, whether that facility is operated and maintained by the agency, by NARA, by another Federal agency, or by a private commercial entity.

* * * * *

3. In § 1220.18, revise the section heading, designate the existing text as paragraph (b), and add new paragraph (a) to read as follows:

**§ 1220.18 Inspection of records.**

(a) In order for NARA to conduct inspections and studies required in 44 U.S.C. Chapter 29 and records appraisals in 44 U.S.C. Chapter 33, agencies must provide access for authorized NARA staff members to records in the agency's legal custody, regardless of the physical location of the records.

* * * * *

4. Revise § 1220.36 to read as follows:

**§ 1220.36 Maintenance and use of records.**

(a) Agencies must institute adequate records management controls over the maintenance and use of records wherever they are located to ensure that all records, regardless of format or medium, are organized, classified, and described to promote their accessibility, and make them available for use by all appropriate agency staff for their authorized retention period. Agencies must also maintain permanent records in a format that will permit transfer to the National Archives of the United States.

(b) Agencies must ensure that they maintain adequate information about their records moved to an off-site records storage facility (see 36 CFR 1228.154). Agencies must also create and maintain records that document the destruction of temporary records and the transfer of permanent records to the National Archives of the United States. The disposition of records that provide such documentation is governed by General Records Schedule (GRS) 16.

(c) Agencies must also comply with GSA regulations on the maintenance and use of records found in 41 CFR part 101–11.

5. Revise § 1220.38 to read as follows:

**§ 1220.38 Disposition of records.**

(a) Agencies must ensure the proper, authorized disposition of their records, regardless of format or medium, so that permanent records are preserved and temporary records no longer of use to an agency are promptly deleted or disposed of in accordance with the approved records schedule when their required retention period expires. As an intermediate step when records are not needed for current day-to-day reference, they may be transferred to a records storage facility.

(b) Agencies must secure NARA approval of a records schedule or apply the appropriate General Records Schedule item before destroying any temporary records or transferring permanent records to the National Archives of the United States (see 36 CFR part 1228).

6. Revise § 1220.42 to read as follows:

**§ 1220.42 Agency internal evaluations.**

Each agency must periodically evaluate its records management programs relating to records creation and record keeping requirements, maintenance and use of records, and records disposition. These evaluations shall include periodic monitoring of staff determinations of the record status of documentary materials in all media, and implementation of these decisions. These evaluations should determine compliance with NARA regulations in this subchapter, including requirements for storage of agency records and records storage facilities in 36 CFR part 1228, subparts I and K, and assess the effectiveness of the agency's records management program.

## PART 1222—CREATION AND MAINTENANCE OF FEDERAL RECORDS

7. The authority citation for part 1222 continues to read as follows:

**Authority:** 44 U.S.C. 2904, 3101, and 3102.

8. In § 1222.20, remove the period at the end of paragraphs (b)(5), (b)(8), and (b)(9), and add a semicolon in its place, and add paragraph (b)(10) to read as follows:

**§ 1222.20 Agency responsibilities.**

* * * * *

(b) * * *

(10) Ensure that records storage facilities used to store the agency's records comply with the standards specified in 36 CFR part 1228, subpart K. The agency must also comply with 36 CFR 1228.240 by obtaining NARA approval of an agency records center or submitting documentation of compliance by a commercial records storage facility before the agency transfers records to that facility.

9. In § 1222.50, revise the section heading and add paragraph (c) to read as follows:

**§ 1222.50 Records maintenance and storage.**

* * * * *

(c) Agencies must ensure that:

(1) Records in their legal custody sent for off-site storage are maintained in facilities that meet the standards specified in 36 CFR part 1228, subpart K;

(2) The information requirements specified at 36 CFR 1228.154 are met; and

(3) They remove their records from any records storage facility that does not correct nonconformances with the standards specified in 36 CFR part 1228, subpart K. (A facility is compliant if it does not have to meet the standard until a specific date in the future or compliance has been waived by NARA in accordance with 36 CFR 1228.238.) Agencies must initiate removal of the records from such a center within 6 months of initial discovery of the deficiencies by NARA or the agency and to complete removal of the records within 18 months after initial discovery of the deficiencies.

## PART 1228—DISPOSITION OF FEDERAL RECORDS

10. The authority citation for part 1228 continues to read as follows:

**Authority:** 44 U.S.C. chs. 21, 29, and 33.

11. In § 1228.22, revise paragraph (d) to read as follows:

**§ 1228.22 Developing records schedules.**

* * * * *

(d) Based on agency need, develop specific recommended retention and disposition instructions for each records series or each part of an automated information system, including file breaks, retention periods for temporary records, transfer periods for permanent records, and instructions for the transfer of records to an approved records storage facility when appropriate.

* * * * *

12. In § 1228.24, revise paragraph (c)(2) to read as follows:

**§ 1228.24 Formulation of agency records schedules.**

* * * * *

(c) *Provisions of schedules.* * * *

(2) The removal to a records storage facility of records not eligible for immediate destruction or other disposition but which are no longer needed in office space. These records are maintained by the records storage facility until they are eligible for final disposition action;

* * * * *

13. In § 1228.32, add paragraph (c), to read as follows:

**§ 1228.32 Request to change disposition authority.**

* * * * *

(c) Agencies must secure NARA approval before changing the provision in a disposition instruction that specifies the period of time that permanent records will remain in agency legal custody prior to transfer to the National Archives of the United States.

14. In § 1228.50, revise paragraphs (a)(1) and (a)(3) to read as follows:

**§ 1228.50 Application of schedules.**

* * * * *

(a) * * *

(1) Published schedules contain disposition authorities granted by NARA for records that the agency continues to create. They include general instructions for transfer of records to a records storage facility, transfer of records to the National Archives of the United States, and other retention and disposition procedures. They do not include nonrecurring records for which NARA has granted authority for immediate disposal or transfer to the National Archives of the United States.

* * * * *

(3) Prior to issuance, agencies may consult with NARA concerning directives or other issuances containing approved schedules, instructions for use of NARA records centers, transfer of records to the National Archives of the United States, or other matters covered by NARA procedures or regulations.

* * * * *

15. In § 1228.54, revise paragraphs (a), (c)(4), and (e) and remove paragraphs (g) and (h) to read as follows:

**§ 1228.54 Temporary extension of retention periods.**

(a) Approved agency records schedules and the General Records Schedules are mandatory (44 U.S.C. 3303a). Records series or systems eligible for destruction must not be maintained longer without the prior written approval of the National Archives and Records Administration (NWML) except when:

(1) The agency has requested a change in the retention period for the records series or system in accordance with § 1228.32; or

(2) Records are needed for up to one year beyond the date they are eligible for disposal. When such records are in a records storage facility, the agency must notify the facility of the need for continued retention of the records.

* * * * *

(c) * * *

(4) A statement of the current and proposed physical location of the records.

* * * * *

(e) Agencies must ensure that affected records storage facilities are notified when NARA approves an extension of the retention period beyond the period authorized in the records control schedule. Agencies must forward to NARA (NWML) two copies of all formally issued instructions which extend the retention periods.

* * * * *

16. In § 1228.100, revise paragraph (a) to read as follows:

**§ 1228.100 Responsibilities.**

(a) The Archivist of the United States and heads of Federal agencies are responsible for preventing the alienation or unauthorized destruction of records, including all forms of mutilation. Records may not be removed from the legal custody of Federal agencies or destroyed without regard to the provisions of agency records schedules (SF 115 approved by NARA or the General Records issued by NARA).

* * * * *

17. Revise subpart I to read as follows:

**Subpart I—Transfer of Records to Records Storage Facilities**

Sec.



## Subpart I—Transfer of Records to Records Storage Facilities

**§ 1228.150 Where can a Federal agency transfer records for storage?**

Federal agencies may store records in the following types of records storage facilities, so long as the facilities meet the facility standards in subpart K of this part. Records transferred to a records storage facility remain in the legal custody of the agency.

(a) NARA records centers. NARA owns or operates records centers for the storage, processing, and servicing of records for Federal agencies under the authority of 44 U.S.C. 2907. These NARA records centers include a National Personnel Records Center which contains designated records of the Department of Defense and the Office of Personnel Management and other designated records pertaining to former Federal civilian employees. A list of NARA records centers is available from the NARA web site at http://www.nara.gov and also in the U.S. Government Manual, which is for sale from the Superintendent of Documents, U.S. Government Printing Office, Mail Stop: SSOP, Washington, DC 20402–9328, and is available on the Internet from http://www.access.gpo.gov/nara.

(b) Records centers operated by or on behalf of one or more Federal agencies other than NARA.

(c) Commercial records storage facilities operated by private entities.

**§ 1228.152 Under what conditions may Federal records be stored in records storage facilities?**

The following chart shows what records can be stored in a records storage facility and the conditions that apply:

| Type of Record | Conditions |
|---|---|
| (1) Permanent records | (i) Any storage facility that meets the provisions of subpart K of this part. |
| (2) Unscheduled records | (i) Any storage facility that meets the provisions of subpart K of this part.<br>(ii) Also requires submission of SF 115 and its acceptance from NARA under the provisions of subpart B of this part. |
| (3) Temporary records (excluding Civilian Personnel Records) | (i) Any storage facility that meets the provisions of subpart K of this part. |
| (4) Vital records | (i) Storage facility must meet the provisions of subpart K of this part and 36 CFR part 1236. |
| (5) Civilian Personnel Records | (i) May only be transferred to NPRC, St. Louis as required by this part. |

**§ 1228.154 What requirements must an agency meet when it transfers records to a records storage facility?**

An agency must meet the following requirements when it transfers records to a records storage facility:

(a) Ensure that the requirements of subpart K of this part are met. Special attention must be paid to ensuring appropriate storage conditions for records on non-paper based media (e.g., film, audio tape, magnetic tape), especially those that are scheduled for long-term or permanent retention, as those records typically require more stringent environmental controls (see 36 CFR parts 1230 through 1234).

(b) To transfer unscheduled records, submit an SF 115 to NARA (NWML) prior to the transfer. The agency may transfer the records only after NARA has determined that the SF 115 meets the requirements specified in this part.

(c) Create documentation sufficient to identify and locate files.

(1) Such documentation must include for each individual records series spanning one or more consecutive years transferred to storage:

(i) Creating office;

(ii) Series title;

(iii) Description (in the case of permanent or unscheduled records, the description must include a folder title list of the box contents or equivalent detailed records description);

(iv) Date span;

(v) Physical form and medium of records (e.g., paper, motion picture film, sound recordings, photographs or digital images);

(vi) Volume;

(vii) Citation to NARA-approved schedule or agency records disposition manual (unscheduled records must cite the date the SF 115 was submitted to NARA);

(viii) Restrictions on access if applicable;

(ix) Disposition (''permanent,'' ''temporary,'' or ''unscheduled; SF 115 pending'');

(x) Date of disposition action (transfer to the National Archives of the United States or destruction);

(xi) Physical location, including name and address of facility; and

(xii) Control number or identifier used to track records.

(2) In the case of permanent and unscheduled records, provide copies of such documentation to NARA and advise NARA in writing of the new location whenever the records are moved to a new storage facility.

(d) Ensure that NARA-approved retention periods are implemented properly and that records documenting final disposition actions (destruction or transfer to the National Archives of the United States) are created and maintained as required by 36 CFR 1220.36.

(1) Retain temporary records until the expiration of their NARA-approved retention period and no longer, except as provided for in § 1228.54.

(2) Transfer permanent records to the National Archives of the United States in accordance with § 1228.260.

(e) Provide access to appropriate NARA staff to records wherever they are located in order to conduct an evaluation in accordance with 36 CFR 1220.50 or to process a request for records disposition authority.

(f) Move temporary records that are subsequently reappraised as permanent to a facility that meets the environmental control requirements for permanent records in § 1228.232 within one year of their re-appraisal, if not already in such a facility. (Paper-based permanent records in an existing records storage facility that does not meet the environmental control requirements in § 1228.232(b) on October 1, 2009, must be moved from that facility no later than February 28, 2010.)

**§ 1228.156 What procedures must an agency follow to transfer records to an agency records center or commercial records storage facility?**

Federal agencies must use the following procedures to transfer records to an agency records center or commercial records storage facility:

(a) Agreements with agency records centers or contracts with commercial records storage facilities must incorporate the standards in subpart K of this part and allow for inspections by the agency and NARA to ensure compliance. An agency must remove records promptly from a facility if deficiencies identified during an inspection are not corrected within six months.

(b) For temporary records, the agency must make available to NARA on request the documentation specified in § 1228.154. For permanent records, the agency must transmit this documentation to NARA (NWML) no later than 30 days after records are transferred to the agency records center or commercial records storage facility. For unscheduled records, the agency must transmit the information to NWML with the SF 115 before the records are transferred as required by § 1228.154(b).

(c) Agencies must establish procedures that ensure that temporary records are destroyed in accordance with NARA-approved schedules and that NARA-approved changes to schedules, including the General Records Schedules, are applied to records in agency records centers or commercial records storage facilities in a timely fashion. Procedures must include a requirement that the agency records center or commercial records storage facility notify agency records

managers or the creating office prior to the disposal of temporary records unless disposal of temporary records is initiated by the agency.

(d) Agencies must establish procedures to ensure that the agency records centers or commercial records storage facilities transfer permanent records to the National Archives of the United States as individual series spanning one or more years and in accordance with the provisions of § 1228.272.

(e) Agencies must ensure that records that are restricted because they are security classified or exempt from disclosure by statute, including the Privacy Act (5 U.S.C. 552a), or regulation are stored and maintained in accordance with applicable laws, executive orders, or regulations.

(f) Agencies must ensure that disposable records, including restricted records (security classified or exempted from disclosure by statute, including the Privacy Act, or regulation), are destroyed in accordance with the requirements specified in § 1228.58.

(g) Agencies must ensure that emergency operating vital records, as defined in 36 CFR 1236.14, that are transferred to an agency records center or commercial records storage facility are available in accordance with 36 CFR part 1236.

18. Redesignate subpart J of part 1228 as subpart L of part 1228 as set forth in the following redesignation table:

| Old Section Subpart J | New Section Subpart L |
|---|---|
| 1228.180 | 1228.260 |
| 1228.182 | 1228.262 |
| 1228.183 | 1228.264 |
| 1228.184 | 1228.266 |
| 1228.186 | 1228.268 |
| 1228.188 | 1228.270 |
| 1228.190 | 1228.272 |
| 1228.192 | 1228.274 |
| 1228.194 | 1228.276 |
| 1228.196 | 1228.278 |
| 1228.198 | 1228.280 |
| 1228.200 | 1228.282 |

19. Add a new subpart J to read as follows:

**Subpart J—Transfer, Use, and Disposition of Records in a NARA Records Center**

Sec.



## Subpart J—Transfer, Use, and Disposition of Records in a NARA Records Center

### § 1228.160 How does an agency transfer records to a NARA records center?

An agency transfers records to a NARA records center using the following procedures:

(a) General. NARA will ensure that its records centers meet the facilities standards in subpart K of this part, which meets the agency's obligation in § 1228.154(a).

(b) NARA records centers will not accept records that pose a threat to other records or to the health and safety of users including hazardous materials such as nitrate film, radioactive or chemically contaminated records, records exhibiting active mold growth, or untreated insect or rodent infiltrated records. Agencies may contact the NARA records center for technical advice on treating such records.

(c) Agencies may use any NARA records center (see § 1228.154(a)) if space is available for the storage of unclassified records. All NARA facilities are equipped to store classified records that have a national security classification up to Confidential, and certain NARA facilities can also accept Secret (or ''Q'') classified records. Only the Washington National Records Center is equipped to store records that have been assigned a national security classification of Top Secret, as defined in Executive Order 12958 (3 CFR, 1995 Comp., p. 333) and predecessor orders. For storage of restricted records requiring vault storage (regardless of the level of classification), agencies must contact the records center(s) they wish to use to find out if the center(s) can properly store the records.

(d) Transfers to NARA records centers must be preceded by the submission of a Standard Form 135, Records Transmittal and Receipt. Preparation and submission of this form will meet the requirements for records description provided in § 1228.154(c), except the folder title list required for permanent and unscheduled records. A folder title list is also required for records that are scheduled for sampling or selection after transfer.

(e) A separate SF 135 is required for each individual records series having the same disposition authority and disposition date.

(f) For further guidance on transfer of records to a NARA records center, consult the NARA Records Management Web Site (http://www.nara.gov), or current NARA publications and bulletins by contacting the Office of Regional Records Services (NR), individual NARA regional facilities, or the Washington National Records Center (NWMW).

### § 1228.162 How does an agency transfer vital records to a NARA records center?

For assistance on selecting an appropriate site among NARA facilities for storage of vital records, agencies may contact NARA (NR), 8601 Adelphi Rd., College Park, MD 20740–6001. The actual transfers are governed by the general requirements and procedures in this subpart and 36 CFR part 1236.

### § 1228.164 What records must be transferred to the National Personnel Records Center (NPRC)?

General Records Schedules 1 and 2 specify that certain Federal civilian personnel, medical, and pay records must be centrally stored at the National Personnel Records Center (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO 63118. An agency must transfer the following four types of records to the NPRC:

(a) Official personnel folders of separated Federal civilian employees;

(b) Service record cards of employees who separated or transferred on or before December 31, 1947;

(c) Audited individual earnings and pay cards and comprehensive payrolls; and

(d) Employee medical folders of separated Federal civilian employees.

### § 1228.166 How does an agency transfer records to the National Personnel Records Center (NPRC)?

(a) Agencies must use the following procedures when transferring records to the NPRC:

(1) Forward the official personnel folder (OPF) and the employee medical folder (EMF) to the National Personnel Records Center at the same time.

(2) Transfer EMFs and OPFs in separate folders.

(b) For further guidance consult the NPRC web site (http://www.nara.gov/regional/cpr.html).

(c) Consult the Office of Personnel Management web site (http://www.opm.gov/feddata/html/opf.htm) for the OPM publication The Guide to Personnel Recordkeeping for procedures on the transfer of OPFs and EMFs. (The Guide is also available from the Superintendent of Documents, U.S. Government Printing Office, Mail Stop: SSOP, Washington, DC 20402–9328.)

**§ 1228.168 How can records be used in NARA records centers?**

(a) Agency records transferred to a NARA records center remain in the legal custody of the agency. NARA acts as the agency's agent in maintaining the records. NARA will not disclose the record except to the agency which maintains the record, or under rules established by that agency which are not inconsistent with existing laws.

(b) Federal agencies must use Standard Form (SF) 180, Request Pertaining to Military Records, to obtain information from military service records in the National Personnel Records Center (Military Personnel Records). Agencies may furnish copies of that form to the public to aid in inquiries. Members of the public and non-governmental organizations also may obtain copies of SF 180 by submitting a written request to the National Personnel Records Center (Military Personnel Records), 9700 Page Boulevard, St. Louis, MO 63132. OMB Control Number 3095–0029 has been assigned to the SF 180.

(c) Use Standard Form 127, Request for Official Personnel Folder (Separated Employee), to request transmission of personnel folders of separated employees stored at the National Personnel Records Center.

(d) Use Standard Form 184, Request for Employee Medical Folder (Separated Employee), to request medical folders stored at the National Personnel Records Center.

(e) Use Optional Form 11, Reference Request—Federal Records Center to request medical records transferred to other NARA records centers prior to September 1, 1984. The request must include the name and address of the agency's designated medical records manager.

(f) For any other requests, use the Optional Form 11, Reference Request—Federal Records Centers, a form jointly designated by that agency and NARA, or their electronic equivalents.

**§ 1228.170 How are disposal clearances managed for records in NARA records centers?**

(a) The National Personnel Records Center will destroy records covered by General Records Schedules 1 and 2 in accordance with those schedules without further agency clearance.

(b) NARA records centers will destroy other eligible Federal records only with the written concurrence of the agency having legal custody of the records.

(c) NARA records centers will maintain documentation on the final disposition of records, as required in 36 CFR 1220.36, for the period of time required by General Records Schedule 16.

(d) When NARA approves an extension of retention period beyond the time authorized in the records schedule for records stored in NARA records centers, NARA will notify those affected records centers to suspend disposal of the records (see § 1228.54(e)).

20. In newly redesignated subpart L, revise the subpart heading to read as follows:

**Subpart L—Transfer of Records to the National Archives of the United States**

21. In newly redesignated § 1228.272, remove the term ''(MWMD)'' in paragraphs (b)(2) and (c) and add ''(NWMD)'' in its place, and revise the section heading and paragraph (a) to read as follows:

**§ 1228.272 Transfer of records to the National Archives of the United States.**

(a) *Policy.* (1) Federal records will be transferred to NARA's legal custody into the National Archives of the United States only if they are listed as permanent on an SF 115, Request for Records Disposition Authority, approved by NARA since May 14, 1973, or if they are accretions (continuations of series already accessioned) to holdings of the National Archives. Transfers are initiated by submission of an SF 258, Agreement to Transfer Records to the National Archives of the United States.

(2) Each SF 258 must relate to a specific records series, as identified on the SF 115, Request for Records Disposition Authority, in accumulations of one or more consecutive years.

* * * * *

Dated: November 22, 1999.

**John W. Carlin,**

*Archivist of the United States.*

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# Part III

# General Services Administration

**41 CFR Parts 300–3 and 301–10 and Chapter 301**

**Federal Travel Regulation; Maximum Per Diem Rates and Other Travel Allowances; Final Rule**

## GENERAL SERVICES ADMINISTRATION

## 41 CFR Parts 300–3 and 301–10 and Chapter 301

**[FTR Amendment 87]**

**RIN 3090–AH18**

## Federal Travel Regulation; Maximum Per Diem Rates and Other Travel Allowances

**AGENCY:** Office of Governmentwide Policy, GSA.

**ACTION:** Final rule.

**SUMMARY:** An analysis of lodging and meal cost survey data reveals that the listing of maximum per diem rates for locations within the continental United States (CONUS) should be updated to provide for the reimbursement of Federal employees' expenses covered by per diem. This final rule amends incidental expenses to specify that transportation between places of lodging or business and places where meals are taken, if suitable meals can be obtained at the temporary duty site, is covered under the incidental expenses portion of the meals and incidental expenses (M&IE) allowance; adds a provision when the use of premium-class other than first-class airline accommodations may be used; and, among other things, increases/decreases the maximum lodging amounts in certain existing per diem localities, adds new per diem localities, removes a number of previously designated per diem localities, and increases the maximum lodging amount under the standard rate.

**DATES:** This final rule is effective January 1, 2000, and applies for travel performed on or after January 1, 2000, with the exception of the maximum per diem rate prescribed for Harford County, Maryland, which applies on December 2, 1999.

**FOR FURTHER INFORMATION CONTACT:** Jim Harte, telephone (202) 501–0483.

**SUPPLEMENTARY INFORMATION:**

### A. Background

The General Services Administration (GSA), after an analysis of additional data, has determined that current lodging and meals and incidental expenses (M&IE) allowances for certain localities do not adequately reflect the cost of lodging in those areas. To provide adequate per diem reimbursement for Federal employee travel to those areas, the maximum per diem allowances are changed.

### B. Executive Order 12866

GSA has determined that this final rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993.

### C. Regulatory Flexibility Act

This final rule is not required to be published in the **Federal Register** for notice and comment; therefore, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, does not apply.

### D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the revisions do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 501 *et seq.*

### E. Small Business Regulatory Enforcement Fairness Act

This final rule is also exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

### List of Subjects

*41 CFR Part 300–3*

Government employees, Travel and transportation expenses.

*41 CFR Part 301–10*

Common carriers, Government employees, Government property, Travel and transportation expenses.

For the reasons set forth in the preamble, 41 CFR Chapters 300 and 301 are amended as follows:

## PART 300–3—GLOSSARY OF TERMS

1. The authority citation for part 300–3 continues to read as follows:

**Authority:** 5 U.S.C. 5707; 5 U.S.C. 5738; 5 U.S.C. 5741–5742; 20 U.S.C. 905(a); 31 U.S.C. 1353; 40 U.S.C. 486(c); 49 U.S.C. 40118; E.O. 11609, 3 CFR, 1971–1975 Comp., p. 586.

2. Section 300–3.1 is amended by republishing the introductory text and revising paragraph (c)(2) in the definition of ''per diem allowance'' to read as follows:

**§ 300–3.1 What do the following terms mean?**

* * * * *

*Per diem allowance*—The per diem allowance (also referred to as subsistence allowance) is a daily payment instead of reimbursement for actual expenses for lodging (excluding taxes), meals, and related incidental expenses. The per diem allowance is separate from transportation expenses and other miscellaneous expenses. The per diem allowance covers all charges, including any service charges where applicable for:

* * * * *

(c) * * *

(2) Transportation between places of lodging or business and places where meals are taken, if suitable meals can be obtained at the TDY site; and

* * * * *

## PART 301–10—TRANSPORTATION EXPENSES

3. The authority citation for part 301–10 continues to read as follows:

**Authority:** 5 U.S.C. 5707; 40 U.S.C. 486(c); 49 U.S.C. 40118.

4. Section 301–10.124 is amended by revising the introductory text, by removing the period at the end of paragraph (i) and adding a semicolon in its place, and by adding paragraph (j) to read as follows:

**§ 301–10.124 When may I use premium-class other than first-class airline accommodations?**

Only when your agency specifically authorizes/approves your use of such accommodations under paragraphs (a) through (j) of this section:

* * * * *

(j) When required because of agency mission.

5. Appendix A to chapter 301 is revised to read as follows:

## Appendix A to Chapter 301—Prescribed Maximum Per Diem Rates for CONUS

The maximum rates listed in this appendix are prescribed under part 301–11 of this chapter for reimbursement of per diem expenses incurred during official travel within CONUS (the continental United States). The amount shown in column (a) is the maximum that will be reimbursed for lodging expenses excluding taxes. The M&IE rate shown in column (b) is a fixed amount allowed for meals and incidental expenses covered by per diem. The per diem payment calculated in accordance with part 301–11 of this chapter for lodging expenses plus the M&IE rate may not exceed the maximum per diem rate shown in column (c). Seasonal rates apply during the periods indicated. It is the policy of the Government, as reflected in the Hotel Motel Fire Safety Act of 1990 (Public Law 101–391, September 25, 1990 as amended by Public Law 105–85, November 18, 1997), referred to as ''the Act'' in this paragraph, to save lives and protect property by promoting fire safety in hotels, motels, and all places of public accommodation affecting commerce. In furtherance of the Act's goals, employees are encouraged to stay in a facility which is fire-safe, i.e., an approved accommodation, when commercial lodging is required. Lodgings that meet the Government requirements are listed on the U.S. Fire Administration's Internet site at *http://www.usfa.fema.gov/hotel/index.htm.*

BILLING CODE 6820–34–P

| Per diem locality: | | Maximum lodging amount **(room rate only—no taxes)** (a) | + | M&IE rate (b) | = | Maximum per diem rate [4] (c) |
|---|---|---|---|---|---|---|
| Key city[1] | County and/or other defined location [2], [3] | | | | | |
| CONUS, Standard rate: | | $55 | | $30 | | $85 |
| (Applies to all locations within CONUS not specifically listed below or encompassed by the boundary definition of a listed point. However, the standard CONUS rate applies to all locations within CONUS, including those defined below, for certain relocation subsistence allowances. See parts 302-2, 302-4, and 302-5 of this subtitle.) | | | | | | |
| | | | | | | |
| ALABAMA | | | | | | |
| Birmingham | Jefferson | 59 | | 38 | | 97 |
| Gulf Shores | Baldwin | 99 | | 34 | | 133 |
| Huntsville | Madison | 58 | | 38 | | 96 |
| Montgomery | Montgomery | 61 | | 38 | | 99 |
| | | | | | | |
| ARIZONA | | | | | | |
| Casa Grande | Pinal | | | | | |
| (January 1-April 30) | | 80 | | 34 | | 114 |
| (May 1-December 31) | | 55 | | 34 | | 89 |
| Chinle | Apache | | | | | |
| (May 1-October 31) | | 86 | | 34 | | 120 |
| (November 1-April 30) | | 56 | | 34 | | 90 |
| Flagstaff | All points in Coconino County not covered under Grand Canyon per diem area | | | | | |
| (April 1-October 31) | | 67 | | 34 | | 101 |
| (November 1-March 31) | | 55 | | 34 | | 89 |
| Grand Canyon | All points in the Grand Canyon National Park | 106 | | 42 | | 148 |

| Per diem locality: | | Maximum lodging amount **(room rate only—no taxes)** (a) | + | M&IE rate (b) | = | Maximum per diem rate [4] (c) |
|---|---|---|---|---|---|---|
| Key city[1] | County and/or other defined location [2, 3] | | | | | |
| | and Kaibab National Forest within Coconino County | | | | | |
| Kayenta | Navajo | | | | | |
| (April 1-October 15) | | 98 | | 30 | | 128 |
| (October 16-March 31) | | 65 | | 30 | | 95 |
| Phoenix/Scottsdale | Maricopa | | | | | |
| (January 1-April 15) | | 107 | | 42 | | 149 |
| (April 16-September 30) | | 59 | | 42 | | 101 |
| (October 1-December 31) | | 79 | | 42 | | 121 |
| Tucson | Pima County; Davis-Monthan AFB | | | | | |
| (January 1-April 15) | | 80 | | 38 | | 118 |
| (April 16-December 31) | | 58 | | 38 | | 96 |
| Yuma | Yuma | 58 | | 34 | | 92 |
| | | | | | | |
| ARKANSAS | | | | | | |
| Little Rock | Pulaski | 61 | | 34 | | 95 |
| | | | | | | |
| CALIFORNIA | | | | | | |
| Bridgeport | City limits of Bridgeport (see Mammoth Lakes/Mono County) | 79 | | 42 | | 121 |
| Contra Costa County | Contra Costa County | 79 | | 42 | | 121 |
| Death Valley | Inyo | 85 | | 46 | | 131 |
| Kern County | Kern County | 68 | | 38 | | 106 |
| Los Angeles | Los Angeles; Orange and Ventura Counties; Edwards AFB; Naval Weapons Center and Ordnance Test Station, China Lake (See Santa Monica.) | 99 | | 46 | | 145 |
| Madera | Madera (except Oakhurst) | 60 | | 34 | | 94 |
| Mammoth Lakes | Mono (except Bridgeport) | 70 | | 46 | | 116 |
| Marin County | Marin County | 79 | | 42 | | 121 |
| Merced | Merced | 64 | | 38 | | 102 |
| Modesto | Stanislaus | 57 | | 34 | | 91 |
| Monterey | Monterey | | | | | |
| (June 1-October 31) | | 99 | | 42 | | 141 |
| (November 1-May 31) | | 74 | | 42 | | 116 |
| Napa | Napa | 100 | | 42 | | 142 |
| Oakhurst | City limits of Oakhurst (except Madera) | 80 | | 38 | | 118 |
| Oakland | Alameda | 111 | | 38 | | 149 |
| Ontario/Barstow/Victorville | San Bernardino | 64 | | 38 | | 102 |
| Palm Springs | Riverside | | | | | |
| (January 1-May 31) | | 89 | | 42 | | 131 |
| (June 1-December 31) | | 55 | | 42 | | 97 |
| Point Arena/Gualala | Mendocino | 109 | | 38 | | 147 |
| Redding | Shasta | 59 | | 38 | | 97 |
| Sacramento | Sacramento | 79 | | 42 | | 121 |
| Salono County | Salono County | 79 | | 42 | | 121 |
| San Diego | San Diego | 96 | | 46 | | 142 |
| San Francisco | San Francisco | 139 | | 46 | | 185 |
| San Luis Obispo | San Luis Obispo | | | | | |
| (June 1-September 30) | | 79 | | 38 | | 117 |

| Per diem locality: | | Maximum lodging amount **(room rate only—no taxes)** (a) | + | M&IE rate (b) | = | Maximum per diem rate [4] (c) |
|---|---|---|---|---|---|---|
| Key city[1] | County and/or other defined location [2], [3] | | | | | |
| (October 1-May 31) | | 69 | | 38 | | 107 |
| San Mateo/Redwood City | San Mateo | 99 | | 42 | | 141 |
| Santa Barbara | Santa Barbara | 99 | | 38 | | 137 |
| Santa Cruz | Santa Cruz | | | | | |
| (June 1-September 30) | | 99 | | 42 | | 141 |
| (October 1-May 31) | | 68 | | 42 | | 110 |
| Santa Rosa | Sonoma | 65 | | 42 | | 107 |
| Santa Monica | City limits of Santa Monica (see Los Angeles) | | | | | |
| (June 1-September 30) | | 110 | | 38 | | 148 |
| (October 1-May 31) | | 99 | | 38 | | 137 |
| South Lake Tahoe | El Dorado (see also Stateline, NV) | 108 | | 42 | | 150 |
| Sunnyvale/Palo Alto/San Jose | Santa Clara | 125 | | 46 | | 171 |
| Tahoe City | Placer | 128 | | 42 | | 170 |
| Truckee | Nevada | 69 | | 42 | | 111 |
| Visalia | Tulare | 58 | | 38 | | 96 |
| West Sacramento | Yolo | 64 | | 30 | | 94 |
| Yosemite National Park | Mariposa | | | | | |
| (May 1-October 31) | | 100 | | 46 | | 146 |
| (November 1-April 30) | | 76 | | 46 | | 122 |
| | | | | | | |
| COLORADO | | | | | | |
| Aspen | Pitkin | | | | | |
| (December 1-April 30) | | 163 | | 46 | | 209 |
| (May 1-June 30) | | 140 | | 46 | | 186 |
| (July 1-November 30) | | 68 | | 46 | | 114 |
| Boulder | Boulder | | | | | |
| (May 1-October 15) | | 90 | | 42 | | 132 |
| (October 16-April 30) | | 79 | | 42 | | 121 |
| Colorado Springs | El Paso | | | | | |
| (May 15-September 14) | | 73 | | 38 | | 111 |
| (September 15-May 14) | | 59 | | 38 | | 97 |
| Cortez | Montezuma | 64 | | 34 | | 98 |
| Crested Butte | City limits of Crested Butte (see Gunnison) | 95 | | 42 | | 137 |
| Denver | Denver, Adams, and Arapahoe | 83 | | 42 | | 125 |
| Durango | La Plata | | | | | |
| (June 1-October 31) | | 95 | | 38 | | 133 |
| (November 1-May 31) | | 61 | | 38 | | 99 |
| Fort Collins | Larimer (except Loveland) | 59 | | 34 | | 93 |
| Gunnison | Gunnison (except Crested Butte) | | | | | |
| (June 15-September 30) | | 69 | | 34 | | 103 |
| (October 1-June 14) | | 60 | | 34 | | 94 |
| Jefferson County | Jefferson County | 69 | | 34 | | 103 |
| Loveland | City limits of Loveland (see Larimer County) | 69 | | 30 | | 99 |
| Montrose | Montrose | 59 | | 34 | | 93 |
| Pueblo | Pueblo | | | | | |
| (June 1-September 30) | | 75 | | 34 | | 109 |
| (October 1-May 31) | | 58 | | 34 | | 92 |
| Silverthorne/Keystone | Summit | | | | | |
| (December 1-April 1) | | 170 | | 38 | | 208 |
| (April 2-November 30) | | 130 | | 38 | | 168 |

| Per diem locality: | | Maximum lodging amount **(room rate only—no taxes)** (a) | + | M&IE rate (b) | = | Maximum per diem rate [4] (c) |
|---|---|---|---|---|---|---|
| Key city[1] | County and/or other defined location [2], [3] | | | | | |
| Steamboat Springs | Routt | | | | | |
| (December 1-March 31) | | 77 | | 38 | | 115 |
| (April 1-November 30) | | 55 | | 38 | | 93 |
| Telluride | San Miguel | | | | | |
| (November 1-March 31) | | 147 | | 46 | | 193 |
| (April 1-October 31) | | 90 | | 46 | | 136 |
| Trinidad | Las Animas | | | | | |
| (June 1-September 30) | | 62 | | 30 | | 92 |
| (October 1-May 31) | | 55 | | 30 | | 85 |
| Vail | Eagle | | | | | |
| (December 1-March 31) | | 183 | | 46 | | 229 |
| (April 1-November 30) | | 106 | | 46 | | 152 |
| | | | | | | |
| CONNECTICUT | | | | | | |
| Bridgeport | City limits of Bridgeport (see Fairfield County) | 77 | | 34 | | 111 |
| Danbury | Fairfield (except Bridgeport) | 77 | | 38 | | 115 |
| Groton | New London (except city limits of New London) | | | | | |
| (May 1-October 31) | | 97 | | 30 | | 127 |
| (November 1-April 30) | | 74 | | 30 | | 104 |
| Hartford | Hartford | 91 | | 42 | | 133 |
| Lakeville | Litchfield (except Salisbury) | 85 | | 38 | | 123 |
| New Haven | New Haven | 77 | | 38 | | 115 |
| New London | City limits of New London (see New London County) | 93 | | 34 | | 127 |
| Putnam/Danielson | Windham | 56 | | 30 | | 86 |
| Salisbury | City limits of Salisbury (see Litchfield County) | 95 | | 46 | | 141 |
| | | | | | | |
| DELAWARE | | | | | | |
| Dover | Kent | 64 | | 34 | | 98 |
| Lewes | Sussex | | | | | |
| (June 1-August 31) | | 73 | | 42 | | 115 |
| (September 1-May 31 | | 55 | | 42 | | 97 |
| Wilmington | New Castle | 99 | | 34 | | 133 |
| | | | | | | |
| DISTRICT OF COLUMBIA | | | | | | |
| Washington, DC (also the cities of Alexandria, Falls Church, and Fairfax, and the counties of Arlington, Loudoun, and Fairfax, in Virginia; and the counties of Montgomery and Prince George's in Maryland). (See also Maryland and Virginia.) | | 118 | | 46 | | 164 |
| | | | | | | |
| FLORIDA | | | | | | |
| Altamonte Springs | Seminole | 77 | | 38 | | 115 |
| Bradenton | Manatee | | | | | |
| (January 1-May 15) | | 69 | | 34 | | 103 |
| (May 16-December 31) | | 55 | | 34 | | 89 |
| Cocoa Beach | Brevard | 77 | | 34 | | 111 |

| Per diem locality: | | Maximum lodging amount **(room rate only—no taxes)** (a) | + | M&IE rate (b) | = | Maximum per diem rate [4] (c) |
|---|---|---|---|---|---|---|
| Key city[1] | County and/or other defined location [2], [3] | | | | | |
| Daytona Beach | Volusia | | | | | |
| (February 1-August 31) | | 67 | | 38 | | 105 |
| (September 1-January 31) | | 59 | | 38 | | 97 |
| Fort Lauderdale | Broward | | | | | |
| (December 15-April 30) | | 89 | | 42 | | 131 |
| (May 1-December 14) | | 65 | | 42 | | 107 |
| Fort Myers | Lee | | | | | |
| (January 1-April 30) | | 70 | | 42 | | 112 |
| (May 1-December 31) | | 55 | | 42 | | 97 |
| Fort Pierce | Saint Lucie | | | | | |
| (December 15-April 15) | | 61 | | 46 | | 107 |
| (April 16-December 14) | | 55 | | 46 | | 101 |
| Fort Walton Beach | Okaloosa | 80 | | 38 | | 118 |
| Gainesville | Alachua | 61 | | 34 | | 95 |
| Gulf Breeze | Santa Rosa | | | | | |
| (May 1-September 30) | | 115 | | 38 | | 153 |
| (October 1-April 30) | | 55 | | 38 | | 93 |
| Jacksonville/Mayport | Duval County Naval Station | 65 | | 34 | | 99 |
| Key West | Monroe | | | | | |
| (December 15-April 30) | | 139 | | 46 | | 185 |
| (May 1-December 14) | | 98 | | 46 | | 144 |
| Kissimmee | Osceola | 60 | | 34 | | 94 |
| Lakeland | Polk | | | | | |
| (January 1-April 30) | | 71 | | 34 | | 105 |
| (May 1-December 31) | | 61 | | 34 | | 95 |
| Miami | Dade | | | | | |
| (January 1-April 15) | | 89 | | 42 | | 131 |
| (April 16-December 31) | | 75 | | 42 | | 117 |
| Naples | Collier | | | | | |
| (December 15-April 30) | | 94 | | 38 | | 132 |
| (May 1-December 14) | | 55 | | 38 | | 93 |
| Orlando | Orange | 77 | | 42 | | 119 |
| Palm Beach (also the cities of Boco Raton, Delray Beach, Jupiter, Palm Beach Gardens, Palm Shores, Singer Island and West Palm Beach) | Palm Beach | | | | | |
| (December 15-April 30) | | 103 | | 46 | | 149 |
| (May 1-December 14) | | 69 | | 46 | | 115 |
| Panama City | Bay | | | | | |
| (March 1-August 31) | | 74 | | 38 | | 112 |
| (September 1-February 29) | | 64 | | 38 | | 102 |
| Punta Gorda | Charlotte | | | | | |
| (February 1-April 15) | | 65 | | 38 | | 103 |
| (April 16-January 31) | | 55 | | 38 | | 93 |
| St. Augustine | St. Johns | | | | | |
| (February 1-August 31) | | 63 | | 38 | | 101 |
| (September 1-January 31) | | 56 | | 38 | | 94 |
| Sarasota | Sarasota | | | | | |
| (December 15-April 30) | | 79 | | 38 | | 117 |

| Per diem locality: | | Maximum lodging amount **(room rate only—no taxes)** (a) | + | M&IE rate (b) | = | Maximum per diem rate [4] (c) |
|---|---|---|---|---|---|---|
| Key city[1] | County and/or other defined location [2], [3] | | | | | |
| (May 1-December 14) | | 55 | | 38 | | 93 |
| Stuart | Martin | 57 | | 38 | | 95 |
| Tallahassee | Leon | 65 | | 34 | | 99 |
| Tampa/St. Petersburg | Pinellas and Hillsborough | | | | | |
| (January 1-April 30) | | 105 | | 38 | | 143 |
| (May 1-December 31) | | 86 | | 38 | | 124 |
| Vero Beach | Indian River | | | | | |
| (January 15-April 15) | | 67 | | 38 | | 105 |
| (April 16-January 14)) | | 55 | | 38 | | 93 |
| | | | | | | |
| GEORGIA | | | | | | |
| Albany | Dougherty | 57 | | 34 | | 91 |
| Athens | Clarke | 69 | | 34 | | 103 |
| Atlanta | Fulton and Gwinnett | 93 | | 38 | | 131 |
| Clayton County | Clayton County | 64 | | 30 | | 94 |
| Cobb County | Cobb County | 78 | | 34 | | 112 |
| Columbus | Muscogee | 56 | | 34 | | 90 |
| Conyers | Rockdale | 59 | | 34 | | 93 |
| DeKalb County | DeKalb County | 78 | | 34 | | 112 |
| Savannah | Chatham | 63 | | 38 | | 101 |
| | | | | | | |
| IDAHO | | | | | | |
| Boise | Ada | 61 | | 38 | | 99 |
| Coeur d'Alene | Kootenai | 56 | | 34 | | 90 |
| Ketchum | Blaine (except Sun Valley) | 74 | | 42 | | 116 |
| McCall | Valley | 58 | | 38 | | 96 |
| Stanley | Custer | | | | | |
| (June 1-September 30) | | 65 | | 38 | | 103 |
| (October 1-May 31) | | 55 | | 38 | | 93 |
| Sun Valley | City limits of Sun Valley (see Blaine County) | | | | | |
| (June 1-September 30) | | 174 | | 42 | | 216 |
| (October 1-May 31) | | 89 | | 42 | | 131 |
| | | | | | | |
| ILLINOIS | | | | | | |
| Aurora | Kane (except Elgin) | 76 | | 30 | | 106 |
| Champaign/Urbana | Champaign | 56 | | 34 | | 90 |
| Chicago | Cook and Lake | 130 | | 46 | | 176 |
| Du Page County | Du Page County | 89 | | 38 | | 127 |
| Elgin | City limits of Elgin (see Kane County) | 60 | | 30 | | 90 |
| | | | | | | |
| INDIANA | | | | | | |
| Anderson | Madison | | | | | |
| (April 1-September 30) | | 72 | | 30 | | 102 |
| (October 1-March 31) | | 59 | | 30 | | 89 |
| Carmel | Hamilton | 65 | | 38 | | 103 |
| Indianapolis | Marion County; Fort Benjamin Harrison | 65 | | 42 | | 107 |
| Lafayette | Tippecanoe | 62 | | 30 | | 92 |
| Michigan City | La Porte | 65 | | 34 | | 99 |
| Muncie | Delaware | 59 | | 34 | | 93 |
| Nashville | Brown | 65 | | 38 | | 103 |

| Per diem locality: | | Maximum lodging amount **(room rate only—no taxes)** (a) | + | M&IE rate (b) | = | Maximum per diem rate [4] (c) |
|---|---|---|---|---|---|---|
| Key city[1] | County and/or other defined location [2], [3] | | | | | |
| South Bend | St. Joseph | 58 | | 34 | | 92 |
| Valparaiso/Burlington Beach | Porter | 69 | | 34 | | 103 |
| | | | | | | |
| IOWA | | | | | | |
| Cedar Rapids | Linn | 56 | | 34 | | 90 |
| Des Moines | Polk | 67 | | 34 | | 101 |
| | | | | | | |
| KANSAS | | | | | | |
| Kansas City/Overland Park | Wyandotte and Johnson | 85 | | 38 | | 123 |
| Wichita | Sedgwick | 58 | | 38 | | 96 |
| | | | | | | |
| KENTUCKY | | | | | | |
| Covington | Kenton | 80 | | 38 | | 118 |
| Louisville | Jefferson | 63 | | 38 | | 101 |
| | | | | | | |
| LOUISIANA | | | | | | |
| Baton Rouge | East Baton Rouge Parish | 65 | | 38 | | 103 |
| Gonzales | Ascension Parish | 59 | | 34 | | 93 |
| Lake Charles | Calcasieu Parish | 74 | | 34 | | 108 |
| New Orleans/Plaquemine/St. Bernard | New Orleans, Iberville and St. Bernard | 88 | | 42 | | 130 |
| Shreveport | Caddo | 60 | | 38 | | 98 |
| St. Francisville | West Feliciana | 75 | | 38 | | 113 |
| | | | | | | |
| MAINE | | | | | | |
| Bangor | Penobscot | 56 | | 30 | | 86 |
| Bar Harbor | Hancock | | | | | |
| (July 1-September 15) | | 104 | | 38 | | 142 |
| (September 16-June 30) | | 75 | | 38 | | 113 |
| Bath | Sagadahoc | | | | | |
| (May 1-October 31) | | 61 | | 34 | | 95 |
| (November 1-April 30) | | 55 | | 34 | | 89 |
| Kennebunk | York | 62 | | 38 | | 100 |
| Kittery | Portsmouth Naval Shipyard (see York County) | | | | | |
| (May 1-October 31) | | 70 | | 34 | | 104 |
| (November 1-April 30) | | 55 | | 34 | | 89 |
| Portland | Cumberland | | | | | |
| (July 1-October 31) | | 80 | | 38 | | 118 |
| (November 1-June 30) | | 70 | | 38 | | 108 |
| Rockport | Knox | 87 | | 42 | | 129 |
| Wiscasset | Lincoln | 59 | | 38 | | 97 |
| | | | | | | |
| MARYLAND | | | | | | |
| (For the counties of Montgomery and Prince George's, see District of Columbia.) | | | | | | |
| Annapolis | Anne Arundel | 90 | | 42 | | 132 |
| Baltimore | Baltimore | 110 | | 42 | | 152 |
| Columbia | Howard | 109 | | 42 | | 151 |
| Grasonville | Queen Annes | 63 | | 38 | | 101 |

| Per diem locality: | | Maximum lodging amount (room rate only—no taxes) (a) | + | M&IE rate (b) | = | Maximum per diem rate [4] (c) |
|---|---|---|---|---|---|---|
| Key city[1] | County and/or other defined location [2], [3] | | | | | |
| Hagerstown | Washington | 56 | | 34 | | 90 |
| Harford County | Harford County | 104 | | 38 | | 142 |
| Lexington Park/ Leonardtown/Lusby | St. Mary's | 66 | | 34 | | 100 |
| Ocean City | Worcester | | | | | |
| (June 1-September 15) | | 129 | | 46 | | 175 |
| (September 16-May 31) | | 55 | | 46 | | 101 |
| St. Michaels | Talbot | 100 | | 42 | | 142 |
| | | | | | | |
| MASSACHUSETTS | | | | | | |
| Andover | Essex | 109 | | 38 | | 147 |
| Boston | Suffolk | 192 | | 46 | | 238 |
| Cambridge | Middlesex County (except Lowell) | 192 | | 46 | | 238 |
| Falmouth | City limits of Falmouth | | | | | |
| (June 1-October 10) | | 105 | | 38 | | 143 |
| (October 11-May 31) | | 70 | | 38 | | 108 |
| Hyannis | Barnstable | | | | | |
| (July 1-September 30) | | 94 | | 38 | | 132 |
| (October 1-June 30) | | 65 | | 38 | | 103 |
| Lowell | City limits of Lowell (except Cambridge, see Middlesex County) | 99 | | 34 | | 133 |
| Martha's Vineyard | Dukes | | | | | |
| (June 1-September 30) | | 160 | | 46 | | 206 |
| (October 1-May 31) | | 75 | | 46 | | 121 |
| Nantucket | Nantucket | 90 | | 46 | | 136 |
| New Bedford | City limits of New Bedford (see Bristol County) | 65 | | 34 | | 99 |
| Northampton | Hampshire | 70 | | 34 | | 104 |
| Pittsfield | Berkshire | 59 | | 38 | | 97 |
| Plymouth | Plymouth | | | | | |
| (June 1-October 31) | | 98 | | 34 | | 132 |
| (November 1-May 31) | | 56 | | 34 | | 90 |
| Quincy | Norfolk | 74 | | 38 | | 112 |
| Springfield | Hampden | 67 | | 34 | | 101 |
| Taunton | Bristol (except New Bedford) | 64 | | 30 | | 94 |
| Worcester | Worcester | 89 | | 34 | | 123 |
| | | | | | | |
| MICHIGAN | | | | | | |
| Ann Arbor | Washtenaw | 67 | | 38 | | 105 |
| Auburn | Bay (except Auburn Hills, see Oakland and Bay County) | 59 | | 38 | | 97 |
| Charlevoix | Charlevoix | | | | | |
| (July 1-September 30) | | 125 | | 38 | | 163 |
| (October 1-June 30) | | 55 | | 38 | | 93 |
| Detroit | Wayne | 109 | | 46 | | 155 |
| East Lansing | City limits of East Lansing (see Ingham County) | 75 | | 38 | | 113 |
| Frankenmuth | Saginaw | | | | | |
| (June 1-October 15) | | 69 | | 34 | | 103 |
| (October 16-May 31) | | 55 | | 34 | | 89 |

| Per diem locality: | | Maximum lodging amount **(room rate only—no taxes)** (a) | + | M&IE rate (b) | = | Maximum per diem rate [4] (c) |
|---|---|---|---|---|---|---|
| Key city[1] | County and/or other defined location [2], [3] | | | | | |
| Frankfort | Benzie | | | | | |
| (June 1-September 30) | | 62 | | 34 | | 96 |
| (October 1-May 31) | | 55 | | 34 | | 89 |
| Gaylord | Otsego | 68 | | 38 | | 106 |
| Grand Rapids | Kent | 60 | | 34 | | 94 |
| Grayling | Crawford | | | | | |
| (June 1-September 30) | | 69 | | 34 | | 103 |
| (October 1-May 31) | | 55 | | 34 | | 89 |
| Holland | Ottawa | | | | | |
| (May 1-September 30) | | 79 | | 34 | | 113 |
| (October 1-April 30) | | 59 | | 34 | | 93 |
| Lansing | Ingham (except East Lansing) | 61 | | 34 | | 95 |
| Leland | Leelanau | | | | | |
| (June 1-September 30) | | 75 | | 34 | | 109 |
| (October 1-May 31) | | 60 | | 34 | | 94 |
| Mackinac Island | Mackinac | | | | | |
| (June 1-August 31) | | 165 | | 46 | | 211 |
| (September 1-May 31) | | 130 | | 46 | | 176 |
| Manistee | Manistee | | | | | |
| (June 1-September 15) | | 62 | | 30 | | 92 |
| (September 16-May 31) | | 55 | | 30 | | 85 |
| Midland | Midland | 59 | | 34 | | 93 |
| Mount Pleasant | Isabella | 60 | | 34 | | 94 |
| Muskegon | Muskegon | 60 | | 30 | | 90 |
| Ontonagon | Ontonagon | 65 | | 30 | | 95 |
| Petoskey | Emmet | 60 | | 38 | | 98 |
| Pontiac/Troy/Auburn Hills | Oakland and Bay | 93 | | 38 | | 131 |
| Sault Ste Marie | Chippewa | 60 | | 34 | | 94 |
| South Haven | Van Buren | 76 | | 34 | | 110 |
| Traverse City | Grand Traverse | | | | | |
| (June 1-September 30) | | 110 | | 42 | | 152 |
| (October 1-May 31) | | 60 | | 42 | | 102 |
| Warren | Macomb | 83 | | 34 | | 117 |
| | | | | | | |
| MINNESOTA | | | | | | |
| Anoka County | Anoka County | 68 | | 34 | | 102 |
| Dakota County | Dakota County | 75 | | 34 | | 109 |
| Duluth | St. Louis | 56 | | 42 | | 98 |
| Minneapolis/St. Paul | Hennepin County and Fort Snelling Military Reservation and Navy Astronautics Group (Detachment BRAVO), Rosemount; and Ramsey County | 91 | | 46 | | 137 |
| Rochester | Olmsted | 72 | | 34 | | 106 |
| | | | | | | |
| MISSISSIPPI | | | | | | |
| Bay St. Louis | Hancock | | | | | |
| (May 1-September 30) | | 72 | | 38 | | 110 |
| (October 1-April 30) | | 65 | | 38 | | 103 |
| Biloxi | City limits of Biloxi (see Harrison County) | 72 | | 38 | | 110 |
| Gulfport | Harrison (except Biloxi) | | | | | |

| Per diem locality: | | Maximum lodging amount **(room rate only—no taxes)** (a) | + | M&IE rate (b) | = | Maximum per diem rate [4] (c) |
|---|---|---|---|---|---|---|
| Key city[1] | County and/or other defined location [2], [3] | | | | | |
| (May 1-September 30) | | 75 | | 34 | | 109 |
| (October 1-April 30) | | 60 | | 34 | | 94 |
| Jackson | Hinds | 60 | | 34 | | 94 |
| Robinsonville | Tunica | 60 | | 34 | | 94 |
| | | | | | | |
| MISSOURI | | | | | | |
| Branson | Taney | 60 | | 34 | | 94 |
| Kansas City/Clay County | Jackson and Clay County | 85 | | 42 | | 127 |
| Platte County | Platte County | 65 | | 34 | | 99 |
| Springfield | Greene | 59 | | 30 | | 89 |
| St. Louis | St. Louis and St. Charles | 69 | | 46 | | 115 |
| | | | | | | |
| MONTANA | | | | | | |
| Big Sky | Gallatin (except West Yellowstone Park) | 120 | | 46 | | 166 |
| West Yellowstone Park | City limits of West Yellowstone Park (see Gallatin County) | | | | | |
| (June 1-September 30) | | 80 | | 34 | | 114 |
| (October 1-May 31) | | 55 | | 34 | | 89 |
| | | | | | | |
| NEBRASKA | | | | | | |
| Omaha | Douglas | 63 | | 38 | | 101 |
| | | | | | | |
| NEVADA | | | | | | |
| Incline Village | All points in the Northern Lake Tahoe area within Washoe County | | | | | |
| (June 1-September 30) | | 94 | | 38 | | 132 |
| (October 1-May 31) | | 74 | | 38 | | 112 |
| Las Vegas | Clark County; Nellis AFB | 72 | | 38 | | 110 |
| Stateline | Douglas (see also South Lake Tahoe, CA) | 108 | | 42 | | 150 |
| | | | | | | |
| NEW HAMPSHIRE | | | | | | |
| Concord | Merrimack | | | | | |
| (May 1-October 31) | | 68 | | 34 | | 102 |
| (November 1-April 30) | | 58 | | 34 | | 92 |
| Conway | Carroll | | | | | |
| (June 1-September 30) | | 89 | | 38 | | 127 |
| (October 1-May 31) | | 55 | | 38 | | 93 |
| Durham | Strafford | 71 | | 30 | | 101 |
| Hanover/Sullivan County | Grafton and Sullivan County | 96 | | 42 | | 138 |
| Laconia | Belknap | 75 | | 34 | | 109 |
| Manchester | Hillsborough | 72 | | 34 | | 106 |
| Newington | Rockingham County; Pease AFB (except Portsmouth) | | | | | |
| (June 1-October 31) | | 79 | | 42 | | 121 |
| (November 1-May 31) | | 55 | | 42 | | 97 |
| Portsmouth | City limits of Portsmouth (see Rockingham County) | 81 | | 42 | | 123 |
| | | | | | | |
| NEW JERSEY | | | | | | |
| Atlantic City | Atlantic | | | | | |

| Per diem locality: | | Maximum lodging amount **(room rate only—no taxes)** (a) | + | M&IE rate (b) | = | Maximum per diem rate [4] (c) |
|---|---|---|---|---|---|---|
| Key city[1] | County and/or other defined location [2], [3] | | | | | |
| (June 1-November 30) | | 100 | | 42 | | 142 |
| (December 1-May 31) | | 89 | | 42 | | 131 |
| Cape May | Cape May (except Ocean City) | | | | | |
| (June 1-September 30) | | 132 | | 42 | | 174 |
| (October 1-May 31) | | 80 | | 42 | | 122 |
| Cherry Hill/Camden/ Moorestown | Camden/ Burlington | 74 | | 42 | | 116 |
| Eatontown | Monmouth County; Fort Monmouth | 84 | | 38 | | 122 |
| Flemington | Hunterdon | 80 | | 34 | | 114 |
| Freehold | City limits of Freehold | | | | | |
| (May 1-August 31) | | 80 | | 34 | | 114 |
| (September 1-April 30) | | 70 | | 34 | | 104 |
| Newark | Essex, Bergen, Hudson and Passiac | 99 | | 42 | | 141 |
| Ocean City | City limits of Ocean City (see Cape May County) | | | | | |
| (June 15-September 15) | | 215 | | 38 | | 253 |
| (September 16-June 14) | | 80 | | 38 | | 118 |
| Parisippany/Picatinney Arsenal/Dover | Morris County | 114 | | 38 | | 152 |
| Piscataway/Bellemead | Somerset and Middlesex | 129 | | 38 | | 167 |
| Princeton | Princeton (see Mercer County) | 169 | | 42 | | 211 |
| Tom's River | Ocean | | | | | |
| (June 1-September 15) | | 72 | | 38 | | 110 |
| (September 16-May 31) | | 65 | | 38 | | 103 |
| Trenton | Mercer (except Princeton) | 84 | | 38 | | 122 |
| Union County | Union County | 125 | | 38 | | 163 |
| | | | | | | |
| NEW MEXICO | | | | | | |
| Albuquerque | Bernalillo | 60 | | 38 | | 98 |
| Los Alamos | Los Alamos | 71 | | 34 | | 105 |
| Santa Fe | Santa Fe | 90 | | 46 | | 136 |
| Taos | Taos | 75 | | 34 | | 109 |
| | | | | | | |
| NEW YORK | | | | | | |
| Albany | Albany | 74 | | 42 | | 116 |
| The Bronx/Brooklyn/Queens | The boroughs of The Bronx, Brooklyn and Queens | 170 | | 46 | | 216 |
| Buffalo | Erie | 78 | | 42 | | 120 |
| Glens Falls | Warren | | | | | |
| (June 1-September 30) | | 74 | | 34 | | 108 |
| (October 1-May 31) | | 55 | | 34 | | 89 |
| Ithaca | Tompkins | 56 | | 34 | | 90 |
| Kingston | Ulster | 79 | | 38 | | 117 |
| Lake Placid | Essex | | | | | |
| (June 1-October 31) | | 79 | | 38 | | 117 |
| (November 1-May 31) | | 58 | | 38 | | 96 |
| Manhattan | Manhattan | 198 | | 46 | | 244 |
| Nassau County/Great Neck | Nassau County | 190 | | 42 | | 232 |
| Niagara Falls | Niagara | | | | | |
| (June 1-September 15) | | 89 | | 34 | | 123 |

| Per diem locality: | | Maximum lodging amount **(room rate only—no taxes)** (a) | + | M&IE rate (b) | = | Maximum per diem rate [4] (c) |
|---|---|---|---|---|---|---|
| Key city[1] | County and/or other defined location [2], [3] | | | | | |
| (September 16-May 31) | | 65 | | 34 | | 99 |
| Nyack/Palisades | Rockland | 62 | | 38 | | 100 |
| Owego | Tioga | 76 | | 30 | | 106 |
| Poughkeepsie | Dutchess | 74 | | 38 | | 112 |
| Rochester | Monroe | 58 | | 42 | | 100 |
| Saratoga Springs | Saratoga | | | | | |
| (June 15-October 31) | | 95 | | 38 | | 133 |
| (November 1-June 14) | | 56 | | 38 | | 94 |
| Staten Island | Richmond | 94 | | 42 | | 136 |
| Suffolk County | Suffolk County | 149 | | 38 | | 187 |
| Syracuse | Onondaga | 70 | | 34 | | 104 |
| Tarrytown | Westchester (except White Plains) | 114 | | 42 | | 156 |
| Waterloo/Romulus | Seneca | | | | | |
| (April 1-November 1) | | 89 | | 34 | | 123 |
| (November 2-March 31) | | 65 | | 34 | | 99 |
| Watkins Glen | Schuyler | | | | | |
| (May 1-October 31) | | 89 | | 34 | | 123 |
| (November 1-April 30) | | 69 | | 34 | | 103 |
| West Point | Orange | 121 | | 34 | | 155 |
| White Plains | City limits of White Plains (see Westchester County) | 165 | | 42 | | 207 |
| | | | | | | |
| NORTH CAROLINA | | | | | | |
| Atlantic Beach | City limits of Atlantic Beach | | | | | |
| (May 1-September 30) | | 64 | | 30 | | 94 |
| (October 1-April 30) | | 55 | | 30 | | 85 |
| Chapel Hill | Orange | 77 | | 38 | | 115 |
| Charlotte | Mecklenburg | 71 | | 38 | | 109 |
| Fayetteville | Cumberland | 60 | | 34 | | 94 |
| Greensboro | Guilford | 63 | | 38 | | 101 |
| Kill Devil | Dare | | | | | |
| (May 1-September 30) | | 114 | | 38 | | 152 |
| (March 1-April 30) | | 55 | | 38 | | 93 |
| (October 1-February 29) | | 75 | | 38 | | 113 |
| New Bern | Craven | 60 | | 34 | | 94 |
| Raleigh | Wake | 74 | | 38 | | 112 |
| Research Triangle Park/Durham | Durham | 85 | | 42 | | 127 |
| Wilmington | New Hanover | 56 | | 34 | | 90 |
| Winston-Salem | Forsyth | 64 | | 38 | | 102 |
| | | | | | | |
| NORTH DAKOTA (See footnote 5) | | | | | | |
| | | | | | | |
| OHIO | | | | | | |
| Akron | Summit | 72 | | 38 | | 110 |
| Cambridge | Guernsey | 60 | | 34 | | 94 |
| Cincinnati | Hamilton | 69 | | 46 | | 115 |
| Cleveland | Cuyahoga | 86 | | 42 | | 128 |
| Columbus | Franklin | 75 | | 38 | | 113 |
| Fairborn | Greene | 66 | | 34 | | 100 |
| Geneva/Hamilton | Ashtabula/Butler | 58 | | 34 | | 92 |

| Per diem locality: | | Maximum lodging amount **(room rate only—no taxes)** (a) | + | M&IE rate (b) | = | Maximum per diem rate [4] (c) |
|---|---|---|---|---|---|---|
| Key city[1] | County and/or other defined location [2], [3] | | | | | |
| Port Clinton/Oak Harbor | Ottawa | | | | | |
| (June 1-Septermber 5) | | 80 | | 34 | | 114 |
| (September 6-March 15) | | 62 | | 34 | | 96 |
| (March 16-May 31) | | 55 | | 34 | | 89 |
| Sandusky | Erie | | | | | |
| (May 1-September 30) | | 83 | | 38 | | 121 |
| (October 1-April 30) | | 55 | | 38 | | 93 |
| | | | | | | |
| OKLAHOMA | | | | | | |
| Oklahoma City | Oklahoma | 65 | | 38 | | 103 |
| | | | | | | |
| OREGON | | | | | | |
| Ashland | Jackson | 59 | | 42 | | 101 |
| Beaverton | Washington | 64 | | 38 | | 102 |
| Bend | Deschutes | 59 | | 38 | | 97 |
| Clackamas | Clackamas | 66 | | 34 | | 100 |
| Crater Lake | Klamath | 74 | | 38 | | 112 |
| Eugene | Lane (except Florence) | 64 | | 38 | | 102 |
| Florence | City limits of Florence (see Lane County) | 80 | | 34 | | 114 |
| Gold Beach | Curry | 58 | | 34 | | 92 |
| Lincoln City/Newport | Lincoln | 65 | | 34 | | 99 |
| Portland | Multnomah | 77 | | 38 | | 115 |
| Salem | Marion | 56 | | 34 | | 90 |
| Seaside | Clatsop | | | | | |
| (July 1-September 7) | | 79 | | 34 | | 113 |
| (September 8-June 30) | | 59 | | 34 | | 93 |
| | | | | | | |
| PENNSYLVANIA | | | | | | |
| Allentown | Lehigh | 59 | | 38 | | 97 |
| Chester/Radnor/Essington | Delaware (except Wayne) | 75 | | 34 | | 109 |
| Easton | Northampton | 59 | | 34 | | 93 |
| Erie | Erie | | | | | |
| (May 1-September 30) | | 65 | | 30 | | 95 |
| (October 1-April 30) | | 55 | | 30 | | 85 |
| Gettysburg | Adams | | | | | |
| (May 1-October 31) | | 75 | | 34 | | 109 |
| (November 1-April 30) | | 55 | | 34 | | 89 |
| Harrisburg | Daulphin (except Hershey) | 61 | | 42 | | 103 |
| Hershey | City limits of Hershey (see Daulphin County) | | | | | |
| (June 1-September 15) | | 125 | | 42 | | 167 |
| (September 16-May 31) | | 55 | | 42 | | 97 |
| King Prussia/Ft. Washington/Bala Cynwyd | | 84 | | 42 | | 126 |
| Lancaster | Lancaster | | | | | |
| (June 1-November 30) | | 69 | | 38 | | 107 |
| (December 1-May 31) | | 60 | | 38 | | 98 |
| Malvern/Downington/Valley Forge | Chester | 79 | | 38 | | 117 |
| Mechanicsburg | Cumberland | 74 | | 34 | | 108 |
| Philadelphia | Philadelphia | 118 | | 46 | | 164 |
| Pittsburgh | Allegheny | 79 | | 46 | | 125 |

| Per diem locality: | | Maximum lodging amount (room rate only—no taxes) (a) | + | M&IE rate (b) | = | Maximum per diem rate [4] (c) |
|---|---|---|---|---|---|---|
| Key city[1] | County and/or other defined location [2], [3] | | | | | |
| Reading | Berks | 75 | | 38 | | 113 |
| Scranton | Lackawanna | 60 | | 30 | | 90 |
| Warminster | Bucks County; Naval Air Development Center | 75 | | 42 | | 117 |
| Wayne | City limits of Wayne (see also Delaware County) | 100 | | 42 | | 142 |
| | | | | | | |
| RHODE ISLAND | | | | | | |
| Block Island | Block Island only | 94 | | 42 | | 136 |
| East Greenwich | Kent County; Naval Construction Battalion Center, Davisville | 69 | | 38 | | 107 |
| Newport | Newport | | | | | |
| (May 1-September 30) | | 111 | | 42 | | 153 |
| (October 1-April 30) | | 77 | | 42 | | 119 |
| North Kingstown | Washington (except Block Island) | | | | | |
| (May 15-October 15) | | 89 | | 30 | | 119 |
| (October 16-May 14) | | 69 | | 30 | | 99 |
| Providence | Providence | 79 | | 42 | | 121 |
| | | | | | | |
| SOUTH CAROLINA | | | | | | |
| Aiken | Aiken | 65 | | 30 | | 95 |
| Charleston/Berkeley | Charleston and Berkeley | 99 | | 42 | | 141 |
| Greenville | Greenville | 62 | | 38 | | 100 |
| Hilton Head | Beaufort | | | | | |
| (March 15-September 5) | | 77 | | 42 | | 119 |
| (September 6-March 14) | | 59 | | 42 | | 101 |
| Myrtle Beach | Horry County; Myrtle Beach AFB | | | | | |
| (May 1-September 15) | | 102 | | 42 | | 144 |
| (September 16-April 30) | | 60 | | 42 | | 102 |
| | | | | | | |
| SOUTH DAKOTA | | | | | | |
| Custer | Custer | 59 | | 34 | | 93 |
| Hot Springs | Fall River | | | | | |
| (June 1-September 15) | | 85 | | 30 | | 115 |
| (September 16-May 31) | | 55 | | 30 | | 85 |
| Rapid City | Pennington | | | | | |
| (May 1-September 30) | | 89 | | 34 | | 123 |
| (October 1-April 30) | | 65 | | 34 | | 99 |
| | | | | | | |
| TENNESSEE | | | | | | |
| Alcoa | Blount (except Townsend) | 59 | | 30 | | 89 |
| Gatlinburg | Sevier | | | | | |
| (May 1-October 31) | | 80 | | 38 | | 118 |
| (November 1-April 30) | | 65 | | 38 | | 103 |
| Memphis | Shelby | 70 | | 38 | | 108 |
| Murfreesboro | Rutherford | 57 | | 30 | | 87 |
| Nashville | Davidson | 72 | | 42 | | 114 |
| Townsend | City limits of Townsend (see Blount County) | 63 | | 34 | | 97 |
| Williamson County | Willamson County | 57 | | 30 | | 87 |
| | | | | | | |
| TEXAS | | | | | | |

| Per diem locality: | | Maximum lodging amount **(room rate only—no taxes)** (a) | + | M&IE rate (b) | = | Maximum per diem rate [4] (c) |
|---|---|---|---|---|---|---|
| Key city[1] | County and/or other defined location [2], [3] | | | | | |
| Arlington | Tarrant | 77 | | 34 | | 111 |
| Austin | Travis | 80 | | 38 | | 118 |
| Bryan | Brazos (except College Station) | 58 | | 30 | | 88 |
| College Station | City limits of College Station (see Brazos) | 77 | | 34 | | 111 |
| Corpus Christi | Nueces | 59 | | 38 | | 97 |
| Dallas | Dallas | 89 | | 46 | | 135 |
| El Paso | El Paso | 78 | | 38 | | 116 |
| Fort Davis | Jeff Davis | 65 | | 30 | | 95 |
| Fort Worth | City limits of Fort Worth | 94 | | 38 | | 132 |
| Galveston | Galveston | 76 | | 42 | | 118 |
| Houston | Harris County; L.B. Johnson Space Center and Ellington AFB. | 72 | | 42 | | 114 |
| Killeen | Bell | 59 | | 30 | | 89 |
| McAllen | Hidalgo | 70 | | 34 | | 104 |
| Plano | Collin | 57 | | 34 | | 91 |
| San Antonio | Bexar | 91 | | 42 | | 133 |
| South Padre Island | Cameron | 70 | | 38 | | 108 |
| | | | | | | |
| UTAH | | | | | | |
| Bullfrog | Garfield | | | | | |
| (April 1-October 31) | | 104 | | 30 | | 134 |
| (November 1-March 31) | | 73 | | 30 | | 103 |
| Cedar City | Iron | | | | | |
| (June 1-September 30) | | 71 | | 34 | | 105 |
| (October 1-May 31) | | 59 | | 34 | | 93 |
| Moab | Grand | | | | | |
| (March 1-October 31) | | 75 | | 34 | | 109 |
| (November 1-February 29) | | 55 | | 34 | | 89 |
| Ogden/Layton/Davis | Weber and Davis | 69 | | 34 | | 103 |
| Park City | Summit | | | | | |
| (December 20-March 31) | | 145 | | 46 | | 191 |
| (April 1-December 19) | | 75 | | 46 | | 121 |
| Provo | Utah | 60 | | 38 | | 98 |
| Salt Lake City | Salt Lake and Dugway Proving Ground and Tooele Army Depot | 75 | | 42 | | 117 |
| | | | | | | |
| VERMONT | | | | | | |
| Burlington/St. Albans | Chittenden and Franklin | 82 | | 38 | | 120 |
| Manchester | Bennington | 95 | | 42 | | 137 |
| Middlebury | Addison | 78 | | 38 | | 116 |
| Montpelier | Washington | 60 | | 30 | | 90 |
| White River Junction | Windsor | | | | | |
| (September 15-October 31) | | 69 | | 34 | | 103 |
| (November 1-September 14) | | 55 | | 34 | | 89 |
| | | | | | | |
| VIRGINIA | | | | | | |
| (For the cities of Alexandria, Fairfax, and Falls Church, and the counties of Arlington, Fairfax, and Loudoun, see District of | | | | | | |

| Per diem locality: | | Maximum lodging amount **(room rate only—no taxes)** (a) | + | M&IE rate (b) | = | Maximum per diem rate [4] (c) |
|---|---|---|---|---|---|---|
| Key city[1] | County and/or other defined location [2], [3] | | | | | |
| Columbia.) | | | | | | |
| Charlottesville* | | 66 | | 42 | | 108 |
| Lynchburg* | | 64 | | 38 | | 102 |
| Manassas | Prince William County(except Woodbridge) | 62 | | 34 | | 96 |
| Richmond* | Chesterfield and Henrico Counties, also Defense Supply Center | 77 | | 38 | | 115 |
| Roanoke* | | 59 | | 34 | | 93 |
| Virginia Beach* | Virginia Beach (also Norfolk, Portsmouth and Chesapeake)* | | | | | |
| (April 1-October 31) | | 109 | | 38 | | 147 |
| (November 1-March 31) | | 55 | | 38 | | 93 |
| Wallops Island | Accomack | | | | | |
| (June 1-September 30) | | 89 | | 34 | | 123 |
| (October 1-May 31) | | 69 | | 34 | | 103 |
| Williamsburg* | Williamsburg (also Hampton, Newport News, York County, Naval Weapons Station, Yorktown)* | | | | | |
| (April 1-October 31) | | 99 | | 38 | | 137 |
| (November 1-March 31) | | 59 | | 38 | | 97 |
| Wintergreen | Nelson | | | | | |
| (June 1-October 31) | | 110 | | 46 | | 156 |
| (November 1-May 31) | | 95 | | 46 | | 141 |
| Woodbridge | City limits of Woodbridge | 69 | | 38 | | 107 |
| *Denotes independent cities. | | | | | | |
| | | | | | | |
| WASHINGTON | | | | | | |
| Anacortes | Skagit and Island | 74 | | 38 | | 112 |
| Bremerton | Kitsap | 61 | | 34 | | 95 |
| Everett | Snohomish (except Lynnwood) | 59 | | 38 | | 97 |
| Friday Harbor | San Juan | | | | | |
| (May 1-September 30) | | 82 | | 42 | | 124 |
| (October 1-April 30) | | 64 | | 42 | | 106 |
| Lynnwood | City limits of Lynnwood (see Snohomish County) | 79 | | 34 | | 113 |
| Ocean Shores | Grays Harbor | | | | | |
| (April 1-September 30) | | 82 | | 38 | | 120 |
| (October 1-March 31) | | 55 | | 38 | | 93 |
| Olympia/Tumwater | Thurston | 58 | | 38 | | 96 |
| Port Angeles | City limits of Port Angeles (see Clallam County) | 65 | | 38 | | 103 |
| Port Townsend | Jefferson | 65 | | 34 | | 99 |
| Seattle | King | 104 | | 46 | | 150 |
| Sequim | Clallam (except Port Angeles) | 59 | | 34 | | 93 |
| Spokane | Spokane | 60 | | 38 | | 98 |
| | | | | | | |
| WEST VIRGINIA | | | | | | |
| Berkeley Springs | Morgan | 69 | | 34 | | 103 |
| Charleston | Kanawha | 82 | | 38 | | 120 |
| Morgantown | Monongalia | 64 | | 34 | | 98 |
| Shepherdstown | Jefferson | 65 | | 38 | | 103 |

| Per diem locality: | | Maximum lodging amount (room rate only—no taxes) (a) | + | M&IE rate (b) | = | Maximum per diem rate [4] (c) |
|---|---|---|---|---|---|---|
| Key city[1] | County and/or other defined location [2], [3] | | | | | |
| Wheeling | Ohio | 66 | | 34 | | 100 |
| | | | | | | |
| WISCONSIN | | | | | | |
| Brookfield | Waukesha | 66 | | 38 | | 104 |
| Green Bay | Brown | 59 | | 34 | | 93 |
| Lake Geneva | Walworth | | | | | |
| (June 1-October 31) | | 85 | | 38 | | 123 |
| (November 1-May 31) | | 66 | | 38 | | 104 |
| Madison | Dane | 60 | | 38 | | 98 |
| Milwaukee | Milwaukee | 72 | | 42 | | 114 |
| Plymouth | City limits of Plymouth (see Sheboygan) | 61 | | 30 | | 91 |
| Racine | Racine | 70 | | 30 | | 100 |
| Sheboygan | Sheboygan (except Plymouth) | 59 | | 30 | | 89 |
| Sturgeon Bay | Door | | | | | |
| (July 1-September 15) | | 77 | | 34 | | 111 |
| (September 16-June 30) | | 55 | | 34 | | 89 |
| Wisconsin Dells | Columbia | | | | | |
| (June 1-September 15) | | 99 | | 38 | | 137 |
| (September 16-May 31) | | 55 | | 38 | | 93 |
| | | | | | | |
| WYOMING | | | | | | |
| Cody | Park | 79 | | 30 | | 109 |
| Jackson | Teton | | | | | |
| (June 1-September 30) | | 88 | | 42 | | 130 |
| (October 1-May 31) | | 59 | | 42 | | 101 |

[1] Unless otherwise specified, the per diem locality is defined as "all locations within, or entirely surrounded by, the corporate limits of the key city, including independent entities located within those boundaries."

[2] Per diem localities with county definitions shall include "all locations within, or entirely surrounded by, the corporate limits of the key city as well as the boundaries of the listed counties, including independent entities located within the boundaries of the key city and the listed counties (unless otherwise listed separately)."

[3] When a military installation or Government-related facility (whether or not specifically named) is located partially within more than one city or county boundary, the applicable per diem rate for the entire installation or facility is the higher of the two rates which apply to the cities and/or counties, even though part(s) of such activities may be located outside the defined per diem locality.

[4] Federal agencies may submit a request to GSA for review of the costs covered by per diem in a particular city or area where the standard CONUS rate applies when travel to that location is repetitive or on a continuing basis and travelers' experiences indicate that the prescribed rate is inadequate. Other per diem localities listed in this appendix will be reviewed on an annual basis by GSA to determine whether rates are adequate. Requests for per diem rate adjustments shall be submitted by the agency headquarters office to the General Services Administration, Office of Governmentwide Policy, Attn: Travel and Transportation Management Policy Division (MTT), Washington, DC 20405. Agencies should designate an individual responsible for reviewing, coordinating, and submitting to GSA any requests from bureaus or subagencies. Requests for rate adjustments shall include a city designation, a description of the surrounding location involved (county or other defined area), and a recommended rate supported by a statement explaining the circumstances that cause the existing rate to be

[5] The standard CONUS rate of $85 ($55 for lodging and $30 for M&IE) applies to all per diem localities in the State of North Dakota.

**Note:** Recognizing that all locations are incorporated cities, the term "city limits" has been used as a general phrase to denote the commonly recognized local boundaries of the location cited.

Dated: November 26, 1999.

**Stephenie Foster,**

*Acting Administrator of General Services.*

[FR Doc. 99–31215 Filed 12–1–99; 8:45 am]

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federal register

Thursday
December 2, 1999

## Part IV

# The President

**Proclamation 7256—World AIDS Day, 1999**

Federal Register
Vol. 64, No. 231
Thursday, December 2, 1999

# Presidential Documents

**Title 3—**

**The President**

**Proclamation 7256 of November 29, 1999**

## World AIDS Day, 1999

**By the President of the United States of America**

**A Proclamation**

As this year draws to a close, the world looks with hope to a new century and a new millennium. But in that new century, we will still face a familiar and deadly enemy: HIV and AIDS. Already, more than 33 million people around the world have been infected with HIV; by the year 2005, that figure will likely soar to more than 100 million.

The theme of World AIDS Day this year is ''AIDS—End the Silence. Listen, Learn, Live!'' This simple message challenges us all to become better informed about this global pandemic and to serve as strong and vocal advocates for HIV/AIDS education, prevention, and care. When we fail to tell our children the truth about how HIV is transmitted, we put them at risk for infection. When we are silent about the need for compassionate care for the ill and dying, we allow too many of those infected with AIDS to spend their final days unloved and alone.

Throughout my Presidency, I have strived to break the silence surrounding HIV/AIDS, and my Administration has worked hard to eradicate this devastating global threat. We can take heart that many people with HIV/AIDS today are living longer and more fulfilling lives and that new drugs are showing promising results in halting the progression of the disease. However, AIDS has exposed the tremendous gulf that exists between those who share in the prosperity of our global economy and those who do not. Of the millions of people around the world coping with HIV and AIDS, most are living in poverty, without access to new treatments or even the basic care that could increase the quality and length of their lives.

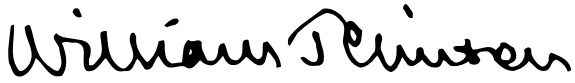
Nowhere is the impact of this disease more devastating than in Africa, where 13 million men, women, and children have already died of AIDS, and 11,000 more are becoming infected each day. In response to this health catastrophe, this year my Administration sought and attained the largest-ever U.S. budget commitment to the global fight against AIDS. This increase of $100 million will more than double our support for AIDS awareness and prevention, home and community-based care, care of children orphaned by AIDS, and development of the infrastructure necessary to support these efforts. I invite other G–8 nations to join us, and I urge other foreign governments, corporate leaders, nongovernmental organizations, faith communities, foundations, AIDS organizations, and citizens around the globe to make their own contributions to the crusade against HIV/AIDS.

To fight HIV/AIDS on the home front, this year's budget includes a $73 million increase in funding for HIV prevention activities; an increase of $183 million in the Ryan White CARE Act, which helps provide primary care and support for those living with HIV/AIDS; an additional $80 million in funding to the Minority AIDS Initiative, which uses existing programs to reach African Americans, Latinos, and other racial and ethnic minorities disproportionately affected by HIV/AIDS; and an estimated $300 million in additional funds for AIDS-related research at the National Institutes of Health. I have given high priority to the development of a vaccine for AIDS, and our scientists and researchers remain committed to developing a vaccine that works for all who need it.

Until they achieve that goal, we must work together to break the silence and increase dialogue; to fight the stigmatization and protect the rights of those living with HIV and AIDS; and to help those infected find the care and treatment they need. As we usher in a new century, we must pledge to stay the course in our crusade until the world is finally freed from the shadow of this devastating epidemic.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim December 1, 1999, as World AIDS Day. I invite the Governors of the States and the Commonwealth of Puerto Rico, officials of the other territories subject to the jurisdiction of the United States, and the American people to join me in reaffirming our commitment to defeating HIV and AIDS. I encourage every American to participate in appropriate commemorative programs and ceremonies in workplaces, houses of worship, and other community centers, to reach out to protect and educate our children, and to help and comfort all people who are living with HIV and AIDS.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of November, in the year of our Lord nineteen hundred and ninety-nine, and of the Independence of the United States of America the two hundred and twenty-fourth.



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# Reader Aids

**Federal Register**

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## FEDERAL REGISTER PAGES AND DATE, DECEMBER



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7-oxa-3,20-diazadispiro -[5.1.11.2]- heneicosan-21- one,2,2,4,4-tetramethyl-, hydrochloride, reaction products; published 12-2-99

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**H.J. Res. 80/P.L. 106–105**

Making further continuing appropriations for the fiscal year 2000, and for other purposes. (Nov. 18, 1999; 113 Stat. 1484)

**H.J. Res. 83/P.L. 106–106**

Making further continuing appropriations for the fiscal year 2000, and for other purposes. (Nov. 19, 1999; 113 Stat. 1485)

**S. 468/P.L. 106–107**

Federal Financial Assistance Management Improvement Act of 1999 (Nov. 20, 1999; 113 Stat. 1486)

**H.R. 2454/P.L. 106–108**

Arctic Tundra Habitat Emergency Conservation Act (Nov. 24, 1999; 113 Stat. 1491)

**H.R. 2724/P.L. 106–109**

To make technical corrections to the Water Resources Development Act of 1999. (Nov. 24, 1999; 113 Stat. 1494)

**S. 1235/P.L. 106–110**

To amend part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 to allow railroad police officers to attend the Federal Bureau of Investigation National Academy for law enforcement training. (Nov. 24, 1999; 113 Stat. 1497)

**H.R. 100/P.L. 106–111**

To establish designations for United States Postal Service buildings in Philadelphia, Pennsylvania. (Nov. 29, 1999; 113 Stat. 1499)

**H.R. 197/P.L. 106–112**

To designate the facility of the United States Postal Service at 410 North 6th Street in Garden City, Kansas, as the ''Clifford R. Hope Post Office''. (Nov. 29, 1999; 113 Stat. 1500)

**H.R. 3194/P.L. 106–113**

Making consolidated appropriations for the fiscal year ending September 30, 2000, and for other purposes. (Nov. 29, 1999; 113 Stat. 1501)

**S. 278/P.L. 106–114**

To direct the Secretary of the Interior to convey certain lands to the county of Rio Arriba, New Mexico. (Nov. 29, 1999; 113 Stat. 1538)

**S. 382/P.L. 106–115**

Minuteman Missile National Historic Site Establishment Act of 1999 (Nov. 29, 1999; 113 Stat. 1540)

**S. 1398/P.L. 106–116**

To clarify certain boundaries on maps relating to the Coastal Barrier Resources System. (Nov. 29, 1999; 113 Stat. 1544)

**H.R. 2116/P.L. 106–117**

Veterans Millennium Health Care and Benefits Act (Nov. 30, 1999; 113 Stat. 1545)

**H.R. 2280/P.L. 106–118**

Veterans' Compensation Cost-of-Living Adjustment Act of 1999 (Nov. 30, 1999; 113 Stat. 1601)

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